

Tofferson County Circuit Court
Case file - Civil

Box

9

Folder 38

November 1857, #18

Brewer, Elijah
Howard, Martha

vs

Smith, James
McGuiffin, Samuel

Set aside deed

640 acres as part of marriage
contract between plaintiff and
Nicholas C. Howard, fraudulently
sold by defendant as Howard's
agent

In the Jefferson Circuit Court
November Term 1857

Martha Howard &

Elijah Brewer

against

James Smith and

Samuel M. Guffin

Plaintiffs state that
on the 11th day of August 1852 Martha
Applegate, ^{one of plaintiffs} in contemplation of her
marriage with Nicholas C. Howard and
marriage was shortly thereafter solemnized
entered into a marriage contract with
said Howard, by which it was stipulated
among other things that that six hun-
dred and forty acres of land in Jefferson
County Missouri about thirty miles from
St Louis, and five miles from the Mississippi
river, should be conveyed and was
conveyed to plaintiff, ^{Brewer} for the sole and
separate use of the said Martha, by
said contract which was duly executed on
said day, and delivered to plaintiff and
the same was also acknowledged and
recorded in the recorder's office in
Jefferson County Kentucky, on the 12th
day of August of that year. of which marriage
contract, the said defendants had actual
notice before the execution of a deed
from said Martha Howard and Nicholas
C. Howard to James Smith herein after men-
tioned. Said deed is dated May 31st 1853
and a certified copy hereunto filed is prayed
to be taken as a part of this petition

the original not being in the power or within the control of plaintiff.

Plaintiff further states that up to the time of the execution of said deed the land above mentioned and all the lands in that part of Jefferson county were of but comparatively small value in cash, for the reason that there was much land in market and but very few purchasers, but about that time the St Louis and Iron Mountain Rail Road was located through the tract in question, and so became prospectively of great value depending upon the history of said road. Said tract is more particularly described as a confirmation to Richard Applegate survey D^{no}.

~~It was at the time~~ Plaintiff

further states that the said James Smith had been the confidential agent of Thomas Applegate the ^{former} husband of said Martha during his life time, in reference to said land, and also ^{had} been the such agent of Martha Applegate his widow, and up to the time of the execution of said deed had been the confidential agent of plaintiff and said Martha Howard. That said Smith expressed great friendship for said Martha and her husband, and unbounded zeal to serve them in reference to said land, or in other matters where they might stand in need of a friend.

Plaintiff further states that when the above described tract was sold for partition about 1842 among the heirs of

Richard Applegate, when the money from the sales had been paid, it appeared that five hundred and eighty one dollars of the purchase money in the hands of the Sheriff was reclaimed by the persons to whom it was awarded. The relatives of the said Richard having been much scattered in different parts of the west. This money was ordered to be put into the hands of said Thomas Applegate who was a petitioner for partition, to be paid by him to the parties entitled and said Thomas executed his bond with said James Smith as his security for the payment of this purchase money, and the execution of his trust, which was filed with the records of Jefferson County.

Plaintiff further states that as soon as the said defendants had become satisfied that the said Rail Road would be constructed, they conceived the design of cheating and depriving the said Muttner out of his said land. The said Smith being well acquainted with the said Muttner and his husband, and standing in a confidential relation to them was to make the purchase, and said M. Guffie was to furnish the purchase money.

In furtherance of the design formed, the said Smith went to Louisville where the said Muttner and her husband resided, and paid them a friendly visit - or one in that he intended should be considered as such, spoke of the small value of the land

x He stated that he could not give that and the sum would be insufficient to pay off the taxes
He then made the offer of twenty of five hundred dollars for the land repaying to give for the same \$32,000
for it

and the many difficulties attending the sale - the great expense ~~the~~ the said Martha and her former husband had been put to, in the purchase and payment of taxes and that it always had been and was like to remain unproductive property for a long time. That the moneys which had in fact been all paid to said Smiths, had not paid the taxes. He advised the sale of the land, at what they could get. He also falsely and for fraudulent purposes stated that the heirs of Richard Applegate, whose shares the said Martha had become liable to pay, as she was the sole devisee of her husband Thomas Applegate, were clamoring after him to pay them their shares of the purchase money, that they were so urgent in their demands that he would not possibly be able to put them off but a short time longer, say six months when they must be paid by him, and that she must raise the money to save him as her husband's security.

At that visit he expressed himself as wishing to cross the tract if he were able, and proposed buying sixty acres for one of his sons at ~~three~~ ^{five} dollars per acre, but ~~finally suggested it was not what he~~ ^{and was} ~~leaving the said Martha~~ ^{leaving the said Martha} under the impression that the land could not be sold except at a very reduced price and that the said Martha would be compelled in a very short time to raise the five hundred and eighty ^{one} dollars to pay to the

Heirs of the Richard Applegate. Plaintiff states that the statement of the said Smith that the heirs of Richard Applegate were urging the payment of their distributive shares of the money left in the hands of Thomas Applegate to be paid over to them was wholly false and untrue as late as 1856 when notice was published in a newspaper for them to come forward and receive their respective shares, not one of them appeared at the term of the court they were required to appear nor at the subsequent term when distribution of the fund was made among the heirs and the representatives of the heirs who were here or represented in the petition for partition.

