

Jefferson County Circuit Court
Case File - Civil
September 1876, NO. 411

Box 36 Folder 20

Hobenthal, Herman

vs

Big River Lead Company
Stilbrink, Henry

Debt on notes

Debt \$375, \$375

Herman Hochenthal

Plaintiff

vs
The Big River Lead Co and
Henry Stibbitt

Defendants

In the Jefferson Circuit Court
Sept Term 1876.

Plaintiff states that Defendant
Big River Lead Company is
duly incorporated ~~and~~ organized
under the laws of Missouri.

Plaintiff states that Defendant
the Big River Lead Co. by its prom-
issory note herewith filed, ^{promised} dated the
15th day of November 1875, to pay
Henry Stibbitt its Co-Defendant
herein ninety days after date the
sum of Three hundred and seventy
five dollars for value received
at the Continental Bank: That
Defendant Henry Stibbitt assign-
ed by endorsement said note to
Plaintiff and delivered said note
to Plaintiff on the 15th day of Janu-
ary 1876: That afterwards and

before said note became due Plaintiff endorsed said note and sent it to the German Bank post paid for the purpose of having it duly protested and that on the 16th day of February 1876 said German Bank had said note duly protested for non-payment and due notice of demand and non-payment served ^{on} both defendants and after the same was protested the said Bank returned said note to Plaintiff who is now the legal owner and holder thereof, which is still due Plaintiff.

Wherefore Plaintiff asks judgment for the amount of said note and the interest thereon, and \$2.50 for fees paid the Notary for protesting said note and four per cent damages allowed by the Statute in such cases made and provided.

Plaintiff for another cause ~~for~~ action states that defendant the Big River Lead Co. by its promissory note dated November 15th 1875 herewith filed promised to pay its Co. defendant Henry Stohr

the sum of three hundred and seventy five dollars 24th days after date for value received at the Continental Bank: that about the 25th day of November 1875 the said Stebbins assigned by endorsement and delivered said note to Plaintiff: that Plaintiff afterwards and before said note ^{due} became endorsed said note and placed it in the Union Bank for the purpose of having the same protested: that said Union Bank did ~~have~~ ^{on the 17th day of January 1876} the same protested for non-payment, and due notice thereof given defendant and thereupon said Bank re-delivered said note to Plaintiff who is now the legal owner & holder thereof and which remains due and unpaid.

Wherefore Plaintiff asks judgment for the amount of said note with the interest thereon and \$250 per paid the Notary who protested the same and four per cent damages allowed by the Statute in such cases made and provided.

John L. Thomas & W. H. H. Thomas
Attys for Plaintiff

Heenan Portland

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Bij River Lead Co +

Newry Portland

Petition on votes

Filed Aug 24 1876

C. Thos. Maine

Clare

The State of Missouri

COUNTY OF JEFFERSON

The State of Missouri,

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

I do command you, that you summon *The Big River*
Lead Co. and Henry Stelbrink

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~~ *September* next, then and there to
answer unto

Herman Hohenthal

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

Witness, C. THO. HORINE, Clerk of our said
Circuit Court, with the seal thereof hereunto af-
fixed, at office in Hillsboro, this *25* day
of *August*, A. D., 1876.

C. Tho. Horine, Clerk Circuit Court.

4145748

RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

Sept. TERM, 1876

Reman John that

to

The Big River Lead
and
Henry Stelmuth

T B Moss Sheriff
 fees \$2.00

original

Stelmuth copy by leaving copy
with what.
Goodlee by delivering
copy. August 2

I executed the within writ at the County of
Jefferson on the 26th day of August 1876, ^{on Henry Stelmuth} by leaving
delivering to a copy, ^{of the original writ and petition as furnished me by the Clerk} at his usual place of abode
with a white member of his family over the age
of fifteen years, and I further executed
said writ on the same day by delivering
to George T Lee a copy of the writ, he being
the agent of the Big River Lead Company
in said County.

