

Tofferson County
Case Files - Civil
May 1873

Circuit Court

Box

31 Folder 11

Fulton, Edward
vs

Moelke, Robert

Ejectment and trespass

80 acres in S27 T41 R5 E, \$100
damages; \$500 damages for cutting
timber

Edward Fulton Plaintiff }
vs }
Robert Mockbee, Deft }

In the Circuit Court of Jefferson
County Missouri
May Term 1873.

Plaintiff states that he was on
the first day of January 1870
entitled to the possession of the
following described real estate
situate in Jefferson County State
of Missouri viz: The South
half of the North West quarter of
Section twenty seven, Township
Forty one, N. Range N. Five East
containing eighty acres, and
being so entitled to the possession
thereof that the Defendant after
words went on the second day
of January 1870 entered in to
said premises and now unlaw-
fully withholds from the Plaintiff
the possession of said premises
to the damage of the Plaintiff in the
sum of one hundred dollars.
Plaintiff avers that the value of
the monthly rent and profit of
said premises is five dollars.
Therefore Plaintiff demands

judgment for the recovery of the
said premises and for one
hundred dollar damages for the
unlawfully withholding of the
possession ~~thereof~~ thereof
from Plaintiff and for
five dollars per month
for the rents and profits of
said premises from the condi-
tion of judgment herein until
possession is delivered to the
Plaintiff.

Plaintiff further states that
the Defendant on or about the
second day of January 1870
unlawfully entered upon the
premises aforesaid of which
Plaintiff was then the owner
and wrongfully cut and
carried therefrom lumber
of the value of five hundred
dollars and for which
Plaintiff asks judgment.
John L. Howard Bro
Atty for Plaintiff.

Edward Fulton

vs

Robert Muehleberg

Ejectment & Damages

Filed April 11th 1873
Wm. Boyce Clerk
B. C. Ho. 200
depos

Edward Fulton Plaintiff } In the Circuit
vs } Court of Jefferson
Robert Mockbee, Deft. } County, Missouri
May Term 1873

Plaintiff states that he was on the first day of January 1870 entitled to the possession of the following described real estate situate in Jefferson County, State of Missouri viz: The South half of the North West quarter of Section twenty seven, Township Forty one, N. Range No. Five East containing Eighty acres, and being so entitled to the possession thereof, that the Defendant afterwards to wit on the second day of January 1870 entered into such premises and now unlawfully withholds from the Plaintiff the possession of said premises to the damage of the Plaintiff in the sum of one hundred dollars. Plaintiff avers that the value of the monthly rents and profits of said premises is five dollars, wherefore Plaintiff demands judgment for the recovery of the said premises and for one hundred dollars damages for the unlawfully withholding of the possession thereof from Plaintiff and for five dollars per month for the rents and profits of said premises from the rendition of judgment herein until the possession is delivered to the plaintiff.

Plaintiff further states that the Defendant on or about the second day of January 1870 unlawfully entered upon the premises

aforesaid of which plaintiff was then
the owner and wrongfully cut and carried
therefrom timber of the value of Five hun-
dred dollars and for which Plaintiff asks
judgment

John L. Thomas & Bro.
Atty. for Plaintiff.

A true copy of the original petition,
Witness my hand and the seal of
said Court at Office April 11th 1873,
Wm. S. Boyce Clerk
By O. Thos. Horine Depy

The State of Missouri, }
COUNTY OF JEFFERSON. } ss.

The State of Missouri,

TO THE SHERIFF OF THE COUNTY OF JEFFERSON---GREETING:

We command you, that you summon *Robert Mockbee*

if he be found in your County, that he be and appear before the Honorable Judge of
our Circuit Court, on the first day of the next term thereof, to be begun and held at the
town of Hillsboro, within and for the County of Jefferson, on the *Second*
~~Monday after the fourth~~ Monday of *May* next, then and there
to answer unto

Edward Sutton

upon *his* original petition, a copy whereof is hereunto annexed
and accompanies this writ, and have you then there this writ.

Witness, W. S. BOYCE, Clerk of our said

Circuit Court, with the seal thereof hereunto af-
fixed, at office in Hillsboro, this *11th*

day of *April* A. D. 18*83*

W. S. Boyce Clerk Circuit Court.

By *W. H. Corrine* Deputy.

I. Executed the within in the county of Jefferson
State of Missouri by Delivering him a true copy of
the writ and Petition, ^{as furnished me by the Clerk of} on the 18. day of April
1873
J. B. Mosheriff

3526

RETURNABLE
TO
JEFFERSON CIRCUIT COURT.

May TERM, 1873.

