

Jefferson County Circuit Court

Case Files - Civil

May 1877

No. 10

Box

37

Folder

20

Huber, Christoph
Lindhorst, John H.
vs

Kerckhoff, C. H.

Injunction

Restrain defendant from interfering
with plaintiff's use of church building
on Sandy Creek; German Evangelical
Lutheran Zions Community Reformed
Augsburgisch Concession

Christopher Huber et al vs
20

Casper H. Kerckhoff Sept
Now on this the 1st day of March
1877 come the plaintiffs by their
attorneys and present to the
undersigned Judge at his
Chamber in Potosi Washington
County State of Missouri their
petition (hereto attached) praying
for a writ of Injunction to restrain
the said defendant from interfering
with or preventing the members
and trustees {mentioned in
said petition} from using the
house {mentioned in said petition}
for worship according to the
constitution of said Congregation
Now therefore the premises duly
considered and being satisfied
that defendant has been duly
notified as the law directs of
the presentation of this petition
and have answered a good and
sufficient bond as the Statute
requires the same being by me
affirmed It is ordered that the
defendant be and he is hereby

enjoined and restrained from
interfering with or preventing
said members and trustees from
using said house for worship
according to the said Constitution
and the rules and regulations of said
Church until further orders of
the Circuit Court of Jefferson
County Missouri

Saml F. Drimming
Judge

These papers are transmitted
to the Clerk Circuit Court
Jefferson County, Mo. with
directions to issue
warrants and forthwith also
issue Copy of this order
to be sent on the deft -

March 1st 1877 Saml F. Drimming
Judge

Christoph Kuder and
John H. Lindhorst Trus-
tees of "The German Evan-
gelic Lutheran Zion
Community Reformed
Augustinian Concession
on Sandy Creek Twp
^{Michigan} County, Plaintiffs

^{vs}
Casper H. Kerckhoff
Defendant

In the Jefferson Circuit
Court.

We Christoph Kuder and
John H. Lindhorst as principals
and

as sureties active
edge ourselves, have and
stand indebted to Casper H.
Kerckhoff the Defendant in
the above entitled cause in
the sum of five hundred dollars
for the payment of which we bind
ourselves, our heirs, executors and
administrators jointly by these
present, upon the condition
however, that whenever the above

named Plaintiffs are about to
sue out an ^{injunction} ~~injunction~~ against
said Kunkhoff to restrain and
enjoin him from taking possession
of the Church house belong-
ing to Plaintiffs situated near
Sandy Creek Jefferson County
Missouri or interfering with
religious or other services therein
Now if the Plaintiffs will abide
the decision which shall be made
by said Court on said Injunction
and pay all sums of money dam-
ages and costs that shall be
adjudged against them if the
injunction shall be dissolved
then this bond is to be void
otherwise it is to remain in full
force and effect.

Witness our hand and seal
this 1st day of March 1877-

Christoph Kuba

John H. Linkhorst

attest

W. H. H. Thomey

Wigfaller blue

Thornton his Jarvis
mark

Hermon Schumann

1 The above bond is by me
affirmed 1st March 1877

David F. Downing

C. Kienbo & J. & Kienbo
Horticulture &c

7

C. H. Kienbo

Injunction Bond

1
Christoph Hecker and
John H. Lindhorst Trust-
ees of The German Evange-
lical Lutheran Joint Com-
munity Reformed Augs-
burgisch Concession on
Sandy Creek Jefferson
County Missouri

Plaintiffs

3
Casper H. Kerckhoff Defendant
vs Casper H. Kerckhoff.

You are hereby no-
tified that the Plaintiffs in the
above entitled Cause will apply to
the Hon. Saml. F. Dunning Judge of the
26th Judicial Circuit of Missouri
at Chambers in the Town of Potosi
Washington County Missouri on
the 1st day of March 1877 for
an injunction against you to
restrain and enjoin you from
taking possession of the Church
house belonging to Plaintiffs situ-
ated near Sandy Creek Jefferson
Co. Mo or interfering with religious
or other services therein.