T B Moss Sheriff
By M W Moore Deputy

German Hohenthal
Plaintiff
against
The Big River Lead
Company and
Henry Stelbrink
Defendants

In the
Circuit
Court of
Jefferson
County
Missouri

Now at this day comes the defendant
Henry Stelbrink and for amended
answer to the plaintiffs
petition says he denies that
The Big River Lead Company
is or was when this suit was
commenced or that it ever was
duely incorporated and organized
under the Laws of the State of
Missouri and defendant denies
that the defendant the Big River
Lead Company by its promiss-
ory note filed with plaintiffs
petition dated the 15th day of
November 1875 promised to
pay Henry Stelbrink its ~~to~~
~~defendant~~ herein ninety days
after the date thereof three
hundred and seventy five
dollars for value received at
The Continental Bank or Elsewhere
And defendant Stelbrink denies

that he assigned by Indorsement said note to Plaintiff or that he delivered said such note to Plaintiff on the 15th day of ^{January} ~~November~~ 1876 or at any other time, and denies that after wards and before said note became due Plaintiff Indorsed said note and sent it to the German Bank at St. Louis for the purpose of having it duly protested and denies that on the 16th day of February 1876 said German Bank had said note duly protested for non payment and denies that due notice or any notice of demand and non payment was served on this defendant and denies that after the same was protested said Bank returned said note to Plaintiff and denies that the Plaintiff now is or was when this suit was commenced the legal holder or owner of any such note and denies that the said note is still due Plaintiff or that it ever was due to him

and utterly denies that the plaintiff is entitled to any judgment thereon against this defendant for any sum or amount by reason of such note or any interest on it or any sum for protest fees, or damages or interest or costs or any sum whatever

further answering so much of plaintiffs petition as relates to said pretended note this defendant says that the paper purporting to be a note which is filed with the plaintiffs petition is not - not does it - on its face purport to be the note of the Big River Lead Company but to the contrary it purports on its face to be a note of Big River Lead Co of Desoto Mo. being signed by thus "Big River Lead Co, Desoto Mo" and defendant says, no such company was in existence either on the 15th day of November 1875 or at any other time neither was any such company at any time either

incorporated or organized under
 the Laws of Missouri or any other
 State neither was any such
 company as the Big River Lead
 company ever incorporated or
 organized under the Laws of
 the State of Missouri, Defendant
 says that in November 1875 and
 for some months before that time
 a number of persons ^{citizens of} the State of
 Massachusetts were engaged in the
 business of Mining in Jefferson
 County Missouri under the name
 of the Big River lead company
 but ~~not~~ said company had not
 been incorporated or organized
 under laws of Missouri though
 said persons falsely claimed that
 they had been organized under
 as a company under the Laws of Massachusetts
 under such name and style and
 Defendant says that assuming to
 act as such company said persons
 through one George S. Lee who
 pretended to be and act as ~~superior~~
 Superintendent of such pretended
 company purchased goods, wares,
 and merchandise of Plaintiff on
 a credit upon an open account

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beginning several months prior to the first of November 1875 & running up to the first of said month at which time it amounted to about seven hundred and fifty nine Dollars and was charged up upon the Plaintiff's Books, & against George S. Lee or The Big River Lead Company by which manner of charging said account the Plaintiff indicated his intention of holding both said company or rather the association of persons which he styled the Big River Lead Company and said Lee for its payment and defendant avers that said George S. Lee and all the persons assuming to act as the Big River Lead Company were non residents of Missouri ~~beside~~ and were all insolvent and the pretended company was also entirely insolvent which facts being known to Plaintiff he about the first of November 1875 became very uneasy about his said account and was afraid he would not be able to collect it beside Plaintiff was in urgent need of the money represented by the account to replenish his stock of store goods & maintain his credit as a merchant and thereupon he & George S. Lee had a meeting and talked the matter over when & at which it was agreed between them

that neither said Big River Lead
company (as they termed it) or said Lee
could then share the money from their
mining operations to pay plaintiff
but that if said Lee could execute two
notes in the name of said company run-
ning sixty and ninety days for three
hundred and fifty dollars each and
get them endorsed by a responsible
person to plaintiff that plaintiff could
use them by himself also endorsing
them as well as money and that by the
time they would mature either the
Big River Lead company (as they termed it)
or said George S. Lee personally would
raise the money to pay off plaintiff's
said account and take up said notes
and thereby save both the party who
endorsed said notes and also plaintiff
from being called on as endorsers ~~of~~
to pay the notes or either of them to
any person who might hold the same
and defendant avers that at the same
time he was agreed on between said
Lee and plaintiff as a suitable person
to endorse said notes in order to ~~give~~
~~them credit~~ make them pass and
enable plaintiff to negotiate them in
the market if he defendant could

he induced to do so, defendant avers that
 after several conferences between
 plaintiff and George J. Lee in the interval
 between November 1st & November 15th 1875
 the aforesaid agreement was arrived at
 between them whereupon on the last
 mentioned day said Lee in pursuance of
 his and plaintiff's agreement drew up the
 papers purporting to be notes filed with
 plaintiff's petition & sued on and signed
 them "Big River Lead Co De Soto Mo."
 which was in fact ~~an assumed~~ a
 fictitious and false signature as no
 such company existed but which
 was not at the time he endorsed them or
 before noticed by defendant and presented
 them to defendant and asked him to
 endorse them to Plaintiff, defendant
 says that at the time he was not aware
 of the before mentioned agreement between
 said Lee and Plaintiff regarding the
 use and purpose of said notes but
 before he endorsed them said Lee
 who was acting for both himself and
 the pretended Big River Lead Company or
 persons composing it and also for
 Plaintiff and so informed defendant at
 the time ^{and} informed defendant fully of the

agreement and understanding between him said Lee and Plaintiff as herein above set forth and assured defendant that it was distinctly understood and agreed between him said Lee and Plaintiff that they both desired him, defendant, to endorse said notes (as said Lee called the papers filed with Plaintiff's petition) simply for the accommodation of Plaintiff and said Lee in this, to wit, for Plaintiff's accommodation in that it would enable Plaintiff by negotiating the notes or using them in the purchase of goods for his store to get along with his business till such time as they (the pretended notes) respectively matured by which time as Lee informed defendant he and Plaintiff were satisfied that the Big River Lead Company (as Lee termed it) would be able to raise the money to pay Plaintiff his entire account or in case of the failure of the Company (as Lee called it) to furnish the necessary funds he said Lee would go to Chicago and get money which he said was coming to him there & pay said debt ~~say~~ ^{and said Lee said} to defendant that he had so agreed with Plaintiff and that

on such terms he said Lee and Plaintiff
 desired defendant to endorse said
 notes (as Lee called them) for Plaintiff's
 accommodation as stated and for Lee's
 accommodation in that as he stated
 that it would enable him to raise
 the amount due Plaintiff without
 distressing himself and at the same
 time make Plaintiff easy in the mean
 time in his financial matters, and
 further stating to Defendant that
 it was not intended by either him
 (said Lee) or Plaintiff that defendant
 should ever be held liable to pay
 said notes or either of them but that
 he was merely asked to endorse them
 for ~~their joint~~ the accommodation of
 both of them as above stated and
 defendant says that relying on the
 said representations of said Lee
 which he here charges were made in
 pursuance authority from Plaintiff
 and as Plaintiff's agent in said transaction
 he endorsed the paper purporting to be
 a note filed with Plaintiff's petition
~~as~~ ^{as referred to in the first count} as well also as that mentioned in the
 second count of said Petition and
 delivered them to said Lee to be by him
 delivered to Plaintiff upon the

agreement and understanding
aforesaid without any consideration
moving to defendant for his emolument
and solely for the accommodation of
Plaintiff and said Lee and defend-
-ant avers that said Plaintiff did
not give any consideration either to
said Lee or said pretended Big River
Lead Company or to any of the
persons who assumed to compose
said pretended company for
said pretended notes or either of
them ~~and that~~ ^{and that} he neither took them in
the usual course of trade or in
payment or satisfaction of his
~~or in payment or satisfaction of his~~
~~said account or for any other~~
~~purpose than that~~ ^{purpose} ~~contem-~~
-plated in his said agreement with
said Lee as herein before set forth
neither had said Lee any authority from defendant to
deliver said pretended notes or either of them to plaintiff in
payment or satisfaction of his said account or any part of it
Further answering the second count
of Plaintiffs Petition ~~defendant~~ the
defendant Henry Stettrink says
that the Big River Lead Company
by its promissory note dated November
15th 1875 and filed with Plaintiffs
Petition promised to pay its co.
defendant Henry Stettrink the sum of
Three Hundred and seventy five
Dollars ~~and~~ sixty days after

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date for value received at the Continental Bank: neither is it true that about the 20th day of November 1875 or at any other time that said Henry Stelbrink assigned by Endorsement and delivered said note (or such note) to Plaintiff; neither is it true that Plaintiff afterwards and before such note became due or at any time endorsed such note and placed it in the German Bank for the purpose of having the same protested; neither is it true that said German Bank did have such note protested for non payment on the 17th day of January 1876 or at any other time, neither is it true that due notice or any notice of protest for non payment was given this defendant. neither is it true that said Bank thereupon redelivered said note to Plaintiff, neither is it true that Plaintiff is now the legal holder or owner of such note nor was he such holder or owner when this suit was commenced neither is it true that ~~said~~ such note was when this suit was commenced or before or since due and unpaid neither is Plaintiff entitled to any judgment