Edward Fulton

vs
Robert Mosheriff

Original

Shiriff - per 100

Edward Fulton } In the Circuit
vs } Court of Jefferson
Robert Mockbe } County Missouri

Now at this day the Defendant comes and for answer to the plaintiffs petition denies that the plaintiff was entitled to the possession of the Real Estate in his petition described at the time stated in said petition or at any other time, denies that the Defendant wrongfully entered into the premises in said petition described at the time stated in said petition or at any other time and denies that Defendant now does or that he did when this suit was commenced or at any other time wrongfully or unlawfully withhold said Real Estate from plaintiff denies that plaintiff is damaged in any sum whatever by reason of any act of defendant in withhold the possession of said Real Estate from plaintiff and denies that plaintiff is entitled to judgment for the possession of said

Premises or for any sum for
damages or for Rents & profits
denies ~~denies~~ that the Rents &
profits of said place are
worth anything, & prays
Judgment for Costs & ~~Cost~~

Jo: J. Williams
Attorney for ~~Defendant~~
Defendant

Edward Fulton

vs
Robt. Locke

Comer or

Defendant

Filed Aug 5 1883

W. S. Brown

Clk

STATE OF MISSOURI,
COUNTY OF JEFFERSON

To J. Jarvis

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the 12th day of Sept 1873, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy, now pending in our said Court, wherein Edward Sullivan is

Plaintiff, and Ralph Moore is

Defendant, on the part of Plaintiff

; and herein you are in no wise to fail.

Witness, W. S. BOYCE, Clerk of our said Court, with the seal thereof
hereto affixed, at office, this 9th day of Sept.

A. D. 1873.

W. S. Boyce Clerk.

By C. H. McNamee Deput

Sept. 5. 1873

State

~~ms~~

Fullon

No

no
mackerel

Jarvis served Sept 9th 1873

Served the within sub-
poena by reading the
same to the Sheraton Jarvis
on 9th Sept. 1873

Subscribed and
Sworn to before
me Sept 12 78

ms boyce ask

By Otto Merino Defer

Edward Fulton	} In the
Plaintiff	
vs	
Robert Mockbe	} Circuit
Defendant	
	} Court of
	} Jefferson
	} County
	} <u>Missouri</u>

Now at this day comes the Defendant herein and states that he has since taking the possession of the Land described in Plaintiff's petition made valuable and lasting improvements thereon, to wit, he has cleared and put in good order for cultivation eleven acres of Land on said Real Estate that said improvements and clearing of said Land was reasonably worth ten dollars per acre or of the aggregate value of one Hundred and Ten Dollars Plaintiff says that he entered ~~so~~ into said Land in good faith under a deed for said premises from one ~~William Mockbe~~ William Mockbe who had at the time of conveying

Defendant says further that he paid the taxes upon said
Land for the several years from 1865 to the year 1872 inclusive
namely the State taxes and school and other taxes which were
levied, and assessed on said Land described in plain title
and which by law were valid being thereon that said taxes were

the same to him two last
Decades therefor dated as far
back as 1865 that Defendant
went into such premises
under such title believing
that he had good right to
the same and made the
improvements aforesaid
in good faith under
the belief that he had a
good title to said Land

~~Wherefore Defendant~~
~~Prays that~~ and that
such improvements were
made prior to any notice
on the part of Defendant
that Plaintiff claimed said
Land adversely to ~~the~~ the
Defendant.

Wherefore Defendant
Prays the Court to
render judgment for
Defendant for Compensation
for said improvements
in the sum of one Hundred
and Ten Dollars and for
other proper relief

William
for Defendant

Edward Fulton

my

Robert Mooklee

Petition for

way for
improvement

Filed Sept 20 1873

W. D. Boyce cler.

County of Jefferson,

The State of Missouri.

To Ernest Reel Admunt

You are Hereby Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the 1st day of January 1874 at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein

E Augustus vs
Robert MacArthur vs

Plaintiff, and

Defendant, on the part of Respondent and herein you are in no wise to fail.

WITNESS, W. S. BOYCE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this 12 day

A. D. 1874.

W. S. Boyce Clerk.

Auction
vs
Mockbee

Ernest Delf
D. S. Smith

Sheriff fee 100

I certify that the within
was served on Ludwig
and Delf by Sheriff
on the 15 day of Jan 1874
J. B. Webb
Sheriff

Edward Fulton Plaintiff

Robert Mockher Defendant

In the Circuit Court of
Jefferson County Mo
Jan. Term 1874.