Said Smith stated he would return in about a month and then he would let them know what could be done.

Said Smith at this visit carelessly concealed the fact that the St Louis and Inver Mountain Rail Road had been located through the land and that it was almost if not quite certain that the same would be built.

After said Smith returned to Jefferson County Mo he inadvertently in a conversation with a relative of said Martha mentioned that he was about buying the land in question and the said relative was about to write to said Martha that the land had become valuable on account of the rail road said Smith became alarmed thinking he

might lose the chance of making the purchase he set off post haste to see the said Mr. Allen and his wife and convinced them in less than two weeks, after his first visit.

This relation wrote to said Mr. Allen of his reference to the location of the said road, and the rise in the value of the land, but Smith was more expeditious than the mail. He had been there and completed the purchase before the letter from the relation had been received.

At the time he made the purchase he said he was making it merely for the purpose being able to settle his children around him, when in fact and in truth he had made it for himself and his codependent and with his money. He also carefully concealed the fact that the said road had been located through the land.

He also reiterated his former falsehood that the heirs of Richard Applegate were urgent to have the money, arising from the sale of the land paid over to them - and that the payment could not be deferred much longer.

Of the purchase money one thousand dollars was paid down, five hundred dollars was to be paid in one year but was not paid till ^{six months} ~~some time~~ after it became due, - ^{that} - ^{the} remainder in two years which was one ^{up \$580 dollars the amount due the heirs as stated above} thousand dollars, making in all two thousand five hundred dollars for the whole, the deferred payment not bearing interest. The last payment was not made in full till

about December 1856 and no interest was
paid upon it, except for six months.

Plaintiff charges that the defendants
fraudulently connived and conspired
for the purpose of depriving the said Martha
out of her land. That they did procure the
conveyance from the said Martha and
her husband at about one third or one fourth
of its value, but they procured said convey-
ance, when they had actual notice of the
existence of the marriage contract above
alleged. Plaintiff says that Smith was the
agent of his co-defendant and the purchase
made on their joint account, and that
immediately after Smith had made the
purchase and got the conveyance the
conveyance was undivided half to him
according to agreement made between them
before the purchase.

Plaintiff prays that said conveyance
may be set aside for fraud above set
forth in procuring the conveyance and
for the reason that the purchasers had
had notice of the right and title of plaintiff
at the time of the purchase, and that that
the possession of the land may be given to
plaintiff for ~~uses~~ purposes of the trust
and that the defendants may account to
plaintiff for the rents, issues and profits
of said land and that the same may
be deducted from the money and inter-
est actually paid by defendants to said
Martha. After which settlement the plaintiff
proposes to return to said Smith said
purchase money that remains in the hands

of the seed than their

all Fairfield atty
for Plaintiff

Martha Howard agent for plaintiff
makes oath and says that the foregoing
petition and the matters therein as
stated she believes to be true.

Martha Howard

Signed and sworn to before me
June 30 1857 Elias J. Honey Clerk

Elizabeth Brewer
against

James Smith
Samuel M. Buffum.

Civil action to
set aside a deed.

Let receipt after
be sent to the
Shop of Difference
for Mr. Guthrie to
the Sheriff of St. Louis
Co. M. Campbell

Filed June 30, 1857
 Elias H. Wiley clk

Martha Howard
Elijah Brown.

In the Jefferson Circuit Court
November Term, 1857.

against
James Smith &
Samuel McGuffin,

Plaintiff States that on the 10th day of August 1852 Martha Applegate in contemplation of her Marriage with Nicholas C. Howard, which Marriage was shortly thereafter solemnized entered into a Marriage contract with said Howard, by which it was stipulated among other things, that Six Hundred and forty acres of land in Jefferson County Missouri, about thirty miles from St Louis and five miles from the ~~Missouri~~ Mississippi River should be conveyed and was conveyed to plaintiff for the sole and separate use of the said Martha, by said Contract, which was duly executed on said day and delivered to plaintiff and the same was also acknowledged and recorded in the Recorder's office in Jefferson County Kentucky on the 12th day of August of that year, of which Marriage Contract the said defendants have actual notice before the Execution of a deed from said Martha Howard to James Smith hereinafter mentioned, said deed is dated May 31st 1853, and a certified copy hereunto filed is prayed to be taken as a part of this petition the original not being in the power or within the control of plaintiff.

Nicholas C. Howard

Plaintiff further States that up to the time of the Execution of said deed the land above mentioned and all the lands in that part of Jefferson County were of but comparatively small value in cash for the reason that there was much

land in Market, and but very few purchasers, but about that time the St Louis & Iron Mountain Rail Road, was located through the tracts in question and became prospectively of great value, depending upon the building of said Road. Said tracts is more particularly described as a confirmation to Richard Applegate Survey No.

Plaintiff further states that the said James Smith had been the confidential Agents of Thomas Applegate the husband of said Martha, during his lifetime in reference to said land and also had been such agents of Martha Applegate his widow, and up to the time of the Execution of said deed had been the confidential Agents of plaintiff and said Martha Howard. That said Smith expressed great friendship for said Martha and her husband and unbounded zeal to serve them in reference to said land, or in other matters when they might stand in need of a friend.

