

DeForsen County Circuit Court
Case File - Civil
May 1888

Box

40 Folder 1

Mahe, William J.

vs

Fay, James D.
Brown, Aaron

Appeal

Defendant appealed from JP
John Gately on unlawful
detainer of James Johnston
lease on Peter M. Brown farm
in Surrey 1897; defendant Brown
African American

Notice

To James, N. Fay and Aaron Brown (Colored)
Sir, you are requested forthwith to remove
from and deliver to me the possession of the
following described real Estate situated in
the Township of Meramec, in the County of
Jefferson and State of Missouri,

To wit, the Place known as the James Johnson
lease on the P. M. Brown farm In survey 1897
4th section 13
Jefferson Co. Mo

your Compliance with this demand will
prevent any legal Measures being taken
by me to obtain possession of said premises,

This the 31st Day January 1888

William J. Wade,

Served the within Notice by delivering
to each of the within Named Defendants,
James H. Ray & Aaron Brown a true

Copy of the within on the 16th day of
Feb^r 1888, in Jefferson County Missouri
Sworn to and ^{before me} subscribed, this 23rd day
of February 1888

Filed Mar 9/88
D. J. Hays
Clerk

Charles Scale

Unlawful detainer

State of Missouri County of Jefferson.

William J Wade plaintiff } Before John Gentry
vs. } justice of the peace

James D. Fay defendants (Meramec Township
and Aron Brown

William J. Wade, plaintiff, complains of
James D. Fay, ^{and Aron Brown} defendants, and says that on or
about the 15th day of October 1887 he leased
from the defendant, ^{James D. Fay} for the term of one year from
that date the following described lands, situate
in said County to wit; the place known as the
James Johnston lease on the Peter M. Brown
farm in Survey 1897 Jefferson County Missouri;
that said tenancy was to commence immediately
after the above date and that he (the plaintiff) sowed
about six acres of wheat on the said lease, that ever
since that time the plaintiff has been and now
is entitled to the possession of said premises;
that the defendants willfully and unlawfully
hold over and detain the possession of said
premises from the plaintiff; and that the plaintiff
has sustained damages by reason of said
unlawful and wilful holding over, in the sum
of Fifty dollars, wherefore the plaintiff
demands judgment for the possession of said
premises and for said damages.

William J Wade Plaintiff

Complaint
and
Summons

William J. Wade
vs.
James D. Fay and
Aron Brown

plaintiff
Defendants

Before Jno Seately
justice of the
peace

Constable fee. \$1.00 for
each defendant. — \$2.00
mileage — 1.00
Filed March 1888
D.B. Langdon

I hereby certify that I executed this writ by
reading the within complaint & summons
to the within named Defendants,
James D. Fay and Aron Brown, on
the 20th day of Feby. 1888, in Miramec
Township Jefferson County Mo,
Alf. Stewart Constable

The said William J. Wade, plaintiff, being
duly sworn, on his oath says that the fore-
going Complaint is true in substance
and fact William J. Wade Plaintiff
Sworn to and subscribed } John Geatley
before me this 18th day of } justice of the peace
February 1888

Summons.

The State of Missouri, to the Constable
of Meramec Township, of the County of Jefferson
Greeting; You are hereby Commanded to
Summon James D. Fay and Aron Brown, of the County
of Jefferson, to appear ^{before} the undersigned, justice of the peace
within and for said County at his residence, in the same
County, on the 25th day of February 1888, at the hour of 10
O'clock in the forenoon of that day, then and there to
answer and defend against the Complaint of William
J. Wade of unlawful detainer, made by the said James
D. Fay and Aron Brown upon the leased lands of
said William J. Wade, as by the Complaint of said William
J. Wade hereto annexed will more fully appear; and
have you then and there this writ, with the
return of your proceedings thereon.

Given under my hand

this 18th day of February
1888

} John Geatley
justice of the peace

State of Missouri
County of Jefferson

William J. Wade pl^{ff}

v.s.

