

Jefferson County Circuit Court
Case Files - Civil
September 1886

Box 38 Folder 25

Pecaut, Adolph

vs

Hoffman, Alois

Appeal

Plaintiff appealed from JP
William L. Stone on \$15 account
for rent of lot in DeSoto

A. PECAUT,

DEALER IN

Jewelry, Watches, Clocks, Silverware
AND OPTICAL GOODS.

Repairing Fine Watches a Specialty.

De Soto, Mo.,

July 19 1886

to A Pecaut, Louis Hoffmann &
to July 1st 86 one month rent
15. Dollars

H. H. H. H.

To

Recd

\$500

Filed July 19th

1886

W. H. H. H.

THE WESTERN UNION TELEGRAPH COMPANY.

ALL MESSAGES TAKEN BY THIS COMPANY ARE SUBJECT TO THE FOLLOWING TERMS:

To guard against mistakes or delays, the sender of a message should order it REPEATED; that is, telegraphed back to the originating office for comparison. For this, one-half the regular rate is charged in addition. It is agreed between the sender of the following message and this Company, that said Company shall not be liable for mistakes or delays in the transmission or delivery, or for non-delivery, of any REPEATED message, whether repeating by negligence of its servants or otherwise, beyond the amount received for sending the same; nor for mistakes or delays in the transmission or delivery, or for non-delivery, of any REPEATED message beyond fifty times the sum received for sending the same, unless specially insured; not in any case for delays arising from unavoidable interruption in the working of its lines, or for errors in cipher or plaintext messages. And this Company is hereby made the agent of the sender, without liability, to forward any message over the lines of any other Company when necessary to reach its destination.

Correctness in the transmission of messages at any point on the lines of this Company can be insured by contract in writing at the stated amount of risk, and payment of premium thereon at the following rates, in addition to the usual charge for repeated messages: viz. 2.00 per cent. for any distance not exceeding 1,000 miles, and two per cent. for any greater distance. No employee of the Company is authorized to vary the foregoing.

No responsibility regarding messages attached to this Company until the same are presented and accepted at one of its transmitting offices; and if a message is sent in such office by one of the Company's messengers, he acts for that purpose as the agent of the sender.

Messages will be delivered free within the established free delivery limits of the terminal office—for delivery at a greater distance, a special charge will be made to cover the cost of such delivery.

The Company will not be liable for damages in any case where the claim is not presented in writing, within sixty days after sending the message.

THOS. T. ECKERT, General Manager.

NORVIN GREEN, President.

Receiver's No.	Time Filled,	Check,

Send the following message, subject to the } above terms, which are hereby agreed to. 188

To A Peasant Dr to

A Hoffman

W Taxes for state + county for

year 1884

8 1/2 lot 4 + 1/2 lot 3 RR

Addition to DE Soto \$45.74

To city tax for year 1885

on 8 1/2 lot 4 RR addition

to DE Soto

4.00

\$49.74

Hoffman or Deane

offer

Recd Aug. 20th 1886.

W. L. H. R.

No. SUMMONS.--J. P.

Rev. Stat. of Mo.,
Vol. 1, Sec. 2860.THE STATE OF MISSOURI, To the Constable of Valle Township, inthe County of Jefferson State of Missouri, GREETING:

WE COMMAND YOU to summon

Aloise Hoffmann

to appear before the

undersigned, one of the Justices of the Peace of

Valle

Township,

in

Jefferson
August 1886

County aforesaid, on the

20th

day of

at 10

o'clock in the forenoon, at his office, in the same

Township, to answer the complaint of

Adolph Perout

founded upon

an account

and wherein he demands

FifteenXX DOLLARS.

Given under my hand this

9th

day of

AugustA. D. 1886William L Stone

Justice of the Peace.

CONSTABLE'S RETURN.

[Rev. Stat., Vol. 1, Sec. 286.]

I HEREBY CERTIFY, That I have executed the within Writ by receding the same in the *evening* and hearing of *Alvise Hoffmann* the *within named* *Sept*

on the *ninth* day of *August* 18*86*, in *Waller*

Township, *Jefferson* County, Missouri.

FEE, \$

30 cts

CONSTABLE

H. W. H. H. H.

STANDARD PRINTING CO., HANNIBAL, MO.

No.

SUMMONS.

Adolph Pecaut Plaintiff.

vs.

Alvise Hoffmann Defendant.

BEFORE

William L. Stone Justice of the Peace.

Amount of Plaintiff's Demand,	\$	<i>15.00</i>
Costs already accrued,	\$	<i>86 85</i>
Constable's Commission, -	\$	<i>21</i>
Constable's Fee, -	\$	<i>30</i>
Constable's Mileage,	\$	
TOTAL,	\$	

AFFIDAVIT AND BOND.--IN APPEAL.

State of Missouri, Jefferson County, --ss.

Adolph P. Reauk.
PLAINTIFF,

AGAINST
Alois Hoffman
DEFENDANT.

BEFORE
H. L. Stone
Justice of the Peace.
In Valle Township.

Adolph P. Reauk Plaintiff Defendant, being duly sworn, upon his oath says that the application for an appeal in the above entitled cause, is not made for vexation or delay, but because he believes the appellant is injured by the judgment of the Justice therein.

Subscribed and sworn to before me, this 20 day of August 1886.

A. P. Reauk
J. E. Phillips J. P.
Justice of the Peace.

My term expires May 1, 1887

BOND.

State of Missouri, Jefferson County, --ss.

Adolph P. Reauk
PLAINTIFF,

VS.
Alois Hoffman
DEFENDANT.

In Appeal from the Judgment of
H. L. Stone
Justice of the Peace.
In Valle Township.

WE, the undersigned, Adolph P. Reauk and

August Racine
acknowledge ourselves indebted to Alois Hoffman
in the sum of \$ or by Dollars, to be void upon this condition:

WHEREAS, Adolph P. Reauk has appealed from the judgment of
H. L. Stone a Justice of the Peace, in an action between

Adolph P. Reauk
Plaintiff and Alois

Hoffman Defendant, to
the Jefferson County Circuit Court: Now, if on such appeal the Judgment of

the Justice be affirmed, or, if on trial anew in the Appellate Court, judgment be given against the appellant and he shall satisfy said judgment, or, if his appeal shall be dismissed, and he shall pay the judgment of the Justice together with the costs of the appeal, this recognizance shall be void.

WITNESS our hands this 20 day of August 1886

A. P. Reauk
Aug. Racine

Approved this 20th day of August 1886
William L. Stone
Justice of the Peace.

#38.

6342

Lucien Couer, Printer, Milan, Mo.

AFFIDAVIT AND BOND, ---IN APPEAL.

FROM J. P. COURT.

A Pecaut

PLAINTIFF,

VS.

Alvin Keoffman

DEFENDANT.

Filed this *20th* day of

August 188*6*

William L Stone

J.D.

*Filed Aug. 24th. 1886,
C. Tho. Horner*

Clerk

Resubm case

State of Missouri } Before William L Stone,
County of Jefferson } J. D. Valle Township.

Adolph Decant, Plaintiff }
vs. } On Account.
Alois Hoffman, Defendant }

August 9th 1886. Plaintiff filed for suit an account for fifteen dollars, due July 1st 1886, and directed a summons to issue, which is done, and delivered to R Washburn, Constable of Valle Township, returnable August 20th 1886.

On this 20th day of August, 1886, the constable of Valle Township makes return of the summons in this cause, certifying that he executed the writ by making the same in the presence and hearing of Alois Hoffman on the 9th day of August 1886. And on this said day the plaintiff and the defendant both appearing in their own proper persons and by attorney, and the defendant filed an offset in which he claimed forty nine dollars and seventy-four cents, for taxes paid by the defendant on plaintiff's property; and the cause coming on for trial, the right of trial by jury is waived and the cause submitted to trial by the Justice. The evidence and arguments being heard and seen by the Justice, it is considered by the Justice that the defendant have judgment for thirty three dollars and seventy-four cents, and that the plaintiff pay the costs.

The plaintiff gave notice of appeal before the adjournment of the trial, and filed his affidavit

and bond, this the 20th day of August, 1886 -
which bond is approved and appeal allowed.

William L. Stone J.P.

Justice's costs

Docket and Index	.20
Issuing Summons	.35
Swearing two witnesses	.10
Taking bond	.35
Judgment	.50
Transcript	.50
Total J. P. Fees	<u>2.00</u>

Constable's Fees:

Serving Subpoena	<u>.30</u>
Total Fees	\$2.30

CERTIFICATE OF JUSTICE TO TRANSCRIPT.

STATE OF MISSOURI,

COUNTY OF *Jefferson*

} ss.

I, *William L. Stone*,

a Justice of the Peace within and for the County of *Jefferson* and
 State of Missouri, do certify the foregoing to be a full, true and complete Transcript of the
 Entries and Proceedings in the case of *Adolph Decant* versus

Alvis Hoffman

as the same are of Record on my Docket, and
 that the papers thereto attached are all the original papers appertaining to said cause on file in my
 office.

WITNESS my hand, this *21st* day of *August* A. D. 188*6*

William L. Stone

Justice of the Peace.

STATE OF MISSOURI, }
COUNTY OF JEFFERSON,

The State of Missouri, to

Amos L. Boheman

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 *September*, 18*86*, at *9* a. m., at Hills-

boro, then and there to testify and the truth to say in a certain matter of controversy now pending in said Court, wherein

Alfred

is plaintiff, and

Alvin Hoffman

is defendant, on part of *Plaintiff*

; 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 *19th* day of *September*, 18*86*.

C. Tho. Horine, Clerk.

Deauch

Jefferson,

appeal case

P

Amos L. Coleman 9-13/86

DO NOT FORGOT

Filed Sept. 15 1886

John A. Thomas

Deauch

Deauched the within Subpoena in the County
of Jefferson State of Missouri on the 13th
day of September 1886 by reading the same
in the presence and hearing of the within named
Amos L. Coleman.

Henry Hentgen

Shiff Jeff Leo mo

Fee 50 ¢

STATE OF MISSOURI, }
COUNTY OF JEFFERSON, }

The State of Missouri, to

Fred Wappler

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 Sept., 1886, at 9 a. m., at Hills-

boro, then and there to testify and the truth to say in a certain matter of controversy now pending in said Court, wherein

McPeck

is plaintiff, and

Alvin Hoffman

is defendant, on part of *Defendant*; 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

14th day of

Sept.,

1886

C. Tho. Horine, Clerk.

G. Spiller

A. Deane

A. Hoffman

D.

Fred. Wappler 9-15/86

Filed Sept. 16 1886

C. Tho' Stone
Clerk

I executed the within Subpoena in the County of Jefferson
State of Missouri on the 15th day of September 1886
by reading the same in the presence & hearing of the
within named Fred Wappler.

Henry Heritger

Fee 50¢

A. Reuben Hoff.

vs
Alois Hoffman Dyk.

In The Circuit Court of
Jefferson County Missouri
September term 1886 -

Defendant by leave
of Court files this his answer
to all counter claim and
says that on or about the
31st day of December 1884
the plaintiff was the owner
of the S/2 of Lot 4 & S/2 of
Lot 1 - 3 Block 3 Rail Road
Eddition to Desoto in Jefferson
County - Missouri that at that
time there was due the State and
County and School fund
taxes to the amount of fifty
five dollars and 74 cents and
that the defendant at that
time lost upon said two
parts of the said Block 3
3 acres which then were
taxed due and the defendant
sent his agent to pay his
said taxes and through
mistake he paid the taxes
of plaintiff upon the his
lands as above described as
will appear by the collections
receipts here with filed

There on the 22nd July 1885 - the
defendant through his brother
paid to the City of Des Moines
four dollars, but the said City
by plaintiff upon 5th of
Dec & Lot 4. There the def-
endant never found
out said money, but after
long after it was used
and the City of Des Moines
defendant paid as required
and there plaintiff refuses to
pay to the defendant the money
paid by him from the plain-
tiff and to his use as
before and therefore defen-
dant says plaintiff is in debt
- to him in the sum
of forty nine dollars and
74 cents for the money
paid by defendant for
the plaintiff and to his
use -

Dinnering & Bygones
with Parker about
the Dept -

438

A. Pennell

Alice Hopp

Amelia Bush-
Carr

Filed Sept. 14 - 1886
C. H. H. H. H. H.
Clerk

A. Pecant Plaintiff

Against

A. Hoffman Defendant

In Circuit Court of Jefferson
County Missouri -

Now comes the Plaintiff ~~said~~ is the
appellant in the above cause and
moves the Court to strike out the Coun-
ter claim of defendant filed in the
above cause for the reason following viz
Because the said Counter Claim as
appears by the statements contained there-
in is a strictly equitable counter claim
or cause of action and is therefore not
~~a subject for~~ ^{within} the jurisdiction of the Justice
of the Peace before whom the same was filed
and is not a matter of set off.

J. F. Green &

J. E. Phillips

Attys for Plff.

A. Peck
A. Hoffman

Notion to strike out
Counter Claim of deft.

Filed Sept. 15th 1886
Chas. H. H. H.
Peck

Recant

Hoffman.

The dependant's offset or counter claim cannot be allowed in this case. 1. No one can become the creditor of another without his consent either express or implied. Allen's Law on Richmond College 41 Mo 302 & cases cited.

~~Smith~~ Chmido & Smith 57 Mo 135-
11 Mo app. 534

Green & Meyer Practice § 662 &
addendum to same sec. 28.

2 Green. Ev. §§ 113-114.

1 Sel. Nisi Prius pp 77-78-9-80

Chitty's Contracts. 59 et seq.

2. Defendant having paid the tax to the County Collector & not to the plaintiff cannot maintain an action against the latter for "money had & received". This form of action was for money had & received by the defendant (plaintiff here) for the ~~plaintiff's~~ use of plaintiff. Chitty's Com. 601-2. Money paid by mistake can be recovered back but the party receiving the money must be over. See above authorities & Chitty's Com. 676 et seq.

3. The defendant cannot maintain his action for this money as for money paid for plaintiff's use. Because in this form of action the plaintiff's request either express or implied to pay the money or his subsequent assent to it must be shown. It is not enough to show plaintiff's liability for the tax & that defendant paid it. It is necessary to show that defendant did so at the instance of plaintiff or the act was subsequently recognized by him.

Chitty's Con. 594.

His he did not do.

For these reasons the counter^{claim} is not allowed.

James
Judge.

Recd

Hoffman

Union of
the South

Filed Jan 10/87
J. B. Leary
Clerk

STATE OF MISSOURI, }
 County of *Jefferson* } ss.

THE STATE OF MISSOURI TO THE SHERIFF OF *Jefferson* COUNTY—GREETING:

WHEREAS, *A Pecant Defendant*

on the *Eleventh* day of *May* A. D. 188*7*, at our said Circuit Court
 for said County of *Jefferson*, recovered against *A Hoffman*
Plaintiff and *Jacob Bleiker* security,
Twenty one & $\frac{45}{100}$ *Dollars*
 for *his* Costs and charges by *him* about *this*
 suit expended, which to the said *A Pecant*

were adjudged, as appears to us of record; which Costs and Charges have been taxed as herein indorsed, at the
 sum of *Twenty one* Dollars and *45* Cents.

THESE COMMAND YOU, That of the Goods, Chattels and Real Estate of the said
A Hoffman and Jacob Bleiker
 you cause to be made the Costs aforesaid, and that you have the same before the Judge of our said Court on the
Second Monday in *September* next, and that you certify to our said Judge
 how you execute this Writ. And have you then and there this Writ.

WITNESS my hand as Clerk of said Circuit Court, with the seal of said Court

affixed at office in *St. Louis*

this *26th* day of *August* 188*7*

D. C. Weager
 CIRCUIT CLERK.

By..... D. C.

EXTRACT FROM REVISED STATUTES.

"SECTION 1016.—In all cases where costs shall be awarded, either before or upon final judgment, execution shall be issued therefor, forthwith, by the Clerk, unless otherwise ordered by the party in whose favor such costs shall be awarded.

A. Hoffman
vs.
A. Pecaut

ITEMS OF COST.

DATE.	ITEMS.	Plaintiff's Costs.	Defendant's Costs.	TOTAL.
1886	C. Pho. Horine, Clerk			
Sept. 1.	2 files ¹⁰ / petition ^{1⁰⁰} Clerk & Seal ⁵⁰ /160			
	Writ & Copy ^{1⁰⁰} /4 block ²⁰ /1 spa ²⁵ / 1.55-			
	Appr. 20/ Ord to file ans ²⁰ / 40			
	Cont ²⁵ / <u>25</u>			3 80
1887	D. B. Veazey Clerk			
Jan. 1.	8 files ⁴⁰ / Motion for Costs ²⁰ / .60			
	Affidavit ²⁵ / Bond approved ³⁰ / 55-			
	Amended petition ³⁰ / Replication ³⁰ / 60			
	Cont ²⁵ / Leave to ans ³⁰ / 2 nd Cont ²⁵ / 80			
May 1.	Dock ¹⁰ / 3 spas ⁷⁵ / Ord to dismiss ³⁰ /1.15-			
	Judgt for Costs ⁵⁰ / block Judgt ¹⁰ / .60			
	2 affd to wit Claims ¹⁰ / Fee bill ¹⁰ / .20			
	Making Costs ²⁰ / Copy ²⁰ / <u>40</u>			4 90
	Henry Hurtgen Sheriff			
	Serv. Writ ^{1⁰⁰} Calls ¹⁰			1 10
	Ed. Mc Fry Sheriff			
	Serv 7 spas ^{3⁵⁰} /1 Non est ²⁰ /3.75-			
	6 Calls <u>30</u>			4 05-
	Witnesses			
Jan. 1.	Isaac S. Barker ^{2 days} 2 ⁰⁰ /56 mi ^{2.80} /4.80			
	Jno O'Malley 2 days ²⁰ /16 " ⁸⁰ / <u>2.80</u>			7 60

21 45

STATE OF MISSOURI,
County of Jefferson } ss. I, D. B. Veazey
Clerk of the Circuit Court, in and for said County, certify that the foregoing itemized Bill of Cost is a true copy from the
Fee Book in my office, and that the said A. Hoffman & J. Bleisen are
liable for the payment of the same.

WITNESS my hand as Clerk and the Seal of said Court, at my office in
Hillsboro, this 26th day of
August 1887.
D. B. Veazey Circuit Clerk.
By _____ Deputy.

Received by me this 26th day of August 1887
G. W. McFay Sheriff.

RETURN.

Executed the within Writ by Collecting \$23.45 cents on the 14
day of September 1887 and I hereby return this
Execution fully satisfied this 21 day September

FEE, \$1.00

G. W. McFay
Sheriff Jefferson County, Mo

No. 5-

Execution for Costs.

Jefferson County Missouri
CIRCUIT COURT,

Leffler v. Term TERM, 1887

~~Leffler v. Term~~

H. Deant
VS.

~~Leffler v. Term~~

Leffler v. J. Deant

COSTS ADJUDGED AGAINST

Leffler v. J. Deant

DATE OF JUDGMENT,

May 11th 1887

Execution Docket, Vol. 3, Page No. 63.

Fee Book No. 13, Page No. 95.

Record Book No. 13, Page No. 95.

Plaintiff's Attorney.

Statement for Costs.

Clerk's Fees, Horris 1/2 4/10 \$ 8.70

Sheriff's Fees, Horris 1/2 4/10 \$ 5.15

Jury's Fees, - - - - -

Witness Fees, - - - - - 7.60

Printer's Fees, - - - - -

J. P.'s Fees, - - - - -

Court Fees, - - - - -

Total, 21.45

Rate of interest, per ct.

100

1.00

13.45

14.45

14.45

14.45

14.45

14.45

14.45

14.45

14.45