Now at this day comes said Plaintiff and for answer to the petition filed by Defendant on the 20th day of September 1873 to obtain pay for pretended improvements on the land sued for states that it is not true as Defendant has in said petition alleged that he entered into said premises in good faith believing he had a good title thereto but he entered into said premises well knowing that he had no valid title thereto. Plaintiff further alleges that it is not true that Defendant cleared and put in good order for cultivation Eleven acres of land or any number of acres of the value of one hundred & ten dollars or any other sum but on the contrary Plaintiff owns that Defendant cut the wood off of eleven acres of said land

sold the same for two hundred
and did not leave enough tim-
ber on said eleven acres to make
rails to fence it by reason
of which said land was worth
less after said pretended clearing
than it was before and by which
Plaintiff has been damaged
in the sum of two hundred
dollars for which he asks
judgment.

John L. Shuman & Co
Attys for Plaintiff.

Edward T. Tuttle

27

Robert M. McKee

Andrew
Plaut.

Filed Jan'y 14 1874
w/ J. Bryce & Co

Edmund Fulton } In the Circuit
vs } Court of Jefferson
Robert Mockbe } Co, Mo,

Now at this day comes the defendant
and says that About the Year
1865 one William ~~Mc~~ Mockbe
having purchased the Land
described in Plaintiffs petition for
the State, County & other Taxes
then due & unpaid thereon levied
and assessed upon the same as
appeared from the Tax Books of
said County & received two
several Tax Deeds for the
same conveying the same to
him according to the Laws of
the State of Missouri Thereafter
in said Year conveyed the same to
this Defendant by Deed, that thereupon
in said Year 1865 after he received
said conveyance he entered into
the possession of said Land as
described in Plaintiffs petition
under said Deed in good faith
believing he had a good title thereto
that he continued in the ~~possession~~
possession of said premises
from the time he went into the

same in the year 1865 till the
present time, that after he
went into the possession ~~he made~~
he made valuable and lasting improvem-
ents thereon viz he cleared on said land
Eleven acres thereof ready to be
put in cultivation by clearing off
from it the brush, timber and grubs,
and preparing it for fencing and
cultivation which Eleven acres had
therefore been wild land, that the
clearing thereof was worth Ten Dollars
per acre & in the aggregate one
Hundred and Ten Dollars, that
he entered in possession of said
tract of land under said Tax Deeds
to said William Mockbe and
the Deed from said William Mockbe
~~Mockbe~~ to himself believing he
had good title to the same and made
said improvements in good faith
under the belief that he had good
title to the land described in
Plaintiffs pet petition ~~and on which~~
and on which said improvements
were made,

Defendant pays
in consideration of the premises
and of the fact that Plaintiff has

obtained judgment for possession of
said Land for judgment for
one Hundred and Ten Dollars
the value of the improvements
made as aforesaid on said Land
so recovered from Defendant
by Plaintiff in this action,

Defendant says further that
he entered into possession of said
premises described by Plaintiff
in his petition herein under
a claim of title thereto by deed as
specified in the first count herein
and retained the possession as
in said first count stated That
during that time the Taxes for
State County and School
purposes were levied and
assessed thereon upon the Tax
Books of Jefferson County Missouri
due said County & State & for
School purposes for State County
& School Tax which Taxes were
a Lien on said Land and were
paid by Defendant as the same
were levied & assessed thereon
from year to year during the time
Plaintiff was in possession

that is to say for the several years
from 1865 to 1872 inclusive amounting
to seven dollars for each said year
or forty nine dollars in the aggregate
wherefore Defendant having paid said
Taxes prays judgment against the
Plaintiff for the amount so paid
To wit, Forty nine dollars on account thereof,
for costs,

William B
Attorney for Defendant

Robert Mockbe on oath says the
Statement in the foregoing petition is
true to the best of his knowledge & belief
Sworn to & subscribed before me
January 20th 1874
J. S. Boyce Clerk

R. E. Mockbee

Edwam Fullin
vs
Robt Mockbe
Amended Petition
for improvements
Taxes &c

Filed Jan 20 1874
J. S. Boyce Clerk

Edward Fulton Plaintiff

Robert Mackbee
Defendant

The comes and demands to the Second
Count of the petition filed by Defendant
herein on the 20th day of January 1874
for the following grounds of demand
viz:

1. Because in a statutory proceeding
of this kind it is not allowable to set
up a claim for taxes paid on the
land for the delivery of the possession
for which judgment has been rendered.
2. Because it is not alleged in
said Second Count that defend-
ant paid the taxes alleged to ~~be~~
~~paid~~ have been paid were
paid at the request or instance
of Plaintiff.
3. The said Second Count does not
contain facts sufficient to sus-
tain the same.

John L. Thomas & Bro
Atty for Plaintiff

Ed. Fulton

2

Robert M. McKee

Almure

Filed June 20 1874
w/ft Boyce Cl

Ed. Fulton Plaintiff
~
Robert Mockbee,
Defendant

In the Jefferson
Circuit Court
Jan. Term 1874.

