

Jefferson County Circuit Court
Case files - Div. 1
May 1888

Schmitzer, Gustave
vs
Vonberg, Herman

Ejectment

160 acres in S10T43R4E;
\$500 damages; plaintiff also
"Schmitzer"; defendant also
"Vonberg"

Box 40 Folder 2

State of Missouri, County of Jefferson ss,
In the Circuit Court

To May Term 1888,

Gustave Schnitger plaintiff

vs

Herman Vonberg defendant

Plaintiff states that on the day of
A.D. 1888, he was lawfully entitled to the
possession of the following described premises
to wit: The South East quarter of Section
Ten, Township Fortythree North, Range
Four East containing 160 acres in Jefferson
County State of Missouri.

And being so entitled to the possession thereof,
the defendant afterwards on the day of
A.D. 1888 entered into such premises,
and unlawfully withholds from the plaintiff the
possession thereof.

To the damage of plaintiff in the sum of Five
hundred dollars.

And plaintiff states that the monthly value of
said premises is ten dollars

Plaintiff asks judgment for the possession
of said premises, with damages to the amount
of Five hundred dollars and ten dollars monthly
value & for costs.

Thomas Horne
Attys for plaintiff.

Guillaume Schmitzer

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Stemman Lankeog

Petition

Giechmenh

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Filed September 26th 1888

W.D. Neasey
Clerk

State of Missouri, County of Jefferson.
In the Circuit Court

To May Term 1888.

Gustave Schuitger plaintiff
vs.

Herman Vornberg defendant.

Plaintiff states that on the First day of September A.D. 1887 he was lawfully entitled to the possession of the following described premises, situated in Jefferson County State of Missouri to wit: The South East quarter of Section No. Ten, Township No. Forty three, North of Range No. Four East, containing one hundred and sixty acres.

And being so entitled to the possession thereof, the defendant afterwards on the Second day of September 1887, entered into such premises, and unlawfully withholds from the plaintiff the possession thereof. To the damage of the plaintiff in the sum of three hundred dollars.

And plaintiff states that the monthly value of said premises is ten dollars.

Plaintiff asks judgment for the possession of said premises, with damages to the amount of three hundred dollars, and ten dollars monthly value & for costs.

To the Circuit Court
May Term 1888,

By *Justus Schuitges*
Plaintiff

vs } Defendant

Herman Vonberg
Defendant

Petition

Filed Apr. 16th 1888

R. B. Weaver
Clerk

Thomas & Horne
for Plaintiff

Thomas & Horne
Attorneys for Plaintiff

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

The State of Missouri,

To the Sheriff of Jefferson County--Greeting:

We command you, that you summon

Herman Tornberg
Defendant

if found in your County, to be and appear before the Honorable Judge of our Circuit Court, on the first day of the next term thereof, to be begun and holden at the town of Hillsboro, within and for the County of Jefferson, on the *second* Monday of *May* next, then and there to answer unto

Gustav Schuitger
Plaintiff

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

D. B. Wazey
Witness, *C. THO. HORINE*, Clerk of our said Circuit Court, with the seal thereof hereunto affixed, at office in Hillsboro, this *19th* day of *April* A. D., 18*88*

D. B. Wazey, Clerk Circuit Court.

I hereby certify that I served the within writ
in the County of Jefferson and State of Missouri, on the
27th day of April 1888, by leaving a true copy of the within
writ and annexed petition; as furnished me by the Clerk
of the Circuit Court with the within named, Herman,
Vonberg.

Fee \$ $7\frac{00}{100}$

Geo. H. McFry, Sheriff of Jefferson County,
Missouri,
By Wm. H. Fahn, Deputy.

6390

No 89

In the Circuit Court
Jefferson County Mo
To May Term 1888

Gustav Schudgen
Plff

~~vs~~ Ejectment

Herman Vonberg
"

Original
"

In the Circuit Court of
Jefferson County State of Wisconsin
May Term 1888,

Gustave Schmitzer

vs

Plff

Herman Vorberg

Defendant.

Now at this day comes
the defendant and moves
the court to dismiss said
Cause and strike it from
the docket for the following
reasons, viz:

Because the plaintiff is a
non-resident of the State of
Wisconsin and has failed and
refused to give bond for
cost before or at the time or
since the institution of his
suit,

Winning & Boyer
Attys for Def.

H. Schuiger

H. Waukey,

Motion to
disavow

Filed May 15/1888
W.D. Hayes
en

In the Circuit Court of ~~the~~ Jefferson
County in the State of Missouri;
May Term 1888.
Gustave Schmitzer
vs Plaintiff
Hermann Vorberg.
Defendant.

Now at this day comes the
defendant in the above entitled
cause and for answer to plaintiffs
petition denies and controverts each
and every allegation in plaintiffs
petition contained.

Hanning Byrne
Attorney for Defendant.

State of Missouri, County of Jefferson,
In the Circuit Court,

January Term 1889.

Gustave Schmitzer plff.

vs

} Ejectment.

Herman Vanberg deft.

Now on this day comes the plaintiff by his attorney and moves the court to set aside the verdict and judgment of the court herein, and grant him a new trial on the agreed statement of facts in said cause for the following reasons to-wit:

- 1st Because the court found the issues for the wrong party upon the statement of facts submitted in the cause, and because the verdict and judgment is for the wrong party.
- 2nd Because the verdict & judgment of the court should have been for the plaintiff.
- 3rd Because the court erred in construing the facts as submitted.
- 4th Because the court erred in the law governing the case.
- 5th Because the verdict & judgment of the court is against the law and the facts in the case.

Thomas & Horne

attorneys for plaintiff.

In the Jefferson Circuit Court
May 1. 1889.

Charles Schmitzer
vs.

vs. J. Speckmann

Attorney Rosenberg
deft.

Motion for a new trial
vs.

Filed May 23rd 1889
vs. Speckmann
ccu

Charles Schmitzer
vs. J. Speckmann

Bill of Exceptions.

Gustave Schuitger Plaintiff } In the Circuit Court
vs. } Jefferson County Missouri.
Herman Vonberg Defendant. } January Term Ad 1889.

Be it remembered that on the trial of this cause the following proceedings were had.

The plaintiff and defendant submitted said cause to the court (both parties waiving a jury) upon an agreed statement of facts in the words and figures following to-wit:

"An agreed statement of facts in the above cause."
"It is admitted that the land in question was conveyed to Louisa Borneman in the year 1860, and that the said Borneman acquired the fee simple title to the same; that the deed to said Louisa Borneman was duly recorded in Jefferson County Mo. in 1860; that the said Louisa Borneman was legally married to the plaintiff in 1864 in the State of Iowa and that plaintiff and his wife have resided in Iowa ever since.

That in 1878 a suit was instituted in the Circuit Court of Jefferson County Mo. against Louisa Borneman and

Borneman her husband to enforce the lien against said land - the petition for suit alleges that defendants are husband & wife - this was not true as she had been the wife of plaintiff since 1864. And thereon an order of publication was duly issued and published according to law; that in said publication was inserted a description of the real estate in dispute. And that judgment taken for the taxes due said land ordered sold to pay the same, and execution issued on said judgment. And said land sold and purchased by Samuel Byrns who received a deed from the Sheriff under said judgment and execution, and the said Byrns conveyed to defendant by Warranty deed, and defendant

went into possession before the bringing of this suit,
That the officers of the Court of Jefferson County Missourí
and Samuel Byrns had no knowledge of the marriage
of the said Borneman & that said Louisa Borneman is
yet living.

That the collector of Jefferson County Missourí nor his
attorney in bringing said suit for taxes did not know
that the said Louisa Borneman was married and that
the land has been afeared up to the bringing of the
suit and judgment and sale thereunder in the name
of Louisa Borneman, but had never been given in
for taxation by her - said afeafement being made
by the afeafor of said County. That the land records
nor any records of said County disclosed said
marriage. That said defendant herein has paid
all taxes that have accrued on and against said
land since the last year included in the tax judg-
ment amounting to dollars.