Plaintiff further states that when the above described tracts was sold for partition about 1842 among the heirs of Richard Applegate, when the Money from the Sale had been paid it appeared that Five Hundred and Eighty one dollars of the purchase Money in the hands of the Sheriff was unclaimed by the persons to whom it was awarded, the relations of the said Richard having been much scattered in different parts of the West. This Money was ordered to be put into the hands of said Thomas Applegate, who was a petitioner for partition, to be paid by him to the parties entitled, and said Thomas executed his Bond, with said James Smith, as his Security

for the payments of the purchase Money, and the Execution of his trusts, which was filed with the Records of Jefferson County.

Plaintiffs further States that, as soon as the said defendants had become satisfied that the said Rail Road would be continued they conceived the design of cheating and defrauding the said Martha out of her said land, The said Smith being well acquainted with the said Martha and her husband and standing in a confidential relation to them was to make the purchase and the said M. Gaffin was to furnish the purchase Money,

In furtherance of the design formed the said Smith went to Louisville where the said Martha and her husband resided, and paid them a friendly visit or one that he intended should be considered as such. Spoke of the small value of the land, and the many difficulties attending the sale, the great expense the said Martha and her former husband had been put to in the purchase and payments of Taxes, and that it always had been and was like to remain unproductive property for a long time, that the rents, which had in fact, been all paid to said Smith had not paid the taxes. He advised the sale of the land at what they could get, He also falsely and ^{for} fraudulent purposes. Stated that the heirs of Richard Applegate whose shares the said Martha had become liable to pay as she was the sole devisee of her husband Thomas Applegate, were clamoring after him to pay them their shares of the purchase Money, that they were so urgent in their demands that he would not possibly be able to put them off but a short time longer say Six Months, when they must be paid by him, and that she must raise the Money to save him as her husband's security,

1824
At that visit he expressed himself as wishing to own the tract, if he were able. and purposed buying Sixty Acres for one of his sons at five dollars pr. acre but finally concluded it was not worth that, and declined buying at that time. He stated that he could not give that and the sum would be insufficient to pay off the heirs, he then made the offer of Twenty Five Hundred dollars for the tract, refusing to give \$64 pr. acre, or \$3200. for it.

He then left leaving the said Martha under the impression that the land could not be sold except at a very reduced price and that the said Martha would be compelled in a very short time to raise the Five Hundred and Eighty one dollars to pay to the heirs of the Richard Applegate.

Plaintiff states that the statements of the said Smith that the heirs of Richard Applegate were urging the payments of their distributive shares of the money left in the hands of Thomas Applegate to be paid over to them, was wholly false and untrue, as late as 1856 when notice was published in a Newspaper for them to come forward and receive their respective shares, not one of them appeared at the term of the Court they were required to appear, nor at the subsequent term when distribution of the funds was made among the heirs and the representatives of the heirs who were here or represented in the petition for partition, said Smith stated he would return in about a month and then he would let them know what could be done, said Smith at this visit carefully concealed the fact that the St. Louis and San Mountain Rail Road had been located through the land, and that it was almost

if not quite certain that the same would be built.

After said Smith returned to Jefferson County Mo. he inadvertently in a conversation with a relative of said Martha, mentioned that he was about buying the land in question, and the said relative was about to write to said Martha that the land had become valuable in account of the Rail Road, said Smith became alarmed thinking he might lose the chance of making the purchase, he set off post haste to see the said Martha, and her husband, and arrived there in less than two weeks after ^{his} first visit.

This relative wrote to said Martha in reference to the location of this Rail Road, and the rise in the value of the land, but Smith was more expeditious than the Devil, he had been there and completed the purchase before the letter from the relative had been received.

At the time he made the purchase, he said he was making it merely for the purpose being able to settle his children around him, when in fact and in truth he had made it for himself and his Co-defendants, and with his Money, He also carefully concealed the facts that the Rail Road had been located through the land, He also reiterated his former falsehood that the heirs of Richard Applegate were urgent to have the Money arising from the sale of the land paid over to them, and that the payments could not be deferred much longer.

Of the purchase Money, One thousand dollars was paid down, Five hundred dollars was to be paid in one year, but was not paid till six months after.

it became due, remained in two years, which was One thousand dollars less \$580. dollars the amount due the heirs of as stated above, making in all two thousand five hundred dollars for the whole the deferred payments not bearing interest; The last payment was not made in full till about December 1856 and no interest was paid upon it except for Six Months.

Plaintiff charges that the defendants fraudulently combined and confederated for the purpose of defrauding said Martha out of her land that they did procure the conveyance from the said Martha and her husband at about, one third or one fourth of its value, but they procured said conveyance when they had actual notice of the Marriage Contracts above exhibited,

Plaintiff states that Smith was the agent of his Co-defendants and the purchase made in their joint accounts, and that immediately after Smith had made the purchase and got the conveyance he conveyed the undivided half to him according to agreements made between them ~~showing~~ before the purchase,

Plaintiff prays that said conveyance may be set aside for fraud above set forth, in procuring the conveyance and for the reason that the purchasers had had notice of the rights and title of plaintiff at the time of the purchase, and that the possession of the land may be given to the plaintiff for purposes of the trust, and that the defendants may account to plaintiff for rents, issues and benefits of said land and that the same may be deducted from the money and interest actually paid by defendants.

to Said Martha, after which Settlements the
plaintiff proposes to return to Said Smith
Said purchase Money that remains in the
hands of the Said Martha,

W. F. Fells atty.
for Plaintiff

Martha Howard, Agent for plaintiff, makes
Oath and Says that the foregoing petition
and the matters therein as stated she believes
to be true.