Now at this day comes said Plaintiff and for answer to the petition asking for compensation for alleged improvements the latter has made upon the demanded premises states that he denies that Defendant entered into said premises in good faith believing that he had good title thereto or that the Defendant in good faith believing that he had good title to said premises made any improvements on said premises of the value of \$110 or any other sum as alleged in said petition. He denies that said Defendant has made any improvements on said premises of any description whatever. He

For further answer Plaintiff states that Defendant wrongfully and well knowing that he had no title to said premises entered therein about two years ago and cut and carried ^{therefrom} away timber of the

of the value of three hundred dollars
and he believes and alleges the truth
to be that the Defendant is now
seeking to get compensation
for such wrongful cutting and
carrying away of said timber.
Plaintiff alleges that Defendant
has by this wrongful act aforesaid
done great damage to said land
to wit in the sum of three hundred
dollars for which Plaintiff asks
judgment.

Plaintiff further answering
denies that Mr. Mackee purchased
the premises for taxes or that he ever
received a tax and therefore as
alleged by Defendant in his
said petition.

John R. Thomas & Bro
Attys for Plaintiff.

Ed. Fulton

27

Robert M. McKee

Admission to Fulton
for Compensation.

Filed Jan'y 26th 1874
W. L. Joyce
Clerk

Edward Fulton } In the Circuit
Robt. Mockhe } Court of
Jefferson co,
Mo

Deft. replies and says that it is not true that Defendant wrongfully and well knowing, that he had no title to said Premises entered therein about ~~to~~ Two Years ago & cut & carried away therefrom timber of the value three Hundred dollars or any other sum, and denies that the Defendant is now seeking to recover compensation for any such wrongful cutting and carrying away of said timber

Denies that Defendant has by any wrongful acts of his in cutting timber or otherwise done any damage to said Land either in the sum of Three Hundred dollars or any other sum, & denies Plaintiffs right to any judgment & prays judgment as in his petition

Jos J. Williams
Att. for Deft.

Hudson
ms

Moorelee

Reply

Filed Jan 28 1874

W. J. Boyce & Co

Robert Mockbe } In the Circuit
vs } Court of
Edward Hutton } Jefferson County
Missouri

Now at this day comes the Plaintiff
and says that in the year 1865 one
Wm Mockbe purchased the South
half of the North west quarter of Section
Twenty seven Township forty one
N. Range five East containing
Eighty acres situate in Jefferson
County Missouri for the State
County & other Taxes then due and
unpaid thereon as assessed & levied
on the same for State & County Taxes
for several years Taxes due
Jefferson County & the State of
Missouri & received two Tax
Deeds for the same conveying
said Land to said Wm Mockbe
and Plaintiff avers that after said
Wm Mockbe received said Tax
Deeds for said Land & in the
same year he conveyed it to
Plaintiff by Deed, that Plaintiff
on receiving said Deed in the
year 1865 went into possession
of said Land under it, in good
faith believing he had a good

title thereto, that he continued in the possession of said premises from the time he went into the same in the year 1865 till the present time, that after he went into the possession of said premises he made valuable and lasting improvements thereon, viz, he cleared on said land eleven acres thereof ready to be put in cultivation by clearing off from it the brush, timber, and grubz and preparing it for cultivation and fencing, which eleven acres had therefore been wild land that the clearing of said land was reasonably worth Ten Dollars per acre & in the aggregate one Hundred and Ten Dollars;

that Plaintiff entered into said premises in good faith under said Deed from said Wm. McKee believing he had good title to said Real Estate and made said improvements in good faith believing his title thereto was good and made said improvements on said land in good faith prior to his having any knowledge or notice of any adverse claim, thereto of Defendant

or of any other person, that on or
about the 11th of April 1873 Defendant
brought suit against Plaintiff for
possession of said Land and in
the Circuit Court of Jefferson Co. Mo,
and obtained judgment against him
for possession of the same in
said action it being an action of
ejectment at the September Term of
said Court 1873 - Wherefore
Plaintiff prays judgment for
one Hundred and Ten Dollars
the value of said improvements
made on said Land by him as
aforesaid and that the Court
will grant other proper relief,
Robert Mookhe
By Williams
His Attorney

Sworn to and
Subscribed before
me this day of
1874

Robt. Moore

by

Edw. Hullon

Amended Petition

Filed April 9 1874

W. S. Boyce & Co.

T Garrio Sept

2-12 — 2,96

S S Smith Jan 5

7-16 —

Ernst Delf

7-16 —

77-137, 174, 186, 193, 197, 201,