Thomas & Horne

Attys. for Plaintiff.

Drumming & Byrns "

This was all the evidence offered by either party.

Upon the agreed statement aforesaid, the Court found
a verdict for defendant and rendered judgment thereon.
And on the 23rd day of January 1889 (within four
days after verdict) the plaintiff filed his motion for
a new trial as follows viz:

"State of Missourí, County of Jefferson,
In the circuit Court.

January Term 1889.

Gustave Schnitger plff. & Exemption.
vs
Herman Vonberg deft.

Now on this day comes the plaintiff by his attorney
and moves the court to set aside the verdict and judgment
of the court herein and grant him a new trial on the
agreed statement of facts in said cause for the
following reasons to-wit:

- 1st Because the court found the issues for the wrong party
upon the statement of facts submitted in the cause,
and because the verdict and judgment is for the
wrong party.
- 2nd. Because the verdict & judgment of the court should
have been for the plaintiff.
- 3rd Because the court erred in construing the facts
as submitted.
- 4th. Because the court erred in the law governing
the case.
- 5th. Because the verdict & judgment of the court
is against the law and the facts in the case.

Thomas & Horne

Attorneys for plaintiff.

Endorsed: "Filed Jan'y 23^d 1889,

D. B. Weazey Clk."

Which said motion, the court on the day of January 1889
overruled, to which ruling and order of the court the
plaintiff then and there excepted at the time.

He therefore prays the court to allow and sign this
bill of exceptions and that the same may be
signed and sealed and made a part of the record,
which is done this day of January ad. 1889.

John L. Monan *Seal*
Judge of the Jefferson Circuit Court.

Heath's *ellipticum*, family of *Heptacarpus*,
North Circum's Earth
January denm 1889,

Heute Schmeißer
Heute Schmeißer

20 } Eichenh

Herrenberg
defendant

Bill of Exceptions

Filed June 24th 1889
D.D. Weaver
Clerk

Remains same
for clarity.

Gustav Schmitzer plaintiff,

vs

Herman Vorberg defendant,

An agreed statement of facts in the above cause,
It is admitted that ~~the~~ land in question was conveyed
to Louisa Borneman in the year 1860 and that the said
Borneman acquired the fee simple title to the same ^{that the deed to said Louisa Borneman was duly recorded in Jefferson Co. Mo.}
that the said Louisa Borneman was legally mar-
ried to the plaintiff in 1864 in the State of Iowa
and that plaintiff & his wife has resided in Iowa
ever since.

That in 1878 a suit was instituted in the Circuit
Court of Jefferson County Mo. against Louisa
Borneman and — Borneman her hus-
band to enforce the lien against said land. The
petition for suit alleges that defendants are husband
& wife - this was not true as she had been the
wife of plaintiff since 1864, and thereon an
order of publication was duly issued and published
^{that in said publication was an error in the description of the land which is dispositive}
according to law, and judgment taken for the
taxes due and said land ordered sold to pay the
same, and execution issued on said judgment
and said land sold and purchased by
Samuel Byrns who received a deed from the
Sheriff under said judgment & execution &
the said Byrns conveyed to defendant by
Warranty deed & defendant went into possession
before the bringing of this suit.

That the officers of the Court of Jefferson County
Missouri & Samuel Byrns had no knowledge
of the marriage of the said Borneman & that
said Louisa Borneman is yet living.

That the Collector of Jefferson County Mo,

* That said ~~Thomas & Son~~ defendant herein
has paid all taxes that have accrued on and
against said land since the last year included
in the last judgment amounting to \$1000

nor his attorney in bringing said suit for
taxes did not know that the said Louisa
Borneman was married and that the land
has been assessed up to the bringing of the
suit and judgment and sale thereunder
in the name of Louisa Borneman, but
had never been given in for taxation by
her, said assessment being made by
the assessor of said County. That the
land records nor any records of said County
did not disclose said marriage. *

Thomas & Son
Att'y for Plaintiff.
Wm. H. Byrne

Charles Schuyler
pitt

to

Stewart Livingston
Sept

Agreed Chalmers