John H. Howard & Bro
Atty in Plaintiffs

I record the within notice ~~of~~ an
Casper H. Kerchoff on the
24th day of February A.D., 1877
by delivering to him a true copy
of the same in Jefferson Co. Mo.
Herman Linhorst

subscribed & sworn
to before me this 28th
day of July 1877 I was
qualified Jan'y 8th 1875
& my com^m expires Jan'y
4th 1879 W. H. H. Thomas
Notary Public

C. Kerchoff & K. H. Kerchoff
Notary Public

C. H. Kerchoff

Notice of applica-
tion for adjunction

Original

Christoph Heber and
John H. Liedhorst
Members of the German
Evangelic Lutheran
Fidels Community
Reformed Augsburgisch
Concession on Sandy
Creek, Jefferson County
Minnesota Plaintiffs

vs
Casper H. Kersthoff
Defendant

In the Jefferson Circuit
Court. May Term 1877.

Plaintiffs Note that the German
Evangelic Lutheran Fids
Community Reformed Aug
burg Concession on Sandy Creek
Jefferson County Minnesota was duly
organized in said County in 1853 by
that name for the purpose of religious
worship by Christoph Heber, C. H.
Kersthoff, Henry Jennings, John
H. Liedhorst, ~~Wm. Kistner~~, ~~Wm.~~
~~Lutemeyer~~, ~~Frank Heuser~~, ~~Wm. Gude~~
~~man~~, Christoph Kesse, - Henry

and others: that said parties voluntarily associated themselves together for the purpose of residing and after their said organization they adopted, agreed to and notified a Constitution for the government of said association by which it was provided that said association might admit new members thereof and expel old or new members thereof and by which it was further provided that two trustees should be elected by the members thereof from time to time at their pleasure who should hold all property belonging to the Community and Control and manage the same for the use of the members of said association for religious worship according to

It was further provided by said Constitution that any trustee might be dismissed from office and some other person chosen to fill his place by the members of said Association whenever they saw fit to do so. They state that many new members

have been in pursuance of said Constitution admitted into said association among whom one Christoph Heuber Mr. Heister and others. They own that on the 15th day of February 1855 Christoph Heuber donated to said association the land hereinafter described for the purpose of erecting a house of worship for said association and did on that day convey to Christoph Heuber and C. H. Heisterhoff who had theretofore been duly appointed trustees of said association under and by virtue of said Constitution the said land situated in said County viz: Beginning at a corner in the West boundary line of the S. Survey No 25 from which a B. O. 14 in. in diameter bears S 71 $\frac{1}{2}$ ° W. 58 links distant & a B. O. 14 in. in diameter bears 60° E. 59 links distant. Thence N 10 chains to a corner, Thence S. 17 chains to a corner, Thence E. 10 chains to a corner, Thence N 17 chains to the place of beginning containing 17 acres which conveyance was made in trust ^{for the use} of said association and which conveyance was made to said Heuber & Heisterhoff

and to their successors for the
use and trust of said and
that said deed is still in full force
and virtue.

Plaintiffs state that said associa-
tion on the 8th day of June 1873 did
by a meeting of the members thereof
duly assembled discuss said
Kerckhoff as one of said trustees
of said and did then and there
elect and appoint John H. Lin-
horst trustee in stead of said
Kerckhoff and did reelect said
Huber as trustee and ever
since then said Huber and
Linhorst have been the legal
trustees of said association and
are still acting as such.

Plaintiffs state that a large majority
of the members of said association
uphold their plaintiffs as such
trustees and utterly upbraid
the pretended authority of said
Kerckhoff and even know
in a legal manner & pulled
him from said association
but they own that notwithstanding
this said Kerckhoff goes to the

the house & on said land every
Sunday & interfere with the
members of said association and
the congregations there assembled
on such Sunday so that the
objects of their association and of
said deed cannot be carried out.
That said Kerckhoff has been by
said Trustees repeatedly notified
not to hold service in said house
or interfere with the services said
association desired to hold there
but he refuses to comply with
their notice and demand and
on every Sunday while said
members are trying to hold their
regular service interferes with
by singing and reading in said house
to the great annoyance of said members
in so much that said ^{Trustees} members
have been compelled to desist from
holding service there according
to their constitution and right
and according to said deed
by which the objects of said deed
and said association have
been thwarted and destroyed by
said Kerckhoff and who threatens

to continue to interrupt, prevent and interfere with said members, and said Trustees in their worship in said house on said premises until he is enjoined by law or the order of a court.