Before John Gately
justice of the peace

Meramec Township Jefferson

County Missouri

James D. Fay and Aaron Brown def^{ds}

William J. Wade, Complains to John Gately justice of the peace within and for the County of Jefferson, in said State that on or about the 15th day of October 1887 he had the legal right to the possession of the place known as the, James Johnston, lease, on the P.M. Brown farm in Survey 1897 in Section thirteen (13), in Meramec Township Jefferson County Missouri; and that Aaron Brown, (by Consent and the Collusion of the said James D. Fay from whom Plaintiff leased said land on or about the 15th day of Dec. 1887) wrongfully and without force, by disseizen, obtained and continues in possession of said premises, after demand made in writing for the delivery of the possession thereof.

The complainant further states that that he has sustained damages by reason of the unlawful detainer aforesaid in the sum of Fifty Dollars, and that the value of the Monthly rents and profits of said tenements is ten Dollars. Wherefore the Complainant prays judgment of restitution, and for his damages, and the value of the Monthly rents and profits, over —

of the premises aforesaid,
William J. Macle
Sworn to and Subscribed
before me this 18th day of { John Gately
February 1887 { justice of the peace.

J. M. Severich attorney for
Plaintiffs

Amended

Complaint

W. J. Wade pl^{ff}

vs.

Jas. D. Fay & Aaron Brown
def^{ds}

filed Feb 18th 1888

Filed Mar 9/1888

D. B. New
clerk

440

W. J. Wade

=OS=

Jas. D. Fay and

Caron Brown

Appeal from Justice

Filed Mon 9th 1882

D. B. Veazey
clerk

Subpoena for Witness.

The State of Missouri, to *John Wade, Charles Deale*
and *George Schmeltz &c.*

You are hereby commanded, to be and appear, personally, before

me, *John Dealey*, Justice of the Peace within and for the Township of *Meramec*
County of Jefferson, on the *25th* day of *February*, 188*8*, at the hour of 10 o'clock in the

forenoon of that day, at my office in the Township and County aforesaid, to testify on the trial of a cause wherein

William J. Wade is Plaintiff

and *James G. Fay and Alon Brown* are Defendants
on behalf of the *Plaintiffs*, and herein fail not at your peril; and the person or officer serving this writ, is
commanded to have the same at the time and place aforesaid, certifying thereon his return.

Witness my Signature, at Office in the Township aforesaid,

this *18th* day of *February*, 188*8*

John Dealey
Justice of the Peace.

RETURN.

I HEREBY CERTIFY that I served the within Writ in the County of Jefferson, State of Missouri, on the
day of February, 1888, by
John Wade, Charles Seals, George Schmeltz
served by copy of Original on the day & date
above said.

Ret, S.

Act. Stewart Correlator

SUBPENA FOR WITNESS.

William J. Wade
Plaintiff.

vs.

James D. Fay, and
Arion Brown
Defendant.

BEFORE,

John Grutley, J. P.

WITNESSES.

John Wade,
Charles Seals
And Geo. Schmeltz Es.

Cost fees 75
Mileage 1.00

Filed Mar. 9th 1888
J. D. O'Keefe
clerk

William J. Hack Pitty

vs,

James D. Hay and Aaron Weston

defendants

Before John Vealey
Justice of the Peace
Freemans Township
Jefferson Co. Mo.
Oligation for Costs

We bind ourselves to pay all Costs
that have accrued or may hereafter
accrue in this Cause, before the
Appointed, July 25th aforesaid unless
1888

John Vealey
Justice of the
Peace

William J. Hack
Defendant

Bond of W. J. Wade
in Cause of

W. J. Wade
vs.

James D. Fay
and
Haron Brown

filed Feby 25th
1888

Filed Mar 9th 1888
D. B. Vaughn
clerk

Notice of Appeal

William J. Wade
vs.
James D. Fay
and
Aaron Brown
defendants

To William J. Wade

You are hereby notified
that that I have taken an appeal
to the Circuit Court of Jefferson County,
from the judgment of John Geatty, justice
of the peace, rendered by him on the 25th
day of February 1888, against me in the
above entitled Cause

