

Jefferson County Circuit Court
Case Files - Civil
May 1874

Box 32 Folder 80

Thomas, John L.
Thomas, W. H. H.

^{vs.}
Smith, Thornton
Smith, John N.

Unknown

File contains only motion to
quash execution

Geo. L. Thomas & W. H. H. Thomas vs Thornton Smith, John A. Smith & others	} In the Circuit Court of Jefferson Co. Mo.
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Now come the Defendants Thornton & John A. Smith and move the Court to quash the Execution in the above cause now in the hands of the Sheriff for the following Reasons, viz,

- 1st Because there was no judgment upon which an Execution could Lawfully be issued for which reason said Execution is invalid & void,
- 2nd Because the order made by this Court purporting to allow plaintiffs an attorneys fee upon which this Execution was issued is void in Law, The same having been made after the ~~case~~ Partition Case in which it purports to have been allowed

and in which these defendants
were defendants had been
Dismissed by the Plaintiff
therein there having been
no determination of said
partition cause, said
partition fee also having
been allowed without notice
to these defendants,

3^d Because said partition
cause in which said
fee was allowed plaintiffs
and in which these parties
were defendants, having
been dismissed by the
plaintiff therein without
determination, these parties,
not having employed plaintiffs
to bring said partition suit
these defendants are and were
not liable to pay any part
of the attorneys fees of plaintiffs
and the same having been
allowed plaintiffs without any
notice to these defendants is void

4th Because the proceeds for Thornton &
J. M. Smith
} Williams

John L. Thomas &	} In the Circuit Court of Jefferson Co. Mo.
W. H. H. Thomas	
Thornton Smith &	
John C. Smith et others	

These plaintiffs move the Court
to quash the execution in
the above cause so far
as these Defendants are
concerned for the following
Reasons, to wit,

- 1st Because the allowance of
plaintiffs of an attorneys fee on
which this execution was issued is
illegal & void because the same
was made without authority of
law in that it was made
before the final determination of
of the Partition case in which it was
allowed which case has not yet been
finally determined

J. B. Thomas & Bro.,

(as)

Thornum Smith

et al

Motion to

Quash &

Execution

Filed May 12 1874

W. L. Boyce Clerk