Plaintiffs state that said Kerckhoff is utterly insolvent so that a judgment at law against him would be unavailing and that they have no remedy against him for his unlawful interference except by injunction.

Therefore Plaintiffs pray the Court to grant them an injunction to restrain said Kerckhoff from interfering with, preventing or interrupting said members and Trustees from using said house on said land for worship according to the said constitution and to grant them such other relief as they may be entitled to.

John L. Mowat & Co
Atty for Plaintiffs

Christoph Huber
~~John L. Thomas at 5th St~~ makes oath &
says the above petition & the matters
as therein stated he believes to be
true.

Sworn to & subscribed ~~John L. Thomas~~
before me Feb 28/87

I was qualified Jan 8th 1875
and my Commⁿ expires Jan 4th 1879

Charles J. Stiles

H. H. H. Thomas
Notary Public

C. Kunkel & Co.
Inventors &c.

or

C. H. Kerckhoff

Petition for Injunctive
Relief -

Filed Mar. 2nd 1877

Wm. H. H. H. H.

Chas. C. C. C.

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 *Casper W Kerckhoff*

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

Christoph Huber and Others

upon *their* 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 affixed, at office in Hillsboro, this *3rd* day of *March*, A. D., 187*7*.

C. Tho Horine, Clerk Circuit Court.

4531 10 4531

RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

May TERM, 1877.

Charles H. Kerckhoff
and others

vs
Casper H. Kerckhoff

Defendants

Original
John Williams
Sheriff fee \$1.00
March 3rd

I Executed this Writ in Jefferson County Mo
on the third Day of March 1877 by Delivering
to ~~Charles H.~~ Casper H. Kerckhoff a true copy of
this Writ and Petition as furnished by the clerk
John Williams Sheriff

Christoff Huber et al Plaintiffs

Caspar H Kerckhoff ^{vs} Defendant

The defendant in answer
denies each and every allegation in
the petition of the plaintiff and demands
Judgment for costs

Byrns & McMillin
attys for deft

Christoff Buterdal
to
C H Kerckhoff

Answer

Filed July 11 1877
C H Kerckhoff
Clerk

STATE OF MISSOURI, }
COUNTY OF JEFFERSON

To

Augusta Julia and Henry Wipple

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 14 day of Sept, 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

Miller et al

vs *McKerchhoff*

is Plaintiff, and 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 hereunto affixed, at office, this 3 day

of Sept, A. D., 1877.

C. Tho' Horine CLERK.

Exeuted the within writin Jefferson County mo on the 6th of Septem^r 1847
by reading the same to Henry Wipple and on August 21st
by leaving a tru copy at his useal place of abode with
a member of his fambly over the age of fifteen years

John Williams Sheriff
by John Cook Deputy

Subscribed
to
Kerckhoff

August 21st
Henry Wipple

Sherriff per

J. H. W.

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To Christian Melchior & Henry Summing

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 14th day of September, 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

C. E. Huber et al

are Plaintiffs, and C. H. Kerckhoff

is Defendant, on the part of Heft; and herein you are in no wise to fail, and that Henry Summing bring with him, all the minute and record books of the German Evangelical Lutheran Church of Sandy Creek Jefferson County MO,

Witness, C. THO' HORINE, Clerk of our said Court, with the

seal thereof hereto affixed, at office, this 4th day

of September, A. D., 1877.

C. Tho' Horine CLERK.

Huber
vs
Kueckhoff

L

Chas. Held
Henry Dimming
Spa duces te cum

Sheriff fee \$100

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To Henry Summing & Rev. Mr. May

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 day of _____, 187 , 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 *C. Huber et al*

are Plaintiff , and *C. M. Kerschhoff*

is Defendant , on the part of *pleth* ; and herein you are in no wise to fail. *and bring with you the records & minutes of all meetings & proceedings of the Evangelical Lutheran Church of Sandy Creek,*

Witness, C. THO' HORINE, Clerk of our said Court, with the

seal thereof hereto affixed, at office, this *24* day

of January , A. D., 1878 .