James D. Fay
Plaintiff

 Notice of Appeal
to Wm. J. Wade

Filed May 14/1888
W. B. Yeager
Clerk

Served the within notice on the
within named William J. Wade, on
the 1st day of May 1888, in Meramec
Township, Jeff. Co., Mo., by a true copy
of Originals, Alf. Stewart Constable,

William Wade, Plff	} Before John Geatley Justice of the Peace - Meramec Township Jefferson County Mo.
vs	
James D. Fay and Aaron Brown Df's	

We the undersigned James D. Fay and William Flanagan, acknowledge ourselves indebted to William Wade in the sum of ^{two} ~~one~~ hundred and no dollars, to be paid upon this Conclusion, Whereas James D. Fay and Aaron Brown have appealed from the judgment of John Geatley a Justice of the Peace in an action between William Wade plaintiff and James D. Fay and Aaron Brown Defendants, now if on such appeal the judgment of the Justice be affirmed or if on the trial anew in the appellate Court judgment be given against the appellants and he shall satisfy such judgment or if their appeal shall be dismissed and they shall pay the judgment of the Justice together with the costs of the appeal, this acknowledgment shall be void.

James D. Fay
William Flanagan
Witnesses
7th day of March 1888, John. Howard
Justice

William H. Hall
James H. Hall &
Harrison Brown

of Great Britain

William H. Hall

25.

James H. Hall and

Harrison Brown

agents

of the Great

British

Filed March 1888

Doyle
Clerk

State of Missouri Jefferson Co. &c.

William J. Wade Plaintiff

vs.
James W. Story
and
Almon Gibson Defendants

before John Gately
Justice of the peace
of Meramec Township.

James W. Story, defendant, being duly
upon his oath says that the application
for an appeal in the above entitled
cause is not made for violation or delay
but because he believes the appellant
is injured by the judgment of the
justice therein
Subscribed and
sworn to before me,
this 5th day of March
A. D. 1888

James W. Story

• Affidavit for
Appeal —

In cause of
William J. Wade.
Plaintiff

vs.
James D. Fay
And

Aaron Brown
Defendants

Filed March 5th
1888

• Filed Mar 9/1888

D. B. Veager
clerk

The Bill in Cause of

W. J. Wade plaintiff vs, Jas D Hay and Aaron Brown defendants,	Before Jno Groatley Justice of the peace Murray Township Jefferson County Mo,
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Justice's fee — for docket	10 ^c	index	10 ^c	.20	
Summons &c	1.00	Subpoenas	25 ^c	Servicing 4 witnesses	20 ^c 1.45
Plaintiff's Bond	35 ^c	Appeal (affiant)	35 ^c	apl Bond	35 ^c 1.05
Filing Am'd Compl't	15 ^c	entering verdict	50 ^c		.65
Judgment	50 ^c	Transcript	1.00		1.60
Affidavit of Charles Seals	15 ^c			.15	5.10
Const. fee — Serv writ &c defendant	1.00			\$2.00	
Mileage 20 ms. @ 5 ^c per ms.				1.00	
" 20 ms @ 5 ^c " " Serv. Subpoens.				1.00	
Serv. Subpoenas 3 witnesses				.75	
" Notice for possession	30 ^c			.30	8.05

Witnesses' fee — Chas Seals 1 da	.50
Mileage " " 18 ms. @ 5 ^c	.90
John Wade 1 day	.50
" " Mileage 18 ms. @ 5 ^c	.90
	<u>\$2.80</u>
Am't fee in full	\$12.95

John Groatley Justice

Mississippi

W. L. Wade Plaintiff

vs.