Martha Howard
Signed and Sworn to before
me June 3^d 1857
Elias D. Honey Clerk,

Endorsed
Filed June 3^d 1857 Elias D. Honey clk

A true Copy of the original petition &
affidavit on file in my office

In Testimony whereof I here to
Set my hand and affix the Seal
of said Court at office September
28th A D 1857
Elias D. Honey Clerk

In the Jefferson Circuit Court,
November Term 1857

Elijah Brewer

against

James Smith, and Samuel McGoffin } Plaintiff

States that on the 11th day of August, 1852 Martha Applegate, in contemplation of her marriage with Nicholas L Howard, which marriage was shortly thereafter solemnized entered into a marriage contract with said Howard, by which it was stipulated among other things that, that six hundred and forty acres of land in Jefferson County Missouri, about, thirty miles from St Louis, and five miles from the Mississippi river should be conveyed, and was conveyed to plaintiff, for the sole and separate use of the said Martha by said contract which was duly executed on said day and delivered to plaintiff and the same was also acknowledged and recorded in the records office in Jefferson County Kentucky, on the 12th day of August of that year of which marriage contract the said defendants had actual notice before the execution of a deed from said Martha Howard and Nicholas L Howard to James Smith, hereinafter mentioned. Said deed is dated May 31st 1853, and a certified copy here with filed is prayed to be taken as a part of this petition, the original not being in the possession or within the control of plaintiff. Plaintiff further states that up to the time of the execution of said deed, the land above mentioned and all the lands in that part of Jefferson County were of but, comparatively small value in cash, for the reason that there was much land in market and but very few purchasers, but, about that time the St Louis and Iron Mountain Railroad was

located through the tract in question and became a prospectively of great value, depending upon the building of said road. Said land is more particularly described as a confirmation to Richard Applegate, Survey No. Plaintiff further States that the said James Smith, had been the confidential agent of Thomas Applegate, the husband of said Martha, during his life time in reference to said land and also had been such agent, of Martha Applegate, his widow, and up to the time of the execution of said deed, had been the confidential agent of plaintiff, and said Martha Howard; that said Smith expressed great friendship for said Martha and her husband, and unbounded zeal to serve them in reference to said land or in any other matters where they might stand in need of a friend. Plaintiff further States that when the above described tract was sold for partition about 1842, among the heirs of Richard Applegate, when the money from the sale had been paid it appeared that five hundred and Eighty one dollars of the purchase money in the hands of the Sheriff was unclaimed, by the persons to whom it was awarded, the relations of the said Richard, having been much scattered in different parts of the west, this money was ordered to be put into the hands of said Thomas Applegate, who was a petitioner for Partition to be paid by him to the parties entitled, and said Thomas executed his bond with said James Smith as his security for the payment of the purchase money and the execution of his trust, which was filed with the records of Jefferson County — Plaintiff further States, that as soon as the said defendants, had become satisfied that the said Railroad, would be constructed, they conceived the design of cheating and de-

frauding the said Martha out of her said land
The said Smith being well acquainted with the
said Martha and her husband, and standing in
a confidential relation to them, was to make the pur-
-chase, and said McGiffin was to furnish the purchase
money. in furtherance of the design formed the
said Smith went to Louisville where the said
Martha and her husband resided, and and paid
them a friendly visit or one that he intended should
be so considered as such, spoke of the small value
of the land, and the many difficulties attending
the sale, the great expense the said Martha and her
former husband had been put to in the purchase
and payment of the taxes, and that it always had
been and was like to remain unproductive pro-
perty for a long time: That the rents which had in
fact been all paid to said Smith, had not paid
the taxes. He advised the sale of the land, at what
they could get. He also falsely and for fraudulent
purposes, stated, that the heirs of Richard Applegate
whose Shares the said Martha had become liable to
to pay, as she was the Sole devisee of her husband
Thomas Applegate, were clamouring after him
to pay them their Shares of the purchase money,
that they were so urgent in their demands that he
would not possibly be able to put them off, but a
short time longer say six months, when they must
be paid by him, and that she must raise the
money to save him as her husband's security
At that visit, he expressed himself as wishing
to own the tract, if he were able and proposed
buying sixty acres for one of his sons, at five
dollars per acre, but finally concluded it was
not worth that, and declined buying at that
time. He stated that he could not give that