a gainst said defendant for any sum on such note or for any interest or for any protest fees or damages resulting from its protest or costs or any sum whatever by reason thereof,

further answering so much of the second Count of said Petition as relates to said pretended note this defendant says that the paper ~~per~~ purporting to be a note which is filed with the Plaintiffs Petition is not nor does it on its face purport to be the note of the Big River Lead Company but to the contrary it purports on its face to be the note of Big River Lead Co of De Soto Mo being signed thus "Big River Lead Co De Soto Mo" and defendant says no such company was in existence either on the 15th day of November 1875 or at any other time neither was any such company at any time either incorporated or organized under the Laws of Missouri or any other state, neither was any such company as the Big River Lead company ever incorporated or organized under the Laws of the State of Missouri, defendant says that in the month of November 1875

and for some months before that time
 a number of persons, citizens of the
 State of Massachusetts were engaged
 in the business of mining in Jefferson
 County Missouri under the name of
 the Big River Lead Company
 but said company had not
 been incorporated or organized
 under the Laws of Missouri though
 they falsely claimed that they had been
 organized under the Laws of Mass-
 achusetts as a company under
 such name and style and defendant says
 that assuming to act as such company
 said persons through one George S. Lee
 who pretended to be and act as such
 Superintendant of such pretended Company
 purchased goods wares and merch-
 andise of Plaintiff on a credit upon an
 open account beginning several months
 prior to the first of November 1875 and
 running up to the first of said month at
 which time it amounted to about
 seven hundred and fifty nine Dollars
 and was charged up upon Plaintiff's
 Books against George S. Lee or the
 Big River Lead Company
 by which manner of charging said
 account the Plaintiff indicated

his intention of holding both said Company or rather the association of persons which he styled the Big River Lead Company and said George S. Lee for its payments and Defendant avers that said George S. Lee and all the persons who were assuming to act as the Big River Lead Company were non residents of the State of Missouri and were all insolvent and the said pretended Company was also entirely insolvent which facts being known to Plaintiff he about the first of November 1855 became very uneasy about his said account and was afraid he would not be able to collect it besides the Plaintiff was in urgent need of the money represented by the account to replenish his stock of store goods & maintain his credit as a merchant and thereupon he & said George S. Lee had a meeting and talked the matter over when it and at which it was agreed between them that neither said Big River Lead Company (as they termed it) or said Lee could then spare the money

from their mining operations to
 pay Plaintiff but that if said Lee
 could procure two notes in the
 Name of said Company running
 sixty and ninety days for three
 hundred and seventy five dollars
 each and get them endorsed by a
 responsible person to Plaintiff
 that Plaintiff could use them by
 himself endorsing them also as
 well as money and that by the time
 they would mature either the Big
 River Lead Company (as they termed
 it) or said Lee personally would
 raise the money to pay off Plaintiff
 said account and take up said
 notes and thereby save both the party
 who endorsed said notes and also
 Plaintiff from being called on as endorse-
 -ers to pay the notes or either of them
 to any person who might hold the
 same and defendant avers that at the
 same time he was agreed on between
 said Lee and Plaintiff as a suitable
 person to endorse said notes in order to
 make them pass and enable Plaintiff to
 negotiate them in the market if
 defendant could ~~be~~ be induced to
 do so defendant avers that after

Several conferences between plaintiff and George S. Lee in the interval between the 1st & the 15th of November 1875 the aforesaid agreement was arrived at between them whereupon on the last mentioned day said Lee in pursuance of his and plaintiffs agreement drew up the papers purporting to be notes filed with plaintiffs petition & sued on and signed them "Big River Seed Co. Desoto Mo" which was in fact a fictitious and false signature as no such company existed but which was not at the time he endorsed them or before noticed by defendant and presented them to defendant and asked him to endorse them to plaintiff, defendant says that at the time he was not aware of the before mentioned agreement between said Lee and plaintiff regarding the use and purpose of said notes but before he endorsed them said Lee who was acting both for himself and the pretended Big River Seed Company or the persons composing it and also for plaintiff and so informed defendant at the time and informed defendant fully of the

agreement and understanding
 between him said Lee and Plaintiff
 as herein above set forth and assured
 Defendant that it was distinctly
 understood and agreed between him
 said Lee and Plaintiff that they both
 desired him, defendant, to endorse
 said notes (as Lee called the papers
 filed with Plaintiff's petition) simply
 for the accommodation of Plaintiff
 and said Lee in this, to wit, for
 Plaintiff's accommodation in that
 it would enable him, Plaintiff, by
 negotiating the notes or using them in
 the purchase of goods for his store
 to get along with his business
 till such time as they (the pretended
 notes) respectively matured by which
 time as Lee informed defendant he
 and Plaintiff were satisfied that the
 Big River Lead company (as Lee
 termed it) would be able to raise the
 money to pay Plaintiff his account
 or in case of the failure of the company
 (as Lee called it) to furnish the necessary
 funds he, said Lee, would go to Chicago
 and get money which he said was coming to
 him there & pay said debt and said Lee
 said to defendant that he had so agreed

with Plaintiff and that on such
Terms he said Lee and Plaintiff
desired Defendant to endorse said
notes (as Lee called them) for
Plaintiff's accommodation as stated
and for Lee's accommodation in that
as he stated that it would enable
him to raise the amount due Plaintiff
without distressing himself and ~~at~~
at the same time make Plaintiff
easy in the meantime in his financial
matters and further stating to
Defendant that it was not intended
by either him (said Lee) or Plaintiff
that Defendant should ever be
held liable to pay said notes
or either of them but that he was
merely asked to endorse them
for the accommodation of both
of them as above stated and
Defendant says that relying
on the said representations
of said Lee which he here
charges were made in pursuance
of authority from Plaintiff and as
Plaintiff's agent in said transaction
he endorsed the paper filed with
Plaintiff's petition referred to in the
second count as well also as

that mentioned in the first Count
and delivered them both to said
Lee to be by him delivered to
Plaintiff upon the agreement
and understanding aforesaid
without any consideration moving
to defendant for his said Endorsement
-ent and solely for the accommodation
-tion of Plaintiff and said George S.
Lee and defendant says that said
Plaintiff did not give any consid-
-eration for said pretended notes or
Either to George S. Lee or said
pretended Big River Lead Company
or the persons who assumed to
compose it and further this
defendant avers that said Plaintiff
did not take said pretended notes
or either of them in the usual
course of trade neither did he
receive them or either of them
in payment or settlement or
satisfactions of the account
which he held against said George
S. Lee or the Big River Lead Company
(as it was designated) which account
is hereinbefore designated and referred
to ~~or~~ nor of any part thereof

or for any other purpose than
for the purpose herein before
stated as agreed on between Plaintiff
and said Lee and between said
Lee and this defendant as above
set out and defendant avers
that in accordance with the
agreement and understanding
between himself and said Lee
as above set out and upon which
defendant made such endorsement
the said Lee had no authority to
deliver said pretended notes or either
of them to Plaintiff either in payment
or satisfaction or settlement or in part
payment or satisfaction or settlement of
Plaintiff's said account against said
George S. Lee or said pretended Big River
Lead Company or for any purpose
whatever other than that ~~agreed on~~
for which Defendant endorsed them
as herein before set forth and
having answered fully this
defendant prays to be discharged
with his costs

J. S. Williams
with Byrnes & McMullen
Attorneys for Henry Stelbrink

Fernan Hernandez
vs
Henry Oteborick
Dr. ac.

Amended answer
of Henry Oteborick

Filed April 7 1877
C. Thos. Horine
Clerk

Samuel Hohenthal
Plaintiff
vs
Henry Helbrecht
Defendant

In the Jefferson Circuit
Court. May Term
1877.

Now comes the above named Plaintiff and prays the Court to grant him a change of venue in this cause to some other County for the reason that the Defendant herein has an undue influence over the ~~major~~ of the people and inhabitants of Jefferson Co so that he cannot have a fair trial in said County of Jefferson ^{in this cause} and that knowledge of this fact come to him while the last adjournment of this Court. or all appear by his affidavit below
John L. Homan & Bro
Atty for Plaintiff.

Samuel Hohenthal, the Plaintiff in the above entitled cause and swears oath that he has good reason to believe and does believe that Hen-

by Hebrink the Defendant herein
has an undue influence over
the ~~mind~~ of the people and in his
itout of Jefferson Co Mo. so that he
cannot have a fair trial of this
Cause therein and that knowledge
of this fact came to him while
the Court adjournment of this
Court.

Sworn to & subscribed } Herman H. Henthall
before me May 14th
1877 }
A. H. Henthall }
Notary Public }
Jefferson Co. Mo. }

Herman Hohenthal

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New York

Petition for Change
of Venue.

Filed May 14th 1899
L. H. H. H. H.
Clerk.