Jas. M. May and
Nathan Brown
Defendants

Before John C. Bailey
Justice of the
Peace

Filed Mar. 9th, 1888
J. B. Neugeb.
Clerk

Transcript

State of Missouri County of Jefferson
William J. Wade plaintiff

vs.
James D. Lay 2nd

Aaron Brown defendants

Before John Gatter
Justice of the peace

Meramec Township

Jefferson County

William J. Wade, plaintiff, Complains of James
D. Lay 2nd Aaron Brown defendants, and says
that on or about the 15th day of October 1887
he leased from the defendant James D. Lay for the
term of one year from that date the following descri-
bed lands, Situate in the said County to wit: the
place known as the James Johnston lease on the Peter
M. Brown farm in Survey 1897 Jefferson County Missouri
that said tenancy was to commence immediately
after the above date and that he (the plaintiff) sow-
ed six acres of wheat on the said lease, that ever since that
time the plaintiff has been and now is entitled to the
possession of said premises; that the defendant wilfully
and unlawfully hold over and detain the possession
of said premises from the plaintiff; and that the plain-
tiff has sustained damages by reason of said unlawful
and wilful holding over in the sum of Fifty Dollars
Wherefore the plaintiff demands judgment for
the possession of said premises and for said
damages

William J. Wade plaintiff

The said William J. Wade, plaintiff being
duly sworn on his oath says that the forego-
ing Complaint is true in substance

and fact. Sworn to and Subscribed before
me this 18th day of February 1888

William J. Wade plaintiff

John Geatley

justice of the peace

February 18th 1888

Summons is issued this day in
above entitled Cause returnable February 25th 1888
at 10 O'clock A.M. and delivered to Alfred Stewart
Constable of Meramec Township

Feb 18, 18 O'clock Plaintiff filed this day his amended Complaint
as follows.

State of Missouri County of Jefferson
William J. Wade plaintiff

vs.

James D. Fay & Aaron
Brown Defendants

Before John Geatley
justice of the peace
Meramec Township

William J. Wade. Complains to John Geatley
justice of the peace within and for the County of
Jefferson, in said State, that on or about the 15th day
of October 1887 he had the legal right to the
possession of the place known as the James
Johnston lease, on the P.M. Brown farm in Survey
1897 in Section Thirteen (13) in Meramec Town-
ship Jefferson County Missouri, and that
Aaron Brown (by Consent and the Collusion of
the said James D. Fay, from whom plaintiff leased
said land on or about the 15th day of December 1888)
wrongfully and without force by despoison
obtained and continues in possession of
said premises after demand made in
writing for the delivery of the

possession thereof. The Complainant further States that he has sustained damages by reason of the unlawful detainer aforesaid in the sum of Fifty Dollars, and the value of the Monthly rents and profits of the said tenements is ten Dollars Wherefore the Complainant prays judgment of restitution and for his damages and the value of the Monthly rents and profits of the premises aforesaid.

Sworn to and subscribed }
before me this 18th day of } John Geatter justice
February 1888 } of the peace

1 O Clock P.M. Summons in above entitled Cause is returned, "Served by reading the same to the defendants in Jefferson County on the 20th day of February 1888 by
Alfred Stewart Constable"

Plaintiff being a non resident of the County it is ruled that he give bond for all costs that have accrued or may hereafter accrue in this cause before this Court. bond with plaintiff as principal and Alf Stewart as Security, Approved

Plaintiff's notice to the defendants to deliver possession is returned and affidavit of Charles Seals ^{taken} wherein he swears that he delivered to each of the defendants a copy of the notice on 16th day of February 1888

And now to wit, February 25th 1888. The parties appear, and this Cause is submitted for trial to the justice, who, having heard all the evidence and argument of the parties, doth find for the plaintiff in the sum of Fifty Dollars for damages and ten Dollars per month for rents and profits from this date untill restitution be made of said premises.

It is therefore adjudged by the justice that the Complainant (plaintiff) have restitution of the premises described in the foregoing Complaint as found by him to have been unlawfully detained and that he recover of the defendant the sum of One Hundred Dollars for his damages; and also at the rate of ten Dollars per month for rents and profits from the 25th day of February 1888 untill restitution be made of said premises to the plaintiff together with his costs expended taxed at Twelve Dollars and Ninety five Cents.

John Geatley justice

March 5th 1888. Comes now the defendant, and files Affidavit and recognizance for appeal, and prays an appeal to the Circuit Court of Jefferson County which is allowed by me.

John Geatley justice

State of Missouri Co. of Jefferson ss

I John Geatley, justice of the peace, Certify that the foregoing is a complete transcript of all the proceedings had before me in the above entitled Cause as taken and copied from my docket.

Given under my hand this
6th day of March 1888

John Geatley justice
of the peace.

SUBPOENA.--CIRCUIT COURT.

STATE OF MISSOURI, COUNTY OF

Jefferson

} ss.

No.

7

THE STATE OF MISSOURI, To

*George Smith Jr**George Smith Jr.**John St. Marks and Charles Deal**You are Hereby Commanded*, That setting aside all manner of excuse and delay, you be and

appear in proper person, before the Judge of our Circuit Court, at the Court House in the town

of *Shillabro*

within and for said County, on

Wednesday

the

16th

day of

May

A. D. 1888, then and there

to testify and the truth to speak, in a certain matter of controversy now pending in our said Court,

wherein

W. F. Grady

is

Plaintiff,

and ~~Thomas J. Deal~~ *John St. Marks and Charles Deal* Defendants,

on the part of said

Plaintiff

, and this you shall in no

wise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

WITNESS my hand and the seal of our said Court. Done at

office in

Shillabro

in said County, this

5th

day of

May

A. D. 1888.

W. F. Grady

Clerk.

By

DEPUTY CLERK.

SUBPENA.

No. 7

CIRCUIT COURT

Of Jefferson Co., Mo.,
May Term, 1888

H. J. Wade

VS.

Jas. M. Fay &
Aaron BrownPLAINTIFFS' }
DEFENDANTS' } WITNESSES.Day of Trial May 16thGeo. Smeltz Sr.
Geo. Smeltz Jr.
John H. Wade
Charles SealFiled May 14th 1888
D. B. Neazy
Clerk
W

RETURN.

I hereby certify that I served the within Writ in the County of Jefferson
and State of Missouri, on the 8th day of May, 1888, by
reading the same in the presence and hearing of the within
named clerks, J. M. Fay & Aaron Brown, J. H. Wade
and Charles Seal.Geo. M. Neazy, Sheriff of Jeff. Co. Mo.
By J. H. Wade,
Deputy.

Witnessed by J. M. Neazy

SUBPOENA.--CIRCUIT COURT.

STATE OF MISSOURI, COUNTY OF

} ss.

No.

41

THE STATE OF MISSOURI, To

Wm B. Spaulding

You are Hereby Commanded, That setting aside all manner of excuse and delay, you be and

appear in proper person, before the Judge of our Circuit Court, at the Court House in the town
of Wells Mo, within and for said County, on for the 10th

the _____ day of _____

A. D. 18

, then and there

to testify and the truth to speak, in a certain matter of controversy now pending in our said Court,

wherein _____

Made

Plaintiff,

and _____

For the

Defendant,

on the part of said _____

For the

, and this you shall in no

wise omit. And the person or officer serving this Writ is commanded to have the same at the
time and place aforesaid, certifying thereon his return.

WITNESS my hand and the seal of our said Court. Done at

office in Wells Mo

in said County, this

21

day of

May

A. D. 1888

2Wm B. Spaulding

CLERK.

By _____

DEPUTY CLERK.

SUBPENA.

No. 41

CIRCUIT COURT

Of

Jefferson

Co., Mo.,

May

Term, 1888

Wade

vs.

Fay et al

PLAINTIFFS' }

DEFENDANTS' }

WITNESSES.

Day of Trial

William Flanagan
Thos. B. Harding

PER \$100

RETURN.

I hereby certify that I served the within Writ in the County of Jefferson
and State of Missouri, on the 21st day of May, 1888, by
reaching them at the place and hearing at the within
named William Flanagan and Thomas B. Harding

G. W. McHenry Sheriff
Jefferson Co. Mo.

Filed May 21/1888
D. B. Veazey
Clerk

William J. Wade	}	In the Circuit Court of Jefferson County Missouri
Plaintiff		
against		
James D. Fay, and		
Aaron Brown		
Defendants		

Now at this day comes the Plaintiff
and moves the court to dismiss
the appeal in the above entitled
cause for the following
reasons, to wit:

1. Because the Bond for
appeal does not contain
the conditions and is not in
the form required by law.

2. Because said bond was
not approved by the justice
who tried said cause and
granted said appeal.

Jos. Williams
Attorney for Plaintiff

William F. Wade

vs

James D. May &
Aaron Brown

Motion to dismiss
Appeal

Filed May 16/88
J. J. May
Clerk

W. J. Wade - Plaintiff.

Against

Jas. D. Fay and

Aaron Brown, Defendants.

In the Circuit Court,
Jefferson County,
Missouri
May Term, 1888.

We, Jas. D. Fay, as principal, and Chas. S. Booth as surety, acknowledge our-selves indebted to W. J. Wade, in the sum of two hundred (\$200-) dollars, upon this condition: That whereas Jas. D. Fay has appealed from the judgment of John Beasley, a justice of the peace, of Jefferson County Missouri, in an action of unlawful detainer, between the said W. J. Wade, complainant, and Jas. D. Fay & Aaron Brown, defendants. Now, if the said Jas. D. Fay shall prosecute his appeal with effect and without delay, neither commit, nor suffer to be committed, any waste or damage on the premises whereof restitution is adjudged, and pay all rents, and profits, damages and costs that may be adjudged against him, and shall otherwise abide the judgment of the Circuit Court in said cause, then this recognizance shall be void. Given under our hands this, ¹⁷~~16~~th day of May 1888.

Jas. D. Fay
Chas. S. Booth.

Wm J. Wolfe Plaintiff

vs

Jas D. Gray et al Defendants

Appeal Bond.

Filed May 17/1888

J. B. Neely
Clerk

The Court instructs the jury
that under the Pleadings and
the evidence in this case
the Plaintiff is not entitled
to recover

Made
by
My House

Filed May 22/1885
J. J. O'Leary
Clerk

W. J. Wade }
vs
Jay & Brown }

The court instructs you, gentlemen of the
Jury as follows.

This is an action of unlawful detainer
brought by plaintiff against defendants
for possession of the premises described
in the Complaint and for damages
for withholding the possession thereof
from plaintiff. But plaintiff ad-
mits that he never got possession of
the house on said premises and for
that reason he is not entitled to recover
possession of that and he also admits
that defendants did not and have
not deprived him of the possession
of that portion of the field in dispute

which he sowed in wheat and for that reason he has no cause of action here as to that. This leaves the portion of the said field which was not sowed in wheat as the only portion of the premises described in the Complaint that there is any issue about for you to try. As to that portion the Court instructs ^{if you find from the evidence in the case} you that defendant, say unconditionally closed the said premises for a year to plaintiff ending in October 1888 and directed plaintiff to take possession of said field for the purpose of cultivating it and thereupon in October ~~1888~~¹⁸⁸⁹ plaintiff did take possession of the whole of said field for said purpose and sowed wheat in a portion thereof and

afterwards while he was away from
said premises defendant Brown
at the direction and request of defendant
Jay took possession of that portion of
said field not sowed in wheat, against
the will and consent of plaintiff and
so held possession thereof at the com-
mencement of this action and still
so hold it and that prior to bringing
this suit plaintiff demanded posses-

sion of said premises of defendant
in writing.

+ which was refused, then you will

find the issues for plaintiff as to
that portion of said field not sowed

in wheat. If you find the issues

for plaintiff you will assess plaintiff's

damages for the unlawful withholding

of said portion of said field from him
by defendants at such sum as you
may find from the evidence in
the cause the fair rental value of such
portion of said field for the time it was
so withheld was worth.

But on the other hand if you find from
the evidence in the cause that defendant
Joy never leased said premises to plaintiff
except conditionally and that he never
directed ~~plaintiff~~ or authorized plain-
tiff to take possession of said field
for any purpose, then plaintiff had
no right to take possession thereof &
he can not recover in this action.
Or if you believe from the evidence
that defendant authorized plaintiff

to take possession of said field to sow
wheat & thereupon he went into said
field and sowed some of it in wheat
but did not have or intend to have
possession of the balance of the field
then in that ^{case} he never having had
possession of that portion of the field
not sowed in wheat and he has
no right to recover possession of
it in this action.

Before you can find that defendant
Fay unconditionally leased said
premises to plaintiff & authorized
him to take possession of the field
you must first find that ~~at~~ this was
the understanding of both plaintiff
and Fay. If Fay did not so understand

it, it is immaterial whether plaintiff
so understood it or not, for in that case
Jury is not bound.

The burden of making out his case is
on plaintiff & he must do this by a
preponderance of the evidence.

Made

at

the store

Instructions

Filed May 22/88
J. H. George
Clerk

W. J. Wade
vs
James D. Fay &
Aaron Brown }

The Court instructs the jury that if they believe from the evidence that the Defendant James D. Fay in the fall of 1887 rented the Real Estate described in the Petition to the Plaintiff for the term of one year and authorized him to take possession of the cleared land with the exception of the buildings and agreed with Plaintiff that he should have possession of the buildings in a few weeks and as soon as they should be vacated by the person the occupying them and that Plaintiff thereupon with said Fay's permission and consent took possession of said cleared land except said buildings and sowed a portion of the same in wheat and that Fay afterwards placed ~~said Brown~~ Aaron Brown in possession of said buildings and Real Estate with the exception of that sown in wheat by Plaintiff and that such possession was given by said James D. Fay and received by said Brown without Plaintiff's consent and against his will and that such was at the time known to both

of them to be the case
and that Plaintiff afterwards
and before this Suit was
commenced demanded
in writing of Defendants
Hay and Brown the
possession of Said Real
Estate the verdict of the
Jury should be for Plaintiff
for the possession of Said
Cleared land other than
the buildings and land
sown in wheat by him
and should also render
a verdict for Plaintiff for
such damages as from
the evidence they may
believe him to have
sustained by the act of
Defendants in depriving
him of the possession
of Said cleared land
other than the buildings
and land sown by him
in wheat

1	~~Samuel Washburn~~		
2	Geo W. Sublett	1	
3	Jas L. Farley	2	
4	A. H. Spulker	3	
5	Fritz Rolf	4	
6	William Walter	5	
7	William M. Medeman	6	T
8	John Tanning	7	T
9	~~E. S. Motherhead~~		
10	Alphonso Brewster	8	T
11	~~E. P. Barker~~		
12	~~Green Medley~~		
13	Wm. Plass	9	T
14	~~John Leary~~		
15	Claborn Moss	10	T
16	Henry Sterns	11	T
17	Herman Stuckwisch	12	T
18	~~Martin Schussell~~		

Made
as
pay etc

Paul

Wm May 21/1888
D. J. May
22

We the jurors find the defendants in the case
of H. J. Wade against Fay and Aaron
Brown, guilty as charged in the complaint
as to that portion of the field on the premises
described in the complaint not
sowed in wheat and that plaintiff
has sustained damages by reason
of the premises to the amount of

Thirty five dollars and
also that the value of the monthly rent
of said portion of said field is

Ten dollars.

A. H. Spilker
Foreman

Macle

or

Tagshaw

Yonick

This May 22/88
A. B. Meyer
can

W. J. Wade - Plaintiff } In the Circuit Court
Against } Jefferson County Missouri
James D. Fay et al } May Term 1888

Now comes the said defendant and moves the court to set aside the verdict and judgment entered in this cause for the following reasons:

- 1 Because the verdict of the jury is against the evidence presented at the trial.
- 2 Because the verdict is against the weight of evidence.
- 3 Because the verdict is against the law as declared in the instructions given by the court.
- 4 Because the court erred in giving instructions No. asked by the plaintiff.
- 5 Because the court erred in refusing to give instruction No. 1 asked by the defendant at the close of the plaintiffs testimony.
- 6 Because the court erred in admitting illegal, incompetent, and irrelevant testimony offered by the plaintiff.
- 7 Because the court erred in refusing to admit legal, competent and relevant testimony offered by the defendant.
- 8 Because the court erred in refusing to permit the defendant to introduce testimony

to prove that at the time plaintiff Wade sowed
the wheat on a portion of the premises, the
remainder of the premises was in the posses-
sion of one Johnson who had a crop of standing
corn on the same.

9 Because the damages, monthly rents and
profits are excessive.

Thomas & Storine with Booth
Charles H. Merriam
Attys for the Defendant

W. J. Wade
vs.
Fay et al

motion for a
new trial

Filed May 22^d 1888
D. B. Veary
clerk

William J. Wade	} In the Circuit Court of Jefferson County Missouri.
Plaintiff	
against	
James D. Fay, and Aaron Brown	
Defendants	

Now at this day comes the Plaintiff and for amended Complaint states that, on the 15th day of October 1887, he had the legal right to the possession of the following described Real Estate situated in Jefferson County, Missouri, and in Meramec Township in said County, to wit: the place which was known as the James Johnston lease, on the P. M. Brown farm, situated in United States Survey Number 1897, and Section Number 13, in Township Number Forty three, North of the Base line, in Range Number Three, East of the Fifth Principal Meridian. And that the Defendants James D. Fay and Aaron Brown, on the day and year aforesaid, wrongfully and without force, by disseizin, obtained and continue in the possession of said premises, after demand made of them, by Plaintiff, in writing, for the delivery of the possession thereof to Plaintiff. The complainant

further States that he has sustained
damage, by reason of the unlawful
detainer aforesaid, in the sum of
Fifty Dollars, and that the
value of the monthly rents and
profits of said tenements is
Ten Dollars.

Wherefore the
Complainant prays judgment
of restitution, and for his
damages, and for the value of
the monthly rents and profits of
the premises aforesaid.

Subscribed, and
sworn to, before
me, this 10th day
of September 1888.

William J. Wade

a. B. Reager
Clerk, Cin. Ct.

William J. Wade

vs

James S. Fay &
Aaron Brown

amended
complaint

Filed Sept 26th 1888

Wm J. Wade
Clerk

Wade
vs
Fay + Brown }

1. Fay could Appeal for both defendants.
Morgner v. Birkhead, et. al. 34 Mo. 214.

2. The complaint advised defendants of the nature of the action. They appeared before the justice and in the circuit court and defended on the merits. It refers to the persons and subject matters in terms sufficiently explicit to bar a subsequent action. This is all that is required before a justice.

Barbaro v. Occidental Grove no. 16 &c
4 Mo. A. 429.

3. The complaint and demand in writing sufficiently indicate a charge of joint occupancy by defendants. If the averment is informal it is sufficient after verdict.

Berthold v. Clay fire Ins. Co. 2 Mo. A. 311.
State Ex. rel. St. Jo. & Iowa R. R. Co. v.
Co. Court Sullivan Co. 51 Mo. 522.

William
for Plaintiff

Made

25

Hay & Brown

Price for Quantity

6421

No. Box

Leicester Count,

Weymouth County.

H. J. Trade

vs
Wm. H. Fay
Carroll Brown

Cause of Action Warrant for
Detention

Filed March 9th 1888

A. D. Henry
CLERK.

Wm. H. Williams
PLAINTIFF'S ATTORNEY.

Booth
DEFENDANT'S ATTORNEY.

LIST OF PAPERS IN THIS SUIT.