and the sum would be insufficient to pay off the heirs. He then made the offer of twenty five hundred dollars for the tract refusing to give \$6.00 per acre or \$3200 for it. He then left, leaving the said Martha, under the impression that the land could not be sold except at a very reduced price, and that the said Martha would be compelled in a very short time to raise the five hundred and eighty one dollars to pay to the heirs of the Richard Applegate. — Plaintiff States that the statement of the said Smith, that the heirs of Richard Applegate were urging the payment of their distributive shares of the money left in the hands of Thomas Applegate, to be paid over to them was wholly false, and untrue, as late as 1856, when notice was published in a newspaper for them to come forward and receive their respective shares not one of them appeared at the term of the Court they were required to appear, nor at the subsequent term when distribution of the funds was made among the heirs, and the representatives of the heirs who were here or represented in the petition for partition. Said Smith stated he would return in about a month and then he would let them know what could be done. Said Smith at this visit carefully concealed the fact, that the St Louis and Iron Mountain Railroad had been located through the land and that it was almost if not quite certain that the same would be built. After said Smith returned to Jefferson County Missouri, he inadvertently in a conversation with a relative of said Martha, mentioned that he was about buying the land in question, and the said relation was about to write to said Martha that the land had become valuable on account of the railroad.

said Smith became alarmed, thinking he might lose the chance of making the purchase, he set off post haste to see the said Martha and her husband, and arrived there in less than two weeks after his first visit. This relation wrote to said Martha in reference to the location of this road and the rise in the value of the land but Smith, was more expeditious than the mail, he had been there and completed the purchase before the letter from the relative had been received. At the time he made the purchase he said he was making it merely for the purpose, being able to settle his children around him, when in fact, and in truth he had made it for himself and his codefendants, and with his money. He also concealed the fact that the railroad had been located through the land, he also reiterated his former falsehood, that the heirs of Richard Apple gate were urgent to have the money arising from the sale of the land paid over to them, and that the payment could not be deferred much longer. Of the purchase money One thousand dollars was paid down, five hundred dollars was to be paid in one year, but was not paid till six months after it became due the remainder in two years, which was one thousand dollars less \$580. dollars, the amount due the heirs as stated above, making in all two thousand five hundred dollars for the whole, the deferred payment not bearing interest. The last payment was not made in full till about December 1856, and as no interest was paid upon it except for six months. Plaintiff Charges that the defendants, fraudulently combined and confederated for the purpose of defrauding the said Martha, out of her said land, that they did procure the conveyance from the said Martha and her husband at about one third or one fourth of its value, but they procured said conveyance when

they had actual notice of the existence of the marriage contract above exhibited. Plaintiff says that Smith was the agent of his Codefendant, and the purchase was made on their joint account, and that immediately after Smith had made the purchase and got the conveyance he conveyed the undivided half to him according to a agreement made between them before the purchase. Plaintiff prays that said conveyance may be set aside for fraud above set forth, in procuring the conveyance and for the reason that the purchasers had notice of the right and title of plaintiff at the time of the purchase, and that the possession of the land may be given to plaintiff for purposes of the trust, and defendants may account to plaintiff for the rents issues and profits of said land, and that the same may be deducted from the money and interest mutually paid by defendants to said Martha; After which Settlement the plaintiff purpores to return to said Smith said purchase money that remains in the hands of the said Martha

M. Insell atty for Plaintiff

Martha Howard, agent for plaintiff makes oath and says that the foregoing petition and the matters therein as stated she believes to be true

Signed and sworn to before me

June 3^d 1857. Elias J. Hooney clk

Endorsed "Filed June 3^d 1857. Elias J. Hooney clk"

A true copy of the original petition and affidavit on file in my office. In Testimony whereof I hereto

Set my hand and affix the seal of said Court at office September 28th A D 1857
Elias J. Hooney clerk

COUNTY OF JEFFERSON, SS.

The State of Missouri.

To the Sheriff of the County of Jefferson--Greeting:

We command you, that you summon James Smith

----- if - he - be
found in your County, that - he - do and appear before the Hon.
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 fourth Monday of November
next, then and there to answer unto Elijah Brewer

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

Elias J. Hovey

Witness, THO. C. FLETCHER, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at
office, in Hillsboro, this Twenty Eighth
day of Sept. A. D. 1859

Elias J. Hovey.

CLERK CIRCUIT COURT.

I Executed the within writ at the county of Jefferson on
James Smith on the second day of October 1857 by delivering
to him a true copy of the within writ and the annexed petition
(as furnished by the clerk)

Augustine Wiley Sheriff

No. 18

Jefferson Circuit Court

November Term 1857

Elijah Brewer

vs. } Summons

James. Smith

Sheriff's fees \$1.00

COUNTY OF JEFFERSON, SS.

The State of Missouri.

St. Louis

To the Sheriff of the County of ~~Jefferson~~ ^A -- Greeting:

We command you, that you summon Samuel McGiffin

----- if - he - be
found in your County, that he be and appear before the Hon.
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 fourth Monday of November
next, then and there to answer unto Elijah Brewer

upon ~~his~~ original petition, a copy whereof is herunto annexed and
accompanies this writ - and have you then there this writ.

Elias F Honey

Witness, ~~THO. C. FLETCHER~~, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at
office, in Hillsboro, this twenty eighth
day of September A.D. 1857

Elias F Honey

CLERK CIRCUIT COURT.

