

Jefferson County Circuit Court
Case Files - Civil
May 1874

Box 32 Folder 72

Spitz, Florenz

vs.

Kochner, George M.

Kochner, Philip Henrich

Debt, Note

Debt of \$350

250 - 2600
Gandy's gift to 17 girls 1871

[illegible]

For my M. Boyman,
Publishing firm of Boston.

350 Dollars, Note, 12th July 1871

We the undersigned acknowledge to owe to
Florentz Spitz the sum of three hundred
and fifty dollars, Cash borrowed money.
me or either of us, of the undersigned promise
to pay one year ~~of~~ ^{after} from date the same
sum back, with 5% interest, the interest
to run on till the principal is paid
without defalcation or discount, negotiable
& payable,

~~Done in Jefferson Co~~

Done in Missouri, Jefferson Co,

Signed, Georg M. Kochner

" Phillipps Henry Kochner

State of Missouri }

County of Jefferson } Eugene Amor makes oath and says that
to the best of his knowledge the above and foregoing is a full and
correct translation of an instrument in writing dated July 17th 1871
and signed by George M Kochner & Philip Heun Kochner and to
which this is attached

Given to and subscribed
before me this May 12th 1874

J. Ed Walker Notary

E. C. Amor



330

Principal

Int. 3.9 x 63

ms.

73.50
423.50

State of Missouri County of Jefferson
In the Circuit Court.

Florenz Spitz Plaintiff

vs

George M. Koehner and
Phillip Hurick Koehner Defendants

The plaintiff states that the defendants by their promissory note hereto attached dated the 17th day of July 1871 promised, for value received, one year after date to pay plaintiff the sum of three hundred and fifty dollars that said note is written in the German language and being translated into the English language is in words and figures as follows. \$350 Note 17. July 1871.

We or either of us promise to pay to Florenz Spitz the sum of three hundred and fifty dollars, payable one year after date with six per cent interest from date for annum without abatement or discount until paid
Missouri Jefferson Co. George M. Koehner
Phillip Hurick Koehner

Plaintiff states that the said sum of three hundred and fifty dollars with the interest thereon is due and unpaid for which he asks judgment

P. P. Spitz
Plff. atty.

Jefferson Circuit Court

May Term 1874

Henry Spitz
vs

George W. Koehner and
Philip Winick Koehner

Petition on note

The Court will issue
summons immediately -

P. P. Kline
att'y for pett.

Filed March 19th 1874
W. S. Bryce CLK
By C. H. Downing clyk

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

The State of Missouri,

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

We command you, that you summon *George M Kochner and*
Philip Henrich Kochner

if they be found in your County, that they 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

Florenz Spitz

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
affixed, at office in Hillsboro this *17th*
day of *March* A. D. 18*74*

W. S. Boyce Clerk Circuit Court.

By *C. H. Horine* Deputy.

I Executed the within writ at the county of
 Jefferson State of Missouri on Geo. M. Kochner
 by Delivering him a true copy of the writ and
 petition as furnished me by clerk of said
 Court on the 2th day of April 1874 and
 further I Executed the within on P. H. Kochner
 on the same day ~~of~~ by Delivering him
 a copy of the writ April 2, 1874

J. B. Mop
 Sheriff

13 3976.

RETURNABLE
 TO
 JEFFERSON CIRCUIT COURT.

May TERM, 1874.

Florenz Spitz

= vs =

George M Kochner

Philip Hennich Kocher

(original)

Shafft for 200

P. H. Kochner

James Cook

223, 227 232 241 262 305 314 321.

SUBPOENA.--CIRCUIT COURT.

STATE OF MISSOURI,

County of *Jefferson*

ss.

THE STATE OF MISSOURI.

To *Geo. M. Koehnner & Philip M. Koehnner*

YOU ARE HEREBY COMMANDED, That, setting aside all manner of excuse and delay. you be and appear in proper person before the Judge of our Circuit Court, at the Court House, in ~~the~~ *Hillsboro* of the *13th* day of *January* A. D. 1875, then and there to testify and the truth to speak, in a certain matter of controversy now pending in our said court, wherein

Alexander Spotts is Plaintiff,
Koehnner & Koehnner are Defendants,
 on the part of said *plffs*; and this you shall in nowise omit.
 And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

Witness my hand and seal of our said Court. Done at office
 in *Hillsboro*, in the County aforesaid, on this *4th*
 day of *January* A. D. 1875.

C. J. H. Morris Clerk.

By

D. C.

SUBPOENA

Circuit Court.

Term, 1878.

Subpœna.

Kochner v Kochner

Plffs. } WITNESSES.
Defrs. }

Day of Trial

Geo M Kochner

Philip H Kochner

Sherriff fee 100

Fee, \$

R E T U R N

I HEREBY CERTIFY, that I served the within Writ in the County of Jeff
the 11th day of January 1878, by Addressing the same
to George M Kochner and Philip H Kochner
Not known
Constable

Moran & Spitz } In the Circuit
vs } Court. January
George M. Robinson } Term 1875.
et al }

Now comes the plaintiff and
moves the Court to strike out the
following Count in defendant's
answer to wit.

"Defendants say that as a promissory
note the said document is null
and void for the reason that it is
not stamped with a United
States revenue stamp as the
laws of the United States require"
Because

The said Count constitutes
no defense to plaintiff's Cause
of action.

P. Pipkin
App. atty.

Henry Spitz
m

George M. Rotun
chal,

—

Motion to Strike
out. Party of

Quarant
—

Filed Jan 12 '98

C. H. H. H. H. H.
C. H. H. H. H.

Horawitz Spitz
vs

George M. Koehn
et al

In the Circuit Court
of Jefferson County
Mo. Jan'y Term 1875.

Now comes, the plaintiff
Robert Spitz administrator of the estate
of the plaintiff above named, who
has since the bringing of this
suit expended this life, and
for application to the answer
of the defendants, deposes that
before and at the time of subscribing
the instrument of writing and on
by defendants that plaintiff declared
his willingness and desire to give
donate and advance to George
M. Koehn the sum of three
hundred and fifty dollars as a
portion of the property which
should or take after the death of
the plaintiff the wife of said George
M. Koehn being the daughter
of plaintiff as aforesaid none be-
lieved to by way of inheritance
out of the property of plaintiff and
that plaintiff was willing and desirous
to give donate and advance
said sum at that time, because

he said George M. Kuehner was then
intruding and about to build upon
and improve certain real estate
which had descended to the wife
of said George M. Kuehner and
daughter of plaintiff from her
former husband Nicholas
Burr deceased, and the children
of the latter. The interest descending
to her being a dower interest.
Swears that said George M.
Kuehner indeed said money
for the purpose of said improvements
or expended the same in making
and erecting certain buildings
on the real estate stated in said
answer. Plaintiff denies that before
the signing of said note by defts.,
the said plaintiff had written the
same, denies that with the intent to
defraud and cheat defendants said
plaintiff ^{presented the same to defendants} saying and representing
that the same was only for the purpose
of showing that the sum of three hundred
and fifty dollars had been given donated
and advanced as a portion of the future
inheritance of the wife of said George
and daughter of plaintiff.

Plaintiff denies that any fraud or deceit or misrepresentation as to the contents of said note was practiced on the Defendants or either of them. Denies that said defendants did not read said note, or did not know its contents or provisions, deny that the same was not read to them.

Plaintiff avers that the contents of said note was fully understood by said Defendants when they signed it, that it was for borrow money loaned to said George M. Kochman, and that it was not for any advancement or donation given or intended to be given to the wife of said George M. Kochman.

Plaintiff avers that the said defendants relied when they signed said note upon any representations or statements as set forth in the answer in regard to the contents of said note. Deny that they were misled or deceived in signing said note and deny all or any allegation in said answer which charges the said plaintiff of fraud or deception.

and Plaintiff avers that said person

of money set forth in said petition and
any part thereof is due and owing
and as heretofore prayed asks judgment
for same

P. P. Hine
Per P. P. H.

Gutz

Beckman

— — —

Publication

Filed Jan'y 13 1880

Chas. H. Hine

CLK

a long time theretofore, George M. Kochner, one of defendants, was, and still is, the husband of a daughter of plaintiff, and that Philip Henry Kochner, the other of defendants, is the father of George M. Kochner; that before and at the time of signing subscribing said document by defendants, plaintiff declared his willingness and desire, to give, donate and advance to George M. Kochner the sum of three hundred and fifty dollars, as a portion of the property, which sooner or later after the death of plaintiff, the wife of said George M. Kochner, being the daughter of plaintiff as aforesaid, would be entitled to by way of inheritance, ^{out of the property of plaintiff} and that plaintiff was willing and desirous, to give, donate and advance said sum at that time, because, he, said George M. Kochner, was then about intending and about, to build upon and improve certain Real Estate, which had descended to the wife of said George M. Kochner, and daughter of plaintiff from her former husband Nicholas Buer, deceased, and the children of the latter; in which the interest, descending to her, being a demer- interest; that said George M. Kochner needed said money for the purpose of said im- provements, and expended the same in

making and erecting certain buildings on the Hill Estate, ~~as~~ in which his wife and daughter of plaintiff had the same interest as aforesaid.

Defendants further state, that before the signing of said document by defendants, the plaintiff himself had written the same, and thereupon with an intent, to defraud and cheat defendants, presented said document to defendants, ^{and representing} saying, that the same was only for the purpose of showing, that the sum of three hundred and fifty dollars had been given, donated and advanced as a portion of the future inheritance of the wife of said George M. Kachner, and daughter of plaintiff; and defendants state, that they, relying upon and believing the said false representations of plaintiff as to the contents of said document, and being unable to read the said document, because the same is entirely illegible, they subscribed the same, not in the least knowing, that said document was a promissory note or any other document, by which they promised to pay said sum or any sum whatever to plaintiff.

Defendants therefore say that because of the premises and fraudulent represen-

trans by plaintiff to them as aforesaid
and because said sum was given, donated
and advanced by plaintiff as aforesaid,
is null and void, wherefore defendants
ask judgment for costs of suit.

Henry F. Ahlrens
Atty. for defendants,

In the lawsuit heard
at Jeffersonville, Mo.,
May Term 1874,

Florens Spitz,
pett.

vs.
George W. Kachner,
and Philip Henry
Kachner, defendants,

Answer

Filed May 12 1874
W. S. Boyce
Clerk

Florentz Spitz

vs

George M. Koehner

Philip Henry Koehner

In the Circuit

Court May

June 1874

Plaintiff states by leave of the Court first
had and obtained from said Defendant
that on the 17th day of July 1871
the said defendants made executed
and delivered to the Plaintiff their
contract in writing as follows.

"\$50 dollars, Wts. 17th July 1871 - We
the undersigned acknowledge to owe
to Florentz Spitz the sum of three hundred
and fifty dollars cash borrowed money
me or either of us of the undersigned promise
to pay one year after date the same
sum back with 6% interest. The interest
to run on till the principal is paid
without defaultation or on Court ^{negotiable}

^{and payable}
done in

Superior Jefferson County

Signed George M. Koehner

Philip Henry Koehner

that said Contract was written ~~and~~
~~executed~~ the German Language
and is herewith ^{into English} filed with a correct
translation thereof attached.

Plaintiff states that by said Contract

so made as aforesaid the said defendants
promised one year after date
to pay plaintiff the said sum
of three hundred and fifty
dollar borrowed money
one year after date, which
with the interest thereon is due
and remains unpaid and
for which he asks judgment.

P. P. P. P.

Plffs atty.

Shitz
19
Kochman

Amended Petition

Filed May 13 1878
W. S. Boyce Clerk

Florenz Spitz, plff.,

against

George M. Kachner and
Philip Henry Kachner,
defendants.

In the Circuit
Court of Jefferson
County, Missouri,
Sept. Term 1874.

Now come defendants by their attorney,
and by leave of court answer the amended
petition as follows:

Defendants deny, that they made, executed
and delivered to plaintiff, what he calls
their contract in writing, and a copy of
which plaintiff has inserted in his said
petition, ~~as~~

Defendants admit, that they signed the
instrument in writing and in the German
language, filed with said petition, but deny,
that they thereby promised, one year after
the date thereof to pay plaintiff the sum
of three hundred and fifty dollars borrowed
money, or any other amount, and that such
sum and interest thereon is still due plaintiff,
as he states, and in explanation of this de-
fendants state the following as facts:

Before and at the time, said instrument
in the German language purports to have
been executed, George M. Kachner, one of defen-
dants now, and still is the husband of a
daughter of plaintiff; he, said George M. Kach-

ner, was at that time about, to make some
improvements on certain Real Estate, which
had descended to his said wife (being the daughter
of plaintiff as aforesaid,) and her children, which
she had by her former husband Nicholas Buer,
former said Nicholas Buer, deceased; that
to make such improvements, he needed some
money; and that plaintiff, as the father of
his wife, agreed, to ^{and actually did give and donate} give and donate, to said
defendant George M. Rachner and his said
wife, the sum of three hundred and fifty
dollars, as an advancement or portion of
whatsoever she, the said wife of George M.
Rachner, as the daughter of plaintiff, might
after the death of plaintiff be entitled
to, by way of inheritance; that plaintiff
drew up said instrument in the German
language, saying and representing to defen-
dants, that it was only for the purpose
of showing and evidencing, that said sum
had been thus given and donated; that,
because said instrument is, ^{almost} illegible and
very difficult to be interpreted, and because
they had full faith and confidence in the
truth of the representations of plaintiff,
said defendants did not read said in-
strument, but signed the same without
reading, believing, that it was only for

the purpose of evidencing and showing,
that said sum had been given and
donated as stated.

These defendants therefore state, that said
instrument is null and void and not
binding upon them on account of said fraud-
ulent and false representations, made by
plaintiff to defendants as to the contents
of said instrument,

These defendants further state, that
said instrument on writing and in the
German language is null and void, because
it purports to be a promise to pay
money, and is not provided with a
United States Revenue stamp, as the laws
of the United States require such a prom-
ise in writing to be.

And these defendants therefore
ask to be discharged and judgment for
their costs.

Henry F. Ahlborn
Atty. for both defen-
dants,

In the latest
count of pepper
Co. me.
Sept 1874

Henry Spitz,
rept.

George M. Rackner
and Philip Henry
Rackner, depts.

Answer to
amended petition

Filed July 15 1874
W. S. Boyce
Clerk

C. Y. Horner

You will please give Ex. in
Spitz Mr. Rochna-chaal, & tell my to
buy or two tracts of land belonging
to the old man - Rich George, he lives on
our end - the other joins it - they lie near
Rock Creek or - old Lemay ferry road
I don't know the spot

P. H. K. in

Florenz Spitz
 George M Koehner and
 Philip Heinrich Koehner.

Boyce

May 18/4 Cot pet. ²⁰ crs ⁵⁰ writs & cop. ^{1.20} files ²⁵ \$ 2.20
 May 18/4 Docket ¹⁵ and ²⁰ leave to amend pet. ²⁰ 55
 leave to amend an ²⁰ cont. ²⁰ 45
 Sept 18/4 Docket ¹⁵ Deats sug ²⁰ appx. ¹⁰ 45
 Jan 18/5 Docket (Boyce is entitled to 1/2 of this, 15 \$ 3.80
 Norine

Jan 18/5 ~~Docket~~ motion ²⁰ rule ²⁰ 40^c
 files ¹⁰ Sub ³⁰ Judgt ⁵⁰ Docket Judgt ²⁰ 1.15
 313^c costs ²⁰ 1 sta ²⁰ 60 \$ 2.45
~~order correcting record~~
 order correcting Rec ³⁰ Sat ²⁰ 1.60 1.75

Mop Aff.

2 writs ²⁰⁰ 4 calls ²⁰ 2 sps ¹⁰⁰ 3.20

\$ 2.75
 3.80
 3.20
 9.75