

Jefferson County Circuit Court
Case Files - Civil
May 1874, No. 35

Box 32 Folder 73

Hennoid, Louis Henry
Hennoid, Alexander Henry
Hennoid, Henry Albert
Hennoid, Henry Gaspard, et al

vs.

Neusbaumer, Francis Joseph

Kullity order of sale

80 acres in S32,33,34,35 sold
under partition; other plaintiffs
Elizabeth & Herman Edwards;
bill of exceptions

Louis Henry Henroid,
Alexander Henry Henroid,
~~Henry Albert Henroid,~~
Henry Gaspara Henroid,
and Elizabeth Edwards,
and Herman Edwards, her
husband, — Plaintiffs

Against
Francis Joseph Newsbamer, — Defendant, }
} In the Circuit Court of
} Jefferson County Missouri
May Term 1874.

The Plaintiffs state that their ancestor,
Henry Henroid, died several years ago, seized
at the time of his death in fee simple, of
the following described two Tracts of Land,
situate in Jefferson County in the State of
Missouri, To wit, The North East quarter of
the North East quarter of Section No. Thirty
two, in Township No. Thirty nine, of Range
No. Five East, containing Forty acres; also,
the North West quarter of the North West quar-
ter of Section No. Thirty three, in Township
No. Thirty nine, of Range No. Five East, con-
taining Forty acres, — Plaintiffs state that
said Henry Henroid, deceased, left survi-
ving him five children, To wit, Louis
Henry Henroid, Alexander Henry Henroid,
~~Henry Albert Henroid,~~
Henry Gaspara Henroid, and Elizabeth
Henroid, (since intermarried with Herman

Edwards,) the above named Plaintiffs, and to whom the above described Lands descended, as the heirs at Law of the said Henry Herrold, deceased, - The Plaintiffs state that the
✓ Defendant, Francis Joseph Newsbaumer, some time afterwards, conceived the design to cheat and defraud these Plaintiffs of their just rights to said property, and for this purpose
✓ he procured himself to be appointed Guardian of Henry Albert Herrold, (~~intending at~~
~~for said Henry Herrold~~) and as such Guardian, the Defendant, on the 14th day of September 1864, filed in the Clerk's office of the Circuit Court of Jefferson County aforesaid
✓ a Petition for partition of said two tracts of Land; and afterwards, at the November Term 1865, the Defendant obtained an irregular and void order of sale of the Lands aforesaid; and on the 16th day of May 1866, the Sheriff of said County sold said Lands under said order of Court, and the Defendant became the purchaser of both of said tracts of Land, at one hundred dollars, and afterwards, to wit, on the 5th day of November 1867, obtained the Sheriff's Deed for the same. - And the Plaintiffs aver that the proceedings, order of Court and the sale of the Sheriff ^{of said Lands} are irregular, illegal and void, for the following reasons, - first, the Defendant did not set out the proper names

of the parties interested in said Land, - 2^d - The order of sale does not describe the Land correctly, - nor does it set out, ascertain, or describe, the rights and interests of any of the parties to said partition suit, - except, Henry Albert Hewroid, the plaintiff therein, - 3 - The Sheriff's Notice and report of sale mis-describes the Land, - And Plaintiffs therefore aver that the whole proceedings are irregular, illegal, and void, - and that the Deed of the Sheriff to Defendant, based on such void and illegal proceedings is also, illegal and void in law, and confers no title to Defendant to said Land, - And Plaintiffs further aver that Defendant's attempt to purchase the interest of his ward, Henry Albert Hewroid, was contrary to law and Equity, and is illegal and void, -

✓ The Plaintiffs further state that the Defendant's proceedings in said partition suit, were designed to cheat and defraud these Plaintiffs of their just rights to said Land, - to enable the Defendant to purchase said Land for a mere trifle, pretending at the time that he was buying for the plaintiff, his ward, - And Plaintiffs aver that said Land at the time of said sale, was worth at least one thousand dollars, - that the Defendant, took advantage of the Plaintiffs, who were all

minors when said Land was sold, and were not present, and knew nothing of what Defendant was doing. - The Plaintiffs therefore state that the Defendant continued said plan of becoming Guardian as aforesaid, instituting said partition suit, and procuring a sale of said Land, in order to defraud Plaintiffs of said Property, and procure title to the same in himself. - And Plaintiffs further state that Defendant at said sale fraudulently represented that he was buying said property for ^{the} benefit of the said heirs, and thus bought the Land at his own price. - Plaintiffs state that said Land was sold for less than one tenth of its actual value, - that it would be contrary to Equity to permit said sale to stand. - In consideration of the premises, the Plaintiffs ask the Court to order, adjudge, and decree, that said Order of sale of said Land be set-aside, as illegal and void; and that the Sale of the Sheriff based thereon be also set-aside, - and that the Sheriff's Deed to Defendant for said Land be set-aside, vacated, and for nought held, as fraudulent and void; and that the title to said Lands be fully vested in the Plaintiffs, - and to grant such other and further relief as may be consistent with Equity.

3 Honer Green - Attorney
for the Plaintiffs.

In Circuit Court of
Jeff. Co, May Term 1874

Lewis H, Hemard, &
others, vs,

James J, Newlander

Petition, to set aside
Sale, Decr, &c

Let summons issue
A. Mearns
for Jeff,

Filed April 21st 1874
W. S. Boyce

Adk

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

Francis Joseph Newsbaurer

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 Louis Henry Henroid, Alexander Henry Henroid, Henry Albert Henroid, Henry Gaspard Henroid, Elizabeth Edwards and Herman Edwards

upon their 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 21st day of April A. D. 1874

W. S. Boyce Clerk Circuit Court.

By *C. Ho. Horine* Deputy.

I executed the within summons and ~~petition~~
at the county of ~~Jefferson~~ state of Missouri on the
within named prañceer Joseph newshummer by
delivering to him a true copy of the original writ
and fiction on the 22th. day of april 1874

J. D. Frost sheriff
By J. A. Williams Dep

4032

RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

May TERM, 1874.

Meroid Edwards

vs

Francis Joseph Newsbamer

\$15.00 paid Meroid
by Thomas & Bros
for 20 and 1/2 Lufs Ch.
in this case.

Original

sheriff fees \$1.00

ser 22

224, 225, 304, 313, 314, 315, 318, 333, 441, 454, 465

Louis Henry Heriold et al,
Plaintiffs

Francis J. Newsbammer

Defendant

In the Jefferson Circuit Court.

The Defendant comes and
demurs to the petition of the Plaintiffs
filed herein for the following
reasons.

1. Because said petition does not
state facts sufficient to constitute
a cause of action.

2. Because there is no equity
in said petition and the Plaintiff
is not entitled to the relief sought.

3. Because Plaintiff alleges
that said partition sale was void
and yet they ask this Court to
set aside said sale.

John L. Thomas & Bro
Atty. for Defendant.

Remond et al

2

D. J. Neustbauer

Demmer

Filed Aug. 13th 1874

W. S. Boyce

Old

Louis Henry Henroid and others Plaintiffs
against
Francis J. Newbaumer Defendant

In the Circuit Court of Jefferson County Mo,
January Term A.D., 1875—

Now at This day comes defendant and for answer to Plaintiffs amended petition, filed with leave of Court, states deny That Plaintiffs on the 1st day of January A.D., 1870 or at any other time were entitled to the possession of the real estate described in their amended petition, deny That he afterwards on the 2^d day of January A.D., 1870 or at any other time entered into said premises and unlawfully withholds from the Plaintiffs the possession thereof, to their damage in the sum of Three hundred ^{and fifty} dollars or any other sum, Defendant further answering denies That the monthly value of the rents and profits of said premises is twenty dollars, or any other sum, denies That Plaintiffs are entitled to judgment for the recovery of the said premises, and for three hundred and fifty dollars damages for the unlawfully withholding of said premises from the Plaintiffs, or for any other sum, deny That Plaintiffs are entitled to judgment for twenty dollars or any other sum for the

Louis Henry Wendt

Ex. also
against

Francis J. Newbauer

Answer to Amended

Petition

Filed Dec. 7th 1874

W. J. Bayce

CLN

the monthly rents and profits of said premises from the rendition of judgment until the possession of the premises is delivered to the Plaintiffs, Deny That Plaintiffs are entitled to any judgment whatever against this defendant, Defendant having fully answered asks to be discharged &

John L. Thomas & Bro
Attys for Defendant

Edwards & wife et al
vs
J. J. Kusbaumer

In the Circuit Court of Jefferson
County Missouri Jan'y - Term 1875

Now at this day comes the defendant
and moves the court to rule the Plaintiffs
to give security for costs in the above
entitled cause for the following reasons
to wit:

- 1st Because the Plaintiffs are insolvent
and unable to pay the costs -
- 2nd Because the costs could not
be made out of the Plaintiffs by
law -
- 3rd Because nothing could be made out
out of the Plaintiffs

John L. Thomas & Bro.,
Attys for defendant,

Edwardesley

~

F. J. Kerschbamer

Motion for
Court.

Filed Jan'y 11th 1878
Otho A. Lorne
Clerk

Louis Henry Heriot
and others Plaintiffs

vs
Francis Joseph Kausbaumer
Defendant

In the Jefferson Circuit Court
Jan. Term 1875

Now at this day comes said
Defendant and ~~moves the Court~~
demurs to the second amended
petition filed herein on the 13th
day of January 1875 and for grounds
of demurer states the following
1. Because said petition does not
state facts sufficient to constitute
a cause of action.
2. Because there is no equity
in said petition
3. Because said petition alleges
that the sale and deed sought
therein to be set aside are irregular
illegal and void and therefore
Plaintiffs have a complete remedy
at law, if they have any cause
of action at all.

John L. Howard & Co
Atty in Supt.

Louis H. Heriot
et al

vs

Francis J. Kusbauer

Denver.

Filed January 13, 1885
L. H. Heriot
Clerk

Louis Henry Henroid
Alexander Henry Henroid
Henry Albert Henroid,
Henry Gaspard Henroid,
and Elizabeth Edwards,
and Herman Edwards,
her husband, — Plaintiffs

In the Circuit
Court of Jefferson
County, Missouri

Against
Francis Joseph Newsbaurer, — Defendant,

Amended petition filed by leave of the Court,

The Plaintiffs state that their ancestor,
Henry Henroid died several years ago, seized
and possessed at the time of his death in fee
simple of the following described real estate,
situate in Jefferson County in the State of Mis-
souri, to wit, the North East quarter of the North
East quarter of Section No. Thirty two, in Town-
ship No. Thirty nine North, of Range No. Five East,
containing Forty acres; also the North West
quarter of the North West quarter of Section No.
Thirty three in Township No. Thirty nine North, of
Range No. Five East, containing Forty acres. —

The Plaintiffs state that said Henry Henroid
deceased left surviving him five children,
to wit, Louis Henry Henroid, Alexander Henry Hen-
roid, Henry Albert Henroid, Henry Gaspard Henroid,
and Elizabeth Henroid, (since intermarried with
Herman Edwards,) the above named Plaintiffs,

and to whom the above described Lands descend-
ed as the heirs at Law of the said Henry Hen-
roid, deceased. - And the Plaintiffs state that
some time after the death of said Henry Hen-
roid, and while these Plaintiffs were all minors
under twenty one years of age, the Defendant, Fran-
cis Joseph Newsbaumer, conceived the design of
cheating and defrauding these Plaintiffs out
of their just rights to said property, - and for
this purpose, he, in September 1864, procured
himself to be appointed Guardian of Henry
Albert Henroid, (then a minor of twelve years
of age) and that the Defendant as such Guar-
dian, on the 14th day of September 1864, filed
in the Clerk's Office of the Circuit Court of
Jefferson County Missouri, a petition for parti-
^{against the said heirs and owners of the lands above said;}
tion of the Lands herein above described;
and at the November Term 1865, obtained an irregular
and void order of sale on said petition, but which
fails to describe ^{correctly} the lands herein above described,
and on the 16th day of May 1866, the Sheriff of
said Jefferson County sold the Lands described
in the order of sale ^{as certified to him by the Clerk} and the Defendant became
the purchaser thereof, for one hundred dollars,
and on the 5th day of November 1867, he obtained
the Sheriff's Deed for the Lands so purchased, -
And ~~afterwards~~ ^{being in} the Defendant ~~had~~ possession
as husband of the widow of said deceased
of the Lands herein above described, ~~and~~ now

continues to hold possession of the same and claims to be the owner thereof. But the Plaintiffs aver that the proceedings in said partition suit, are irregular, illegal and void for the following reasons, - 1st The petition in said suit does not set forth the proper names of the parties interested in said Lands, - 2nd - No legal or sufficient summons was ever served on these plaintiffs, as parties to said suit, - nor were they duly notified of the commencement of said suit, 3rd - The order ^{of} sale does not show that the court ascertained and determined the rights of the parties therein, or that the Defendants therein had any interest in said Lands, nor does it describe correctly the Land herein set forth, - 4 - The Sheriff's notice of sale was not sufficient, to authorize him to sell the Lands herein stated, - as neither it, nor the Report of sale, nor the Sheriff's Deed, correctly describes the Lands herein, And the Plaintiffs further state ^{that} the decree of the court was irregular, as a sale was ordered without appointing commissioners to divide the Land, which was susceptible of division, - that it did not determine the rights of the parties, and therefore the order of sale of said Land, as certified by the Clerk, did not authorize the Sheriff to advertise and sell said Land; on hence said proceedings

of the Court, sheriff's sale of the Land, and the Deed of the same, are irregular and void, Yet as they are calculated to obscure and cloud the Plaintiffs title to the Land, here in described (as one Tract of Land herein described is properly described in said order of sale,) and as Plaintiffs cannot have a complete, and adequate remedy at law, they aver that said Proceedings operate as a fraud on Plaintiffs rights and are contrary to Equity. - And the Plaintiffs further state that the Defendant fraudulently procured himself to be appointed Guardian of Henry Albert Henroid, (who was then only about twelve years of age, and knew nothing of said Guardian's proceedings) for the purpose and with the intent of cheating and defrauding the heirs of said Henry Henroid, (who are the Plaintiffs herein) out of their rights to the Land aforesaid. That said Defendant, having married the widow of said Henry Henroid, deceased, became thereby possessed of said Land, and soon after her death, he compelled these Plaintiffs by bad treatment to leave said premises, that he might the better carry on his fraudulent proceedings to possess himself of title to said Land, without the Plaintiffs having any notice

of his proceedings. And Plaintiffs aver that the Defendant fraudulently procured said order of sale of said Lands, without these Plaintiffs, (who were all then minors) having any knowledge of his proceedings, - and that he fraudulently concealed the facts from these Plaintiffs, that a sale of said Lands had been ordered by the Court, and that he fraudulently caused a sale of said Lands to be made, without informing any of these Plaintiffs of his proceedings, and who had no notice whatever when said Lands were sold, - And the Plaintiffs state that, at said sale, Defendant fraudulently misrepresented the quality and value of said lands, and pretended he was bidding in said Lands for the heirs, - And the Plaintiffs aver that by such false and fraudulent proceedings, and by concealing from the Plaintiffs the facts that he had procured a sale, and the time when said Lands were to be sold, and by other fraudulent practices, the Defendant purchased the Lands described in said Sheriff's Deed, at less than one tenth of their actual value, - that said Lands at the time of such sale were worth at least one thou=

said dollar, - And Plaintiffs further state that Defendant, by ^{fraudulently} procuring himself to be appointed Guardian as aforesaid, unknown to his said Ward, and instituting said partition, ~~suit~~, and procuring said order of sale of said Land, and ^{fraudulently} ~~in~~ ^{con-}cealing the time of sale of the same from the Plaintiffs, has thereby procured a fraudulent claim and pretended title to said Land, without any of these Plaintiffs, (who are the heirs at law of said Henry Henroid deceased) ever having received one dollar from the proceeds, of said pretended sale, - Plaintiffs therefore state that said proceedings in partition, ^{sale, and} order of sale, and Sheriff's deed of the Land, therein described, were procured by Defendant by fraudulent contrivances, and practices, and are ^{fraudulent and void and} ~~Contrary~~ to Equity, - and that unless such proceedings, sale, and Sheriff's deed ^{should be} ~~are~~ set aside and vacated, these Plaintiffs ^{will be} ~~are~~ utterly cheated and defrauded of their title to the Land herein described, without any compensation whatever for the same.

In consideration of the premises aforesaid, the Plaintiffs ask the court to order adjudge and decree that the pro-

ceedings in the Partition suit aforesaid,
the order sale by said Court, and the sale
of the Lands described in said order,
be set aside vacated, and for nought
held, and ^{that} the Sheriff's deed for said
lands to Defendant, be declared null
and void, as being fraudulent and
void, and contrary to the principles of
Equity, and that the Defendant be
divested of all title, right, or interest what-
ever, to the lands aforesaid, if any he
acquired by virtue of said proceedings
and Sheriff's Deed, and that the title
to the Lands herein described be fully
vested in the Plaintiffs, and to adjudge
that Plaintiffs recover possession
of the same, and to grant such other
and further Judgment ^{and relief} as may be con-
sistent with Equity,

Abner Green
Attorney for the Plaintiffs

In the Circuit Court
Jefferson County

Sam'l Penn Henroid
and others,

vs,
Hans, J. Newsbamer

Amended
Petition

Filed Jan'y 18th 1878 -
C. H. Ho. Staines
Clerk

Louis Henry Henroid
Alexander Henry Henroid
Henry Albert Henroid
Henry Gaspar Henroid,
and Elizabeth Edwards
and Herman Edwards, her
husband, - Plaintiffs

In the Circuit Court
of Jefferson County,
State of Missouri

Against
Francis Joseph Newsbamer, - Defendant,

Amended petition filed by leave of the Court.
The Plaintiffs state that their ancestor, Henry Henroid, died some time in the year 1863, seized and possessed at the time of his death in fee simple of the following described Real estate, situate in the County of Jefferson in the State of Missouri, to wit, the North East quarter of the North East quarter of Section No. Thirty two, in Township No. Thirty nine North, of Range No. Five East, containing Forty acres; also, the North West quarter of the North West quarter of Section No. Thirty three in Township No. Thirty nine North, of Range No. Five East, containing Forty acres. The Plaintiffs state that said Henry Henroid, deceased, left surviving him, five children, to wit, Louis Henry Henroid, Alexander Henry Henroid, Henry Albert Henroid, Henry Gaspar Henroid, and Elizabeth Henroid, (since intermarried with Herman Edwards) who are the above Plaintiffs herein, and to whom the above described Lands descended,

as the heirs at law of the said Henry Heuroia,
deceased. And the Plaintiffs state that soon after
the death of said Henry Heuroia, the Defendant having
married the widow of said deceased, became thereby
possessed of the Lands aforesaid, and that soon af-
ter the death of said widow in 1864, (she being the
mother of these Plaintiffs, who were then all minors
under twenty one years of age,) the Defendant, con-
cocted a scheme to cheat and defraud these Plain-
tiffs out of their rights to said Lands. And in order
to carry out such fraudulent designs, the Defend-
ant in September 1864, fraudulently procured him-
self to be appointed Guardian of Henry Albert Heu-
roid, (then a minor of only ^{and without the knowledge of said minor} twelve years of age) and
on the 14th day of September 1864, said Defendant ^{fraudulently} com-
menced a suit, in the Circuit Court of said Jeffer-
son County, in the name of such minor, by himself
as Guardian, ^{but without such minor's knowledge & consent,} against the other minor heirs of said
Henry Heuroia, deceased, for the partition and
division of said Lands; and at the November Term
1865, of said Court, he fraudulently procured an
order of sale, purporting to be an order for the sale of
said Two Tracts of Land, but which order misde-
scribes one of the Forty acre Tracts of Land herein
above described. And afterwards, on the 16th day of
May 1866, the Lands described in said order, were sold
by the Sheriff and the Defendant fraudulently
bought the same for one hundred dollars, and res

ceived the Sheriff's Deed for the same. And these Plaintiffs aver that said Partition suit, was a con-
tinuance of fraud, conceived by the Defendant, in order to cheat and defraud the Plaintiffs of their rights to said Lands. They state that the De=
fendant soon after the death of their Mother, compelled these Plaintiffs by his abusive treat=
ment of them to leave home, and shift for them=
selves, though they were yet all minors, and in=
experienced, - leaving Defendant in possession of their lands, - That he then, without informing any of said minors of his intentions, fraudulently procured himself to be appointed Guardian of ^{only} Henry Albert Hemmick (then a minor of twelve years of age) and immediately afterwards, the Defendant fraudulently instituted said Par=
tion suit; and although Plaintiffs may have been served with ^{some irregular} notice of such proceeding, yet they were all too young to understand the nature and object of such suit, and they aver that the Defendant purposely and fraudulently refrained from giving them any information on the subject. And they state that the Defend=
ant falsely and fraudulently represented that such Lands were not susceptible of division, and by such deceitful practices, he fraudulently procured an order for the sale of said Lands, without having Commissioners appointed to divide them among

said heirs, although Plaintiffs aver that said Lands were susceptible of division without prejudice to the owners thereof. They further state that they had no knowledge that an order had been made for the sale of said Lands, and when said Lands were sold on the 16th day of May 1866, these Plaintiffs had no notice of the fact. They aver that the Defendant fraudulently concealed from the Plaintiffs the fact that said Lands were ^{ordered} to be sold, and the day of ^{such} sale; and they aver that they knew nothing whatever in relation to the sale of said Lands, - nor did they know for more than a year afterwards, that the Defendant pretended to claim title to said Lands, - They therefore aver that, by reason of the Defendant carrying on his proceedings in such a secret, clandestine, and fraudulent manner, and by reason of these Plaintiffs being minors and too young and inexperienced to understand the nature of said proceedings, and having no notice of the same, and no ^{person} present to protect their interest in such proceedings, the Defendant fraudulently managed and controlled said sale in his own way, - and by falsely representing the value of said Lands, and other fraudulent means, he ^{fraudulently} purchased said Lands for less than one-tenth of their actual value, For Plaintiffs aver that said Lands were at

the time of such sale worth at least one thousand dollars. - The Plaintiffs further say, that not only were said lands sold at an immense sacrifice, but that these Plaintiffs have never received one dollar for their interest in said lands. That the Defendant has so managed and carried on his schemes of fraud, as to deprive these Plaintiffs of their rights to said lands, and to possess himself of the nominal title to the same, without these Plaintiffs ^{ever} receiving one single dollar for their interest in the same. - The Plaintiffs therefore state that said partition suit was instituted by the Defendant, without the knowledge or consent of any of said minor heirs, and for the sole design, and with the fraudulent intent to cheat and defraud said minor heirs out of their rights to said real estate; and that the Defendant has, by such fraudulent means and practices, obtained a claim of title to the same, without these Plaintiffs ever having received any consideration whatever for the same; and that to permit such proceedings to stand, would be contrary to every principle of Equity. In consideration of the premises, the Plaintiffs pray that the Court will declare the order of sale, and the sale, and Sheriff's

Deed to the Defendant for the Lands herein above
described, fraudulent and void, as having been
procured by fraud, and to order, adjudge and
decree that the said order of sale, and the
sale made by the Sheriff, and the Sheriff's
deed to Defendant for the said Lands, be set-
aside, vacated, and for nought held, and that
the said Defendant be divested of all right,
title or interest whatever to the Lands herein
above described, and that the title to same
be fully vested in the Plaintiffs as the
legal heirs at law of the said Henry Ben-
roid deceased, and to grant such other
and further Judgment and relief as may
be just and proper under the premises, and
in accordance with the principles of Equity.

Alfred Green
Attorney for the Plaintiffs

4032

In Circuit Court
Jefferson County

Levi Henry Haurora
and others

vs.

Francis J. Newbammer

Amended

Petition

Filed March 20th 1875
C. H. McKim
Clerk

Louis Henry Henroid
Alexander Henry Henroid
Henry Albert Henroid
Henry Gaspar Henroid,
and Elizabeth Edwards,
and Herman Edwards
her husband, — Plaintiffs

Against
Francis Joseph Newabaumer, — Defendant

In the Circuit Court of Jefferson
County, Missouri, — May Term 1875,

I, Henry Lepp, a resident of the County of
Jefferson in the State of Missouri, do hereby ack-
nowledge myself bound to pay all costs which
have accrued, or that may accrue in the above
entitled Cause.

Witness my signature this 17th day of
April 1875,

Henry Lepp

Louis H. Harnoid
and others

vs.

Francis J. Newbammer

Security for

Costs.

Filed May 10 1875-

C. H. H. H. H.

Clerk

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To

Joseph Haversick & George Perry

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 *10th* day of *May*, 187*5*, 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 *Samuel and Edwards are* Plaintiff, and *J. J. Newsbamer* is Defendant, on the part of *PLF*; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *3rd* day of *May* *A. D. 1875*.

C. Tho' Horine, CLERK.

May 18/5

Henroid & Edwards

^{to}
Newbamed

—

P

Jacob Haversick J.
George Perry

Louis Henry Hennrich and
other Plaintiffs

Against

Francis J. Kausbaumer

Defendant

In the Jefferson Circuit Court.

Now at this day comes said
Defendant and for answer to
the amended petition filed herein
on the 20th day of March 1875
states that he denies that he in
~~September 1864~~ or at any other time
concocted a scheme to cheat and defraud
Plaintiffs or either of them out of
their rights to the Land ~~the~~ described
in said amended petition or that
he in order to carry out any
such pretended fraudulent designs
in September 1864 or at any other
time fraudulently procured himself
to be appointed Guardian of the
Henry Albert Hennrich one of said
Plaintiffs without the knowledge
of said Henry Albert Hennrich
or that he on the 14th day of September
1864 or at any other time fraudulently
commenced a suit in this Court.

in the name of said Henry Albert
against the other Plaintiffs for the
partition of said lands or at the
New Year Term of this Court
for 1865 fraudulently procured an
order ^{of sale} of said lands. But on the
contrary Defendant alleges that
in 1864 the said lands were of small
value & were in a condition so that
the owners could not use them
^{they pay the taxes on them}
He accordingly applied to Abner
Green who is an attorney at law
for advice as to what steps he should
take in reference to said lands he
being the step father of said children
and ~~there~~ he explained to said Green
the condition said land was in and
fully advised him of all the facts
in the case whereupon said Green
advised Defendant to bring a partition
suit for said lands but informed
him that he must be appointed
Guardian of one of them in order
to do so. Defendant admits that he
did by the advice of said Green
who now being this suit for Plaintiffs
have himself appointed Guardian
of the said Henry Albert but not

with any fraudulent design but in good faith under the advice of his said attorney. He admits that he intervened in the partition suit referred to in said petition and that said Green acted as attorney therein for the said Henry Albert though the Defendant as his guardian. Defendant emphatically denies any designs on his part to defend any one but the whole proceedings were left to the management of his said attorney which were conducted in the fairest manner possible as he verily believes. Defendant avers that all the Plaintiffs except the said Henry Albert were made defendants in said partition suit and were duly served with process and at the first Term of Court after they were so served the Court appointed John L. Howard an attorney at the as Guardian ad litem to represent said defendant and that he answered and appeared for them in said partition suit and at the November Term of this Court for 1865 a regular and valid judgment

was rendered by this Court for the
sale of said land for the purpose
of making partition among said
parties. And Defendant denies
that any mistake was made in
said order misdescribing said
land or any of it. Defendant
denies that he fraudulently
procured said order of ~~said~~ sale
but the same was made fairly
and was obtained by his said attorney.
He denies that he fraudulently
represented to the Court that said
land could ~~not~~ be divided in
two among said parties and
he charges that said land could
not have ^{been} divided in two without
great prejudice to the owner, which
fact his attorney satisfied the Court
by showing to the Court that
the land consisted of eighty acres
of very poor rocky land & that
there were five heirs. He admits
he bought said land for \$100 at
a sale by the Sheriff under said order
of sale but he denies that in doing
so he perpetrated any fraud on
any one but the sale was a fair

open and public ^{one} conducted by said
sheriff in accordance with the law
defendant denies that he compelled
Plaintiffs to leave his home
^{but over} and kept them there & maintained
them. He denies that he instituted
said suit without informing them
any thing about the matter, but
he left the whole case in the
hands of said Green with direction
to conduct ~~it~~ the same according
to law & to give all the notices required
by law. He alleges that Plaintiffs all
had notice of said suit. He
denies that he concealed from the
Plaintiffs the fact that said land
was ordered to be sold. He denies
that he managed and controlled
said sale in any manner or form
or that he by falsely misrepresenting
the value of said lands or by other
fraudulent means fraudulently
bought said lands for one tenth
of their value or for any sum
less than their value or that said
lands at that time ^{were} worth one
thousand dollars or any sum
exceeding one hundred dollars

He denies that said lands were sold at an immense sacrifice or any sacrifice. Defendant avers that he has not only acquired the nominal title to said lands but a good and valid title thereto by his purchase of pre-said in a legal and honest manner.

✓ He alleges he paid the \$100 he bid for said land to the Sheriff of Jefferson Co. according to said order of sale and he avers that Plaintiffs have obtained their shares thereof or ought to have done so. Defendant bought said land in good faith & he believed ~~to~~ and still believes he acquired a good and valid title thereto and has since his said purchase made valuable and lasting improvements thereon in good faith, said improvements consisting of clearing land, making fences, building stables, barns, dwelling houses and other building of the value of one thousand dollars.

He therefore says that said sale and Sheriff's deed should not be set

side. Wherefore he may be discharged
with his costs.

John L. Thomas & Bro
Atty for Defendant.

Louis H. Henrici et al

vs

J. J. Newbauer

Dever

Filed Aug 14 1875-

C. H. Morris

CLM

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To

Jessie B. Dyer

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 *fourth* day of *August*, 187*7*, 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 *Harriet & Edwards are* is Plaintiff, and *J. J. Newsum* is Defendant, on the part of *Sept.*; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *24th* day of *Sept.*, A.D. 187*5*.

C. Thos. Horine, CLERK.

Neill & Edwards
vs
J. J. Newsbawen

Jerome B. Dover

this subpoena is not served by
want of true copy of dep
AD 1876

J. B. Westcott
J. W. M. K. K. K.

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To

Thomas Perry

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 *fourteenth* day of _____, 1877, 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 *Meroid & Edwards* are _____ is Plaintiff, and *J. J. Newsbamer* _____ is Defendant, on the part of *Perry*; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *14th* day of *Sept.* *A. D.* 187*5*.

C. Tho. Horine, CLERK.

8 18/5

Neuroid & Edwards
at

Neurobaumen

p

Thomas Perry

Shiff per 50

I certify that the
the within was done
on the 15 day of Oct
1883

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To *George Perry & Henry Roberts*

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 *22nd* day of *Sept.*, 187*5*, 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 *Henry & Edwards* are *J. J. Newbammer* *Plff* is Plaintiffs, and Defendant, on the part of ; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *21st* day of *Sept* A. D., 187*5*.

C. Tho' Horine, CLERK.

Filed Sept. 23 1875
to the Marine
Clerk

8.5 1875
Henroid & Edwards
to
Newsbaumen

I served the within subpoena on George Jerry and Henry Roberts
on the 21st day of September 1875, in Jefferson County Mo, by said
person, reading the same and acknowledging the service
thereof, Ym 23rd day of September 1875
Attest
Alvin
 sworn to & subscribed before
me Sept 23 1875
O. Thos. Marine
Clerk
(Alexander H. H. Lemora
not
month

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To *Mary Harvostick*

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 *fourth* day of *August*, 187*7*, 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 *Harvostick & Edwards* are *Plaintiffs* is Plaintiff, and *J. J. Newbarn* is Defendant, on the part of *Edwards*; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *23* day of *Sept.* A. D. 187*5*.

C. Tho' Horine, CLERK.

S. T. 1875

Henri Edwards

to

J. J. Newbanning

Filed Sept. 23 1875
C. H. Horine
Clerk

Sept 23 50

I have visited the position on the western
Mittewas by reaching the dam on the 23rd day
of Sept. 1875

J. B. Newbanning

Louis Henry Benson
 and others, — Plaintiffs
 Against
 Francis J. Newsbammer, — Defendant

In the
 Circuit Court
 Jefferson
 County Missouri
 Sept, Term 1873

The Plaintiffs for Replication to the
 new matter alleged in Defendant's Answer,
 filed August the 14th 1875, deny the allegations
 in said Answer that the Land in controversy
 was of but little value in 1864, or that it was
 in such a condition that the owners could not
 use it, or pay the taxes on it, - or that Defendant
 took advice of Abner Green, as an Attorney at
 law, as to what steps he should take in
 regard to the land, or that said Attorney
 advised him to bring a partition suit,
 But Plaintiffs state that Defendant ap-
 plied to said Attorney to bring a partition
 suit for him, who then told Defendant he
 would have to be appointed Guardian
 for some of the heirs before he could
 bring said suit, Plaintiffs deny that
 said Attorney (who they admit conducted
 said partition suit) gave Defendant any
 or that said Attorney had anything to do, in regard to said purchase
 advice in regard to his buying the land.
 Plaintiffs deny the allegation, ^{that} the Defendant
 has ^{paid} Plaintiffs, or any of them their share of
 the money arising on such partition sale,
 And Plaintiffs deny that Defendant

bought said Lands in good faith, and
deny that he has since his purchase made
valuable and lasting improvements
✓ thereon in good faith, or that he made
~~made~~ improvements in the way of clearing
land, making fences, building stables, barns,
dwelling Houses, and other buildings of the
value of one thousand dollars, or of any value,
And if he had made any improvements,
Plaintiffs aver that that is no reason why
said fraudulent sale should not be set
aside. Plaintiffs deny the allegation that De-
fendant paid the sum of money bid by him
for said land, according to the terms of said
order of sale; and Plaintiffs deny that
Defendant's Attorney in said partition suit,
gave him any advice whatever, in re-
gard to Defendant's purchase of said land
or that he knew any thing of his ^{fraudulent} inten-
tion to buy the land, until after he had
bought it. Plaintiffs aver, as in their
original ^{amended} petition, that Defendant insti-
tuted said partition suit, for the purpose
of defrauding said minors out of their
rights to said Lands; and they pray judg-
ment as in their said petition prayed.

} Abner Green
} Attorney for Plaintiffs

Louis H. Herrod
vs.
F. J. Newsbammer

Replication

Filed Sept. 23rd 1885
C. H. Stone
Clerk

Louis H. Henriot et al, Aff } In the Jefferson
vs } Circuit Court.
Francis J. Kusbaumer, Def }

The Defendant comes
and moves the Court to set aside the
finding and judgment rendered
in this cause and grant him a
new trial for the following reasons, viz:

1. Because the finding should have
been for Defendant instead of the
Plaintiffs.
2. The evidence shows clearly that
the Defendant ~~should~~ perpetuated
no fraud.
3. There is no equity shown by the evidence
which would authorize the finding
and judgment in this case.
4. The judgment should have been for Def
instead of the Plaintiffs.

John H. Adams, Bro
Atty for Defendant.

Louis A. Henrieville

or

J. J. Neuschwander

Motion for a
new trial.

Filed Sept. 24th 1875
C. H. O. Haines
Clerk

Louis H. Hennoid

Alexander H. Hennoid

Henry A. Hennoid

Henry G. Hennoid

Herman Edwards and

Elizabeth Edwards, his

wife Plaintiffs

vs
Francis J. Kershbaumer
Defendant

In the Jefferson Circuit
Court.

Be it remembered that on the trial
of this case the Plaintiffs to sustain
the issues on their part introduced
the following evidence -

1. The record and proceedings in
the case of Henry A. Hennoid by
his Guardian Francis J. Kershbaumer
against Henry G. Hennoid and
others and also the Sheriff's ^{Report and} deed
made under a sale in partition
in said case as follows viz (Here
copy the petition, summons, return
thereon, ^{the order of the Court appointing} the order of the Court appointing
John L. Hudson guardian ad litem
for minor defendants, the answer of

defendants by their guardian ad litem
the order of sale and the report of the
Sheriff of the sale with the exhibit, the
order approving the sale, the order
allowing Green a fee of twenty dol
lars and the Sheriff's deed made
under said order of sale.

I It was admitted that Francis Neus-
bauer was appointed Guardian
of Henry A. Hennico this point
as such was approved Sept 14 1864
Plaintiffs then called the following
witnesses -

Thomas J. J. Sworn stand, I lived
adjoining Defendant in 1864 I
knew old man ^{Henry} Hennico ^{decd} in his lifetime.
^{After his death} Neusbauer lived on the farm owned
by ^{said} Hennico. Neusbauer married
the widow of Hennico. Lands in the
neighborhood of the land in dispute ranged
in 1865 & 1866 from six to seven dollars
per acre. In 1866 there were of
the land in dispute about 40 or
50 acres in cultivation. There was
at that time a log house on it & part
of another house. This was pretty fair
upland, a little of it in the bottom.
The 50 acres in dispute in 1866 was

worth in my opinion \$900.

Alexander H. Kernoid sworn Notes. I
am a son of Henry Kernoid ^{deceased} one
of the Plaintiffs. My father left five
children. He died about 1853. The names
of all the children are Henry Gasford,
Elizabeth, who married Hermann
Edwards, Louis H., Albert H. and
Alexander H. I was small when
father died. Kusbanner married
my mother. Mother died in Feb'y
1864. I was ^{the time of} at her death about 17
years old. Father's children lived
with Kusbanner until mother
died, except Henry G. Kernoid who left
home about 1860. He all went
away from Kusbanner's ^{in a few} before
^{months after mother died} ~~the land was sold~~ except Albert. Albert
went away ^{about} a year or two ^{after we did} after we did
he is now twenty three years old.
I did not know that Kusbanner
had been appointed Guardian of
Albert. I recollect of knowing

but I thought it was a notice to have a guardian appointed for me
one notice from the Sheriff. Kuss-
bauer never told me about the
partition ^{into, or the} sale & I knew nothing about it

I did not know that the land was
to be sold nor did I know of the day
of sale. I was 18 or 19. when the land
was sold. At that time about forty
acres of the land was in cultivation
tolerably good land. The part not
in cultivation was well timbered
some of it was rocky. There was at
that time a good log house, stable &
crib on the land. My sister

Elizabeth is now 28 years old
I never received a single cent for my interest in the land.
On Cross Harkness he stated

I left home 2 or 3 months after mother
died. I staid at one place one month
& a half. Then went off about 5 miles
from this land where I staid till
the fall of 1864. Then went to Valle
Nerries about two miles from Septs
where I staid two years. I visited
my step father occasionally. staid
all night. Some times I would
help harvest for Sept. but I never
worked for him regularly after I left
in 1864. I worked for myself. I left
home because Defendant did not

2
treat me right or at least I thought
so. The other children left for the same
reason. After the spring of 1864
Lauris H. Kerry G. and Elizabeth
all lived away from home & worked
for ourselves and received our own
wages. I was living at the mines when
the Sheriff served the notice on me.
Elizabeth lived in DeSoto. Lauris
Kerry is now 25 years old & he was
living in the neighborhood when
the land was sold. Kerry G. was
living at DeSoto when the land was
sold. Albert was at home. I had
Kerry Haverstick to read the paper
but I did not know what it meant.
The Sheriff served on me. I did not
take it to Sept & ask him what it
meant. I could not read. I did not
rely on Defendant to attend to my
business or protect my interest
I was ^{working and} acting for myself.

The Defendant never told me he had been appointed
Guardian for Albert, or that he had got an order
to sell the land, and I knew nothing of the
sale until some months after it was sold.

I sometimes worked a day or two for Defend-
ant in 1865 & 1866 and was several times at his
house during said years, and I never at

any time heard him say a word about his hav-
ing a partition suit on hand to have the
land sold.

Kenny G. Henrich sworn states, I am
near 30 years old. I lived with mother
when she married Deft. Mother died
about 1863 or 1864. Deft went
me leave home. He treated me very
bad. I received a notice of the partition
suit. I could not read. I did not
know that there was a partition suit
going on. Deft never told me any
thing about the land going to be sold
nor that it had been sold. I did not
know a word about it. I did not see
the land about the time it was sold.
There was about 40 acres cleared when
it was sold. I knew nothing of the value
of land at that time except what I
heard people ^{say} about this land. The
people in that neighborhood ^{valued their lands} at \$10
or \$12 per acre. There were two or 3
and the land in controversy was about as good as
other lands in the neighborhood. —

~~land about \$10 per acre.~~

There was two or three
acres of orchard on the place at the
time of the sale. There was also a log
house & shed, with a spring house
& granary on the land also a stable.

I never received a single cent for
my interest in the land.

On cross examination he stated
Krusbauer drove me away from
home in 1860 or 1861 I think & from
that time till now I have attended
to my own business, working for my
self & receiving my own wages. I
did not look to Krusbauer to attend
to my affairs or protect my interest.
I did not go to see him about the
land or ask him any thing about
it. I did not hear Frank Smith say in
deeds two or three weeks before the sale
took place that this land was to be
sold, I heard him say something about it after the
sale was over, Krusbauer never told me any
thing about his having a partition suit, or
an order to sell the land, And I did
not know of the sale until after the land
was sold.

Louis H. Neuvioia sworn state I am
25 years old. I remember when mother
died. She died in 1863^{or 1864} I think. Mother
married Sept ^{and they} were at the time of her death
living on father's farm. Brother
Henry was away from home at that
time. All of us left home except
Albert soon after mother died.
Sept got places for us to go to work.
He found a place for me & took me
to it. Albert remained only about
a year & a half afterwards. Knew
nothing of Sept being a suit for
partition of the land. I got a notice
from the Sheriff while I was living
at Haverstick - but I did not know
^{what} it meant. Neusbaumer never
told me one word about the land
going to be sold. I saw him the spring
of 1866. I was not here ^{the} day of sale.
Sept claimed the land. I never
got one cent for the land. I was
16 years old when the land was sold.
At that time about 40 acres ^{was} in
cultivation. ^{the} balance all timbered.
All fit to be cultivated. At that time
I knew land sold at about \$11 per
acre. Albert is now about 23 years

A. Green being sworn noted
that I was employed by Defendant
in September 1864 to bring suit
in partition for this land. He
came to me ^{to my office} ^{interpreting for him} told me he wanted to
have the land sold & I told
him before he could bring a
partition suit he would have to
be appointed Guardian for one of
the children. I ^{don't now remember, but suppose} ~~was~~ ^{paid} to
the County Court to have Sept
appointed Guardian. I brought
the suit ^{at his request}. The partition proceedings
were conducted in the usual form.
I was busy in court ^{I was not present} when the land
was sold & Sept came to me ^{afterwards}
and told me he had bought the land
for \$100. Sept then paid me the
\$20. the Court allowed me as my
fee. Sept did not tell me he
wanted to buy the land when I
brought the suit ^{for him, or at any other time}. When the
order of sale was made ^{I suppose} ~~Sept~~
I stated to the Court that there ^{being} ~~was~~
5 acres & only 80 acres of land
I ~~stated~~ ^{did not think} the land could ^{well} be divi
ded. The order of sale was thereupon
made. I ^{do not now remember} ~~Sept was~~ ^{if the 33} ~~there~~ ^{money}

~~File~~
And this was all the evidence that
was offered by either party. The
Court then found the issues
for the Plaintiff and rendered
judgment accordingly.

And on the 24th day of September
1875 Defendant filed his motion
for a new trial as follows (See
Copy same) which the Court
overruled to which action of
the Court in overruling his motion
for a new trial the Defendant at
the time accepted.

And Plaintiff thereupon consented
that Defendant should come here
to file a bill of exceptions herein
within 30 days after the adjourn-
ment of the Court which adjourned

me when he was 6 years old. He wanted
to go to work for himself. My wife died
in Feb'y 1864. Albert was then living
with me & I had raised all the children
I was paying taxes on this land & I
came to Hillsboro to see a lawyer about
the land. I went to Mr. Green. Abner
Green. I took an interpreter along.
Henry Gasche who is now dead acted
as my interpreter. I informed Mr.
Green fully of the condition of the
land & the children. He told me
I would have to bring suit but before
I could do that I would have to ap-
pointed Guardian for Albert & then
bring suit & then the others would
sue me or answer to the suit. Mr.
Green went into the County Court
and got me appointed Guardian of Al-
bert & then he brought the suit. I
had nothing more to do with it. The
proceedings were all conducted by Mr.
Green. I told Mr. Gasche to notify
me if any thing should be done
about the land & when the land
was advertised for sale Gasche
sent me word & then I came to
see Mr. Green. He told me the

day of sale. I came out & when
the land was offered for sale I
bid it off for \$100 & complied with the
terms of sale. I paid ten percent
cash & my note for the balance
in a year. I paid the note to the Sheriff.
Since I bought the land I have kept it
in repair. Repaired the fence, put new
mfg on the house & rewalled up the
cellar. I have also built a new barn
which cost \$500 including materials
& work. I have cleared 5 acres
of land. About 30 acres in culti-
vation at the time the sale took place
some of the land ~~was~~ had been in culti-
vation 20 years.

I offered to pay Albert his share of the
purchase but he would not take
it. I paid Mr. Green \$20 for the
partition suit which was allowed
by the Court. I paid the Clerk of
the Court \$15 costs & I paid the
Sheriff \$14.90 costs.

On cross examination he stated, when
I came to Hillboro to see about the
land I saw Gasche first & then
we went to Mr. Green. I did not

tell Green I wanted the land sold
I told him I had paid taxes on the
land & had raised the children
& Albert were still living with me.
My wife died Feb'y 1864. The boys
worked for themselves, when they
were out of work they staid at my
house. Mr. Green said if I
wanted to, I could have the land
sold & he took the necessary steps
to have the land sold. C. C. Fitch
was Sheriff at the time of the
sale. I paid the purchase
money to him & he afterwards
paid it back to me ~~\$207~~ but
I don't know what for. I offered
the shorn of wool to the Plaintiffs
but they refused to take the money.
Fletcher also offered it to them.

✓ And then defendant closed his evidence and Plaintiff in rebuttal called Henry G. Hennoid who stated that John McMoran two or three days after the sale told him the land had been sold. McMoran never told him about the sale before it took place. He said Dept had not offered to pay him his share of the purchase ^{money} nor had the sheriff.

✓ Louis H. and Alexander H. Hennoid both on being recalled stated that Hembrouner had never offered to pay them their share of the purchase money of the land nor had the sheriff. They had never seen the sheriff about nor asked him for it.

old.

On cross examination he said James
Haverstick owned land adjoining this.
I did not at that time know what land
would sell for, port cock & port credit
but I think this land in 1866 was
worth \$11 per acre. My step father
found me a home in the spring
of 1864 & took me to it & from
that time till now I have worked
for myself & received my own
wages. I never after that went
to Dept for advice nor did I look
to him to look after my interest
or protect my property.

James Haverstick Sworn stated I know the place sued for. I lived about one mile from it in 1866. The land was in tolerable condition - about 40 acres in cultivation and ^{the} balance timbered & could be cultivated - tolerable good upland. This land was worth from \$8 to \$10 per acre in 1866 with the improvements as they were then. Deft lived on this land at the time of the sale. I am 51 years old. I lived only about a mile from Defendant in 1866, when the land was sold, and frequently saw him, but I never at any time heard him say anything about the land going to be sold & I knew nothing of it until after it was sold.

H. Haverstick Sworn stated I know this land. I knew it in 1866. It was worth then from \$8 to \$10 per acre - a portion would be rough to cultivate. I did not know of the partition suit. I was then working in the mine & saw Henshaw frequently but he never ~~at~~ to this day said any thing ^{to me} about this land going to be ^{sold} or having been sold. Deft is very deaf, speaks very poor

English & it is a hard matter to converse
with him.

The Plaintiff here closed their evidence
and the Defendant to sustain the
issues on his part introduced the
following witnesses.

Frank Smith sworn state I am
34 years old, have known Sept since
1852 or 1853. I know the land in dispute.
It was worth in 1866 about \$200 or \$300.
About 3 weeks before the land was
sold I heard John A. McMonroe tell
Henry Gasford Kemmison desoto
that this land was advertised for sale
the next month. I lived about 5 miles
from Sept 1866.

I don't know anything about the value of the land.
On Cross Examination he stated, Land
in the neighborhood of this land is very
poor. worth \$4 or \$5 per acre - worth \$30
or \$40 to fence 40 acres of land.
worth \$4 to clear an acre. The house
was worth about \$150 & the land was worth
about \$1.25 per acre in its wild state.

Joseph Spidensworn states I am
44 years old. I lived at Vallejo mine
in 1866. Knew this land then. It is
a very poor place - is not worth much.
A great portion of it had been in
cultivation a great many years.

I am no judge of the value of land, - don't
know what this land was worth in 1866,

F. J. Neusbaumer the deft was sworn
and stated. I married Mrs. Bernoid
21 years ago. Their plainiffs lived
with us on the farm. Henry left

ment took place on the 24th day
✓ of September 1875 and in accordance
with the agreement of Plaintiff
✓ which was entered of record
this bill of exceptions is signed
sealed and ordered to be made
a part of the record in this case
this 14th day of October 1875

Louis F. Dunning ^{Pres} Judge

Louis H. Hendrick
et al

vs

Francis J. Newbauer

Bill of Exemption.

Filed Oct. 18th 1875
C. H. Korne
Clerk

Correct
J. W. Williams
Atty for Def.

Louis Henry Henroid, Et al, - Plaintiffs

vs,

Francis Joseph Newsbammer, - Defendant

Now at this day, Come the Parties aforesaid, by their respective Attorneys, as also, in their proper Persons, and the above entitled Cause coming on to be heard, all and singular the matters at issue between the said Parties are submitted to the Court, upon the petition, answer, and evidence in the cause, and the Court having fully seen, heard, and examined the pleadings of the parties and evidence adduced in the cause, doth find the issues for the plaintiffs. It is therefore ordered, adjudged, and decreed by the Court, that the proceedings had in the Circuit Court of Jefferson County Missouri, on the petition filed therein on the 14th day of September 1864, of Henry Albert Henroid by Francis Joseph Newsbammer his Guardian against the other heirs of Henry Henroid, deceased, for the partition and sale of the Lands therein described, be set aside, vacated and annulled, and that the order of sale, and the sale of the said Lands to the Defendant, and the deed of the Sheriff of said County, made on the 5th day of November 1867, conveying said Lands to the Defendant, be set aside, vacated, and for nought held, as being fraudulent and void; and it is further ordered, adjudged, and decreed by the Court, that the Defendant herein be divested of all right, title, or interest whatever in and to the Lands described in said petition, being the same Lands described

in the Petition of these Plaintiffs, and which said
✓ Lands are situate in Jefferson County in the State
of Missouri, and described as follows, to wit, the
North East quarter of the North East quarter of Section
✓ No. Thirty two, in Township No. Thirty nine North, of
Range No. Five East, containing Forty acres; also, the
the North West quarter of the North West quarter of
✓ Section No. Thirty three, in Township No. Thirty nine North,
of Range No. Five East, containing Forty acres; and that
the title to the ~~same~~ ^{same} ~~Lands, East above~~ ^{Lands, East above} ~~be, and is hereby~~ ^{herein}
fully vested in the Plaintiffs, as the legal heirs
of said Henry Hamoid, deceased; and that the
Plaintiffs have and recover of the Defendant
their proper costs herein expended, and that they
have execution therefor.

Louis H. Neuroid and others }
 vs } Exponent
 J. J. Newsbaumer
 In the Circuit Court
 Aggregate bill of costs, \$ 5.35

Henry Neuroid & ab } to set aside deeds.
 J. J. Newsbaumer }
 In the Circuit Court.
 Bill of costs.

L. Tho. Horine clerk \$ 28.35
 map Sheriff 2.00
 witness fees Plffs. 20.56
 witness fees Defs. 10.16
 \$ 61.07
 Only amt. pd by Newsbaumer 15.00

Balance due

46.07
 \$ 51.42
 10.16
 41.26

4032

W. H. H. H.

Newsoids

20

28,70

Newsbaumen

Beef

400 2 Green King

" 1 1/2 B.K. 170 chd King

1 400 Light Cal. Stripe adobe

2 " " " Rind "

Lace for dress B.K. 8 yds.

3 Gal Stone Churn

2 Knife bristles