No. 18

D. Jefferson Circuit Court
November Term 1857

Elijah Brewer
vs. J. Sumner
Samuel McGiffin

pc 50

Defendant not found in my County
James Castello Sheriff
of Eagle Castle Sept

COUNTY OF JEFFERSON, SS.

The State of Missouri.
St Louis

To the Sheriff of the County of ~~Jefferson~~ -- Greeting:

We command you, that you summon Samuel McGoffie

----- if - he - be
found in your County, that he do and appear before the Hon.
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 fourth Monday of November
next, then and there to answer unto Elijah Brewer

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



Elias F. Honey
Witness, ~~THO. C. FLETCHER~~, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at
office, in Hillsboro, this twenty-eighth
day of September A. D. 1857

Elias F. Honey

CLERK CIRCUIT COURT.

CHIEF CLERK



*Copy taken from
Defendant.*

*A true copy of the writ.
Attest, C. F. Hooley Clerk*

*At
Samuel M. Hoffman*

COUNTY OF JEFFERSON, SS.

The State of Missouri.

Saint Louis

To the Sheriff of the County of Jefferson--Greeting:

We command you, that you summon *Samuel McGiffin*

----- if he be
found in your County, that he do and appear before the Hon.
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 fourth Monday of *October*
next, then and there to answer unto *Elijah Brewer &
Martha Howard*

upon *their* original petition, a copy whereof is herunto annexed and
accompanies this writ—and have you then there this writ.

Elias D. Hoarey
Witness, ~~THO. C. FLETCHER~~, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at
office, in Hillsboro, this *17th*
day of *May* A. D. 1858

Elias D. Hoarey
CLERK CIRCUIT COURT.

Execute this writ in the County of St Louis
July the 9th 1858 by delivering to the within
named Saml. McGoffin a copy of writ and
petition as furnished by the Clerk

Fee \$1.00

James Castello Shff
By J S Martin Deputy

Do Jefferson, Circuit Court
October Term 1858.

Martha Howard &

Elijah Brewer

vs } Summons

Saml. McGoffin

Elijah Brewer
v.
James Smith

Plaintiff

Defendant

In the Circuit Court of Jefferson County.
November Term 1857.

And now at this day comes the defendant and demurs to the petition in this cause for the following reasons.

1. There is a defect of parties to this action in this - that from the allegations of the petition it appears that Martha Howard formerly Martha Applegate and her husband are necessary parties without which there cannot be a complete determination of this case.

2. That the petition does not state facts sufficient to constitute a cause of action.

Johnson H. Green
Att'y for deft -

Eliza Brown

ap^l

James Smith

Remuner. to publicans

John Green
1874 ap^l

July 24th 1837
Wm. McCreary & Co

Martha Howard, v
 Elijah Brewer, Plaintiff } In the Circuit Court
 Against } Jefferson County
 James Smith, v }
 Samuel H. Guffin, - defendants.

The Defendant, ^{James Smith} in answer to Plaintiff's amended Petition, denies that ~~they~~^{he} ~~and~~ of them, had actual notice of the existence of a marriage contract between said Martha Howard and her husband, Nicholas L. Howard before, or at the time, said James Smith purchased, and received from said Martha and her husband, a deed for the Land described in Plaintiff's Petition, to wit, on the 31st day of May 1853. And denies that ~~they~~^{he} ~~and~~ of them at a before that time, had any knowledge that said Elijah Brewer held the legal title to said Land, to the separate use of said Martha. ^{He} ~~They~~ ^{He} over that the concealment of such fact, by said Martha, at the time she and her husband made & executed said deed, was a fraud upon these Defendants, - and that therefore ~~they~~^{he} ask that said Brewer be divested of all claim of title, (if any he has) to the Land aforesaid, and that the same be vested in these Defendants.

Defendants admit that the Land aforesaid was not very valuable at the time of said purchase, and therefore ~~they~~^{he} consider that ~~they~~^{he} paid a fair price for it at that time, and that the prospect of its increasing in value, from the construction of said Rail Road & other causes, was what induced ~~them~~^{him} to pay as much for it as ~~they~~^{he} did. ^{He} ~~They~~ ^{he} admits ~~that~~^{he} ~~acted~~^{acted} as a kind of Agent for said Thomas Applegate, v. Martha Howard, merely in paying taxes on said Land, & keeping off Trespassers, but ~~they~~^{he} denies that any peculiar matters of confidence res-

preparing said land, were ever confided to his charge, or that he stood in any confidential relation towards said Martha & her husband. Defendant denies that ~~he~~ ^{he} ~~with~~ ^{of them} conceived the design of cheating said Martha out of said land, and that ~~Smith~~ ^{he} went to Louisville for any such purpose. ~~They~~ ^{He} desired to purchase said land on as reasonable terms as ~~they~~ ^{he} could, (as all traders do and have a right to do,) but ~~they~~ ^{he} denies that ~~they~~ ^{he} used any false or fraudulent means in order to procure said purchase. The said Smith denies that he falsely and fraudulently represented to said Martha & her husband that the Heirs of Richard Applegate were clamorous to have their distributive shares of said \$531 dollars for which said Martha had become liable to pay, in order to effect said purchase. ~~They~~ ^{He} admits that ~~Smith~~ ^{he} went to Louisville to purchase said land, and that he offered them \$3500, for the land, and said he would give no more, and that he then returned home, promising to visit Louisville again, in about four weeks, & that he did return, perhaps in two weeks afterwards, and effected the purchase for the same he had before offered. Thus, giving them ample time to reflect upon his proposition.

Defendant expressly denies that said ~~Smith~~ ^{he}, while effecting said purchase, carefully concealed the fact, that the St. Louis & Iron Mountain Rail Road had been located through said tract of land. He stated this fact to said Martha & her husband, when he was there the first time, and before the purchase of the land was made; and thus they well know, this allegation of plaintiffs, as to the concealment of such facts is totally untrue; and has doubtless been conjured up long since said purchase was made, for the purpose of making up some show

or pretext for setting aside said deed of conveyance after the value of said land has become enhanced beyond their expectations.

Defendants admit ^{that} ~~the~~ ^{he} purchased said land jointly with said "McGubbin" but ~~he~~ ^{he} denies that ~~the~~ ^{he} combined and conspired ~~with~~ ^{with said McGubbin} for the purpose of defrauding said Martha out of said land; and denies that they or either of them made use of any false and fraudulent representations to her or in order to effect said purchase. Said Smith does not remember whether he told a Relative of said Martha that he was about to purchase said land or not; but if he did, he denies that he hastened on to effect the purchase in consequence of such statement, as he had already told said Martha about the location of said Rail Road. He denies that he made any false statement relative to the difficulty of selling said land when he first went to see said Martha & her husband ^{or at any time} and about the rents not more than paying the taxes; as said land being but very little improved, the rents had been comparatively tripling. — Defendants deny that ~~the~~ ^{he} purchased said land for about one third or one fourth of its value; They ~~al~~ ^{al} lege ~~that~~ ^{that} ~~he~~ ^{he} paid a full & fair consideration for the land at that time, and more than plaintiffs could get from any other person. And that plaintiffs never uttered any complaint about the sale for some three or four years afterwards, when the land having increased in value more than they anticipated, they conceived the design of a speculative lawsuit.

Defendants therefore says that, having purchased said land in good faith, and paid a fair and just equivalent for the same, that they ~~Defendants~~ ^{Defendants} ought not to be disturbed in their said purchase.

and that therefore the prayer of plaintiffs ought
not to be granted. And having answered all
demanded material, ~~they~~^{he} asks to be discharged with their
reasonable costs &c. } Johnson & Green
} Atty's for Defendants,

In Circuit Court
of Jefferson County
Martha Woodard
v E. J. Worcester
vs.
Smith & McLaughlin
Answer of
Defts.

Filed Mar. 1st 1858
Chas G. Henry Atty

Elizabeth Brown &
 Martha Stewart
 against }
 James Smith &
 Samuel Thompson
 Esqs

In the Jefferson Circuit Court -

To the above named defendants,

You are hereby notified, that depositions of witnesses, to be read in evidence in the above entitled cause, on the part of the plain'tiffs will be taken at the office of the Clerk of the Circuit Court in the City of Louisville

~~in the County of~~ _____ and State of Kentucky on the nineteenth day of April 1858, between the hours of eight o'clock in the forenoon and six o'clock in the afternoon; and that the taking of said depositions, if not completed on that day, will be continued from day to day, at the same place, and between the same hours, till completed.

Wm. Stanford atty
 for plain'tiffs

I delivered to James Smith a true copy of the within Notice,
on the 12th day of April, 1838 Samuel Magoffin is not found
in my County

Augustine Wiley Sheriff.

free 5005

Elijah Brewer & Martha Howard

vs
James Smith & Saml. Magoffin

In the Circuit Court of Jefferson
County Missouri

The separate answer of defendant James Smith states that he never knew until after the commencement of this suit that there was any marriage contract between the plaintiff Martha Applegate now Howard and Nicholas C. Howard and he denies that he had any notice thereof either actual or constructive. Said marriage contract was not recorded in Jefferson County where the land lies and is therefore invalid as to him. ~~He~~ ~~nevertheless~~

Defendant admits that he purchased from Martha Howard her husband the tract of land mentioned in the petition at the date therein mentioned. He denies that he was the confidential agent of Thomas Applegate in his life time in reference to said tract of land or of Martha Applegate the plaintiff after his death. He was the friend of both. At the death of said Thomas the land was in the possession of Thomas Applegate a nephew of said Thomas husband of Martha ~~and~~ a renting from said Thomas personally and said Thomas the nephew was the agent in paying the taxes &c. The nephew still remained in possession till after the marriage of said Martha with N.C. Howard in the fall of 1852 - was in possession when said Martha & her husband visited Missouri on their bridal trip. Shortly afterwards the nephew went out of possession and the said Martha & her husband came back in February 1853 to rent out the place & not finding a tenant directed the defendant to get some one to take it & pay the taxes (and they would be satisfied). He bought the place in May 1853

and this is the amount of his agency.