C. Tho' Horine CLERK.

I Executed the within writ in Jefferson County MO on January the 9th 1878
by reading the same to Henry Semmeling and Recd Wm May

John Williams Sheriff
by John Cook Deputy

Huber

vs
Kerckhoff

L

Gloucester Pecum for
Henry Semmeling 3-5, 380
Rev Mr. May 3-6, 396

John Williams
Sheriff fee \$150

Filed Jan'y 14 1878
C. Thos. Horne
Clerk

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To Wm Kuescher, Peter Brinkman, Heinrich Henschelg-
Am Lüttemeyer, Jno H. Lüttemeyer

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 15th day of January, 1878, 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 C. Hudson et al vs C. Kerckhoff is Plaintiff, and C. Kerckhoff is Defendant, on the part of heft; 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 8th day of January, A. D., 1878.
C. Tho' Horine CLERK.

Christoph Huber & others }
vs
C. H. Kerckhoff }

Now comes defendant and moves
the court to dissolve the injunction heretofore
granted upon petition and affidavit of the
plaintiffs for the following reasons

1st

Because the petition does not state sufficient
facts to justify or warrant the granting of an
injunction

2nd

Because the petition does not state facts sufficient
to constitute a cause of action

3^d

Because from the petition it does not appear
that the plaintiffs are without an adequate
remedy at law for the injuries they claim to
have sustained

4th

Because, from the petition it does not appear
that plaintiffs have sustained or are in
danger of sustaining by reason of any
act of defendant, any injury or damage
irreparable in an action of law

5th

Because the petition does not state sufficient
facts to give a court of Equity jurisdiction
Wherefore defendant prays the court to dissolve
such injunction perpetually & for other relief

By *James W. McNeill* atty for
def

Huber and
Breckhoff

motion to dissolve

Filed Jan'y 17 1878
Thos. Haine
Clerk

Christoff Hubert others {
as
C H Kerckhoff {

The defendant states that he
denies each and every material allegation
in plaintiffs bill =

The defendant states that each and
every material allegation in said petition
is false and untrue

C H Kerckhoff

Seen to and subscribed before
me Jan'y 12th 1878.

Le Tho Home Clerk

Heber Stab

^d
Kerschkeff

Answer & Affidavit



Filed June 17 1828

@ Tho Skrine

Clerk

Huber et al }
as
C. H. Kerckhoff }

1st Translation of Constitution

2^d Deed of Huber to trustees

3^d Book (1) Page 5 church records
29th Jan'y 1870 =
(Casper K. whose time was expired
as an elder was re-elected as an
elder

4th Book (1) page 7 = Feby 27/70 =
The question whether Mr K. under
existing circumstances, could still
remain to be the reader and elder was
discussed by the congregation, and the
congregation came to the opinion that
they could not consider this as good;
that he should longer retain these
two offices in the congregation,
Mr Hesse hereupon, announced to the
congregation that Mr K. had told him that
he upon his own motion resigned the office
of leader and elder, and hereby he anticipated
the action of the congregation, and for this

reason all further proceedings in this matter were stopped. Mr Jamming is therefore at present our only elder until further action be taken according to the will of the congregation. Mr D was elected reader in Mr. K's place & Mr T as his substituted

5

Book 1 page 7 Feby 27/70

Negotiations were had with Mr K, touching his bankruptcy matters but they could not be brought to a close because he left the meeting of the congregation upon the excuse that he had necessary & pressing business

6"

Book 2 page 7 Jan 12 1873

Whereas it has become known that Mr K. has bought our church land for delinquent Taxes \$14⁶⁰ (received for in the Court in Hilsbro: he was asked whether he had bought the land for himself or for the congregation as trustee. Mr K declared hereupon that he had acted as trustee and bought the land for the congregation but he had not paid \$14⁶⁰ but 17¹⁰

7

Book 2 page 11 2^d march 1873

Hereupon there was some discussion about the church land, which Mr K. on the 1st day of Jan'y of this year, had bought in Willson's fixtures. Mr K. was willing to give it back to the congregation if it would refund him his expenses of \$17¹⁰-. The congregation resolved to give him that money and the congregation proceeded to take signatures: there was then signed upon and asking around by Mr Temmink & others \$13⁷⁵ & the balance is to be collected from the members of the congregation who were not present in this meeting to be paid in a fortnight

8

Book 2 p 13 = May 25 1873

Mr K. gave the congregation a receipt for the church land repurchased from him = Resolved "that we elect trustees for the church land two weeks from to day, members of the congregation not present to send in their votes

9

Book 2 p 14 = June 8 1873

Hereupon the election of trustees was to be taken up as resolved 2 weeks ago, Mr R. Brinkman & Fosholtz, moved that no

4

change be made for the present. and that the election be postponed until Prof. Walter had been here, but the congregation insisted upon the resolutions adopted 2 weeks ago, so much the more, as it was universally known what was to come up to day.

Messrs Huber & Linhorst were elected Trustees

10 Book 2 p 18 Dec 13 1873

Resolved - That we accept the advice given us by Mr Praiser Binger and Pastor Trauer that we shall no longer consider Mr Froholy & Brinkman, as members of the congregation: Therefore here with immediately resolved that the minister publicly publish this from the pulpit and to read it off verbatim, just as Mr Praiser Binger has drawn it up

11th Book 2 p 23 Apr 4 1875

The final judgment of Rev. Mr. Lick and Rev Mr Lick, who had been sent by the General synod, was twice read, and the members of the congregation singly asked whether they agreed with said judgment. Every one expressed himself to this effect that he consented thereto. Hereupon negotia-

458 30
225 50

times were had with Mr. R & Brinkman who
 however, persistently declared that they would not
 receive again the Pastor as their spiritual adviser,
 consequently would in future consider him as
 deposed. Hereupon by vote it was re-
 solved that the publication already made
 should remain in force and the two men-
 tioned R & B no longer be considered
 members of the congregation of this place

~~Po~~ X X
 Book / P 5

Book 2 p 9 = Feb 28/73
 " 11 = Mar 2/73

" Hereupon the matter as to which the meeting had been called, to wit: the reception of Mr Huber was taken up

Mr. Huber confessed that he repented having left the congregation at that time

The scruples (doubts) which had been expressed by some of the members of the congregation and the rumors concerning Mr Huber were hereupon considered, and could not be taken as proven as Mr H. gave his explanation concerning them

Mr H also (expressed his willingness) (said that he would be satisfied) if the congregation would receive him at its next meeting but it would not consent to that. Hereupon Mr Lemming asked the members of the congregation whether any body was present who desired that Mr Huber leave the meeting for a while in order that if he desired to say any thing he might do so with so much greater frankness. No body however responded and whereas the confession of Mr H. satisfied the congregation and the doubts as to Mr H. had been removed

$$\begin{array}{r}
 35 \\
 33 \\
 \hline
 173 \\
 1-3 \\
 \hline
 1725
 \end{array}$$

7

as far as could be seen, a vote was taken ~~which formed~~ the result of which was that Mr Huber was received into the congregation without protest

35 Alderney @ \$100 ⁰⁰ = -	3500.00
35 Common Oak " 35 = -	1225.00
Reaper, 75 plow, 30 = -	125.00
450 acres @ 50 = -	22500.00
2 Wagons " = -	75.00
Butter Vans &c = -	50.00
Total = = = =	<u>\$27475.00</u>

$$\begin{array}{r}
 22500 \\
 1890 \\
 \hline
 24390 \\
 16 \\
 \hline
 8390
 \end{array}$$

Book 2 P 15 June 8 1875

"Whereas Mr K. raised the objection
that the minutes of Nov 2 had not
been approved although the contrary was
also alleged, a repeated vote resulted
in its adoption