Defendant further states that at the time he purchased the land, there had been ^{two} routes surveyed for the Iron Mountain Railroad one up the Loachin & the other up the Platten Creek. Both routes had ~~its~~ friends. Each confident of the final location. It was a matter of judgement based upon probabilities which route would be selected. When negotiating for the purchase, he told Martha Applegate & her husband that a railroad route had been surveyed thro the tract ~~and~~ another route had been surveyed up the Platten - that some thought it would go one way and some that it would go another way - that no one could certainly tell. And Mrs Howard and her husband both said that she didn't care how many railroads ran thro it - that they had the place a long time and never got any rent - that there was three lots in Limerick just back of some property they owned there which they could buy and that the money would be worth more to them than the Annapolis lands. And defendant states that they did use the very money they got from him to purchase these lots above alluded to. Defendant denies that he made any false representations in regard to the land: for both Mrs Howard & her husband knew the land as well as he did. He admits that his purchase has turned out valuable, but that is no evidence of fraud. If the ~~road~~ had been located up the Platten Creek, the purchase would have been a poor one. The final location of the route was not made until about two months after the purchase. Defendant further states that many persons bought

land on the Platte believing the railroad would be located along that creek. Defendant states that altho a man of no learning, he believed that the Loachon creek route would most likely be adopted - he bought on his judgment and now contends that as he would have lost had the Platte creek route been adopted, he is entitled to the advantage as his judgment proved correct.

Defendant further states that he was security for Thomas Applegate for about \$580.00 money belonging to some of the heirs of Richard Applegate from about 1844 up to Thomas Applegate's death. So long as Applegate was alive and owned that tract of land he felt secure that he would never be troubled. But learning that every thing had been given to his widow - that she had married again & not knowing but that any moment she and her husband might sell out every thing & leave him the debt to pay he felt a natural solicitude to be relieved. One of the main objects of his trip to Kentucky was to be relieved of this security debt. He denies that he informed Mrs Howard that the heirs were clamoring for the money. but he did tell her that as she owned every thing, she must relieve him - that he could not stand security any longer. And it was agreed that if the defendant lost the land, he should retain out of the purchased money the \$580 and pay the heirs himself. And defendant further states that long since he has paid over said sum of \$580.00 as will appear from the records of this court.

As to the allegations in said petition about being

a conversation with a relative of said Martha Howard and the letter written by said relative to said Martha, Defendant deems these facts wholly immaterial and not worthy of an answer.

Defendant further states that he paid down one thousand dollars in cash and became liable for the \$580 due Richard Applegate's heirs; and the balance of the purchase money was divided into two payments due respectively one & two years after date - the whole purchase being \$2500. He states that when the first payment became due A. C. Howard came on & got the money. At that time Defendant was a contractor on the Iron Mountain railroad & said Howard saw the road in full course of construction. When the second payment became due Mrs Howard came on and received part of the money and she agreed to extend the time on the balance and Defendant paid her ten per cent interest. She remained some eight or ten days - saw the railroad in full course of construction and even intimated the least dissatisfaction, but said over and over again that she had always said that if Defendant wanted the land he should have it cheaper than anyone else. Shortly afterwards suit was brought against Defendant for his tract of land by the heirs of ^{Thomas} ~~Richard~~ Applegate & word was sent to Mrs Howard to come on for the purpose of employing counsel and defending the title. She remained at Defendant's house for 2 or 3 weeks - he paid the balance of the purchase money and she employed attorneys to defend the suit. She

declared that Defendant should have the land if it took every cent in the world she had to gain it. She also said that she had sold the land to buy those lots in Louisville which was of far more value to her and that she had used the money she got of Defendant for this purpose. At this time the road bed was nearly completed and Defendant was contractor (and) she was on that road for three weeks. Defendant states that during all this time he never heard of any marriage contract, never dreamed of any trustee buy created by marriage contract and never heard of the least dissatisfaction at the sale but on the contrary both Mrs Howard & her husband expressed themselves fully satisfied.

Defendant further states that after he had made the purchase conditionally, finding that one thousand dollars would have to be paid down in cash (and) not having the money he accidentally met with an Agent of his Co-Defendant Sam Magoffin and proposed that he would let him have half of the land if he would furnish the cash payment, which the Agent agreed to do. After he got his deed from Howard & wife, he conveyed an undivided half to Magoffin and this is the only connection he has had with the matter. He never saw Magoffin at all, the whole arrangement was made with his agent.

Defendant denies all fraud and conspiracy.

and Combination charged in the petition. He asserts that the whole purchase was fair and for a fair price in the then condition of things. He states that after the Plaintiff Martha Howard & her husband have got the purchase money & invested it - ~~after~~ preparing its collection when they saw the railroad in full course of construction it is too late to say that they never were informed that a railroad was surveyed thro the land.

Defendant also states that Elijah Brewer is not a proper party to this petition - that he has no interest to be affected in this suit - that the Marriage contract not being recorded in this State, as to the citizens of this State Mrs Howard & her husband were the exclusive owners of the land and their deed conveys both the legal & equitable title. And defendant will insist on this point at the trial.

Defendant denies all facts not specially admitted and not controverted or denied.

And now having answered he prays to be hence dismissed with his reasonable costs.

Thos Johnson }
Abner Gray } deft

Court of Jefferson. p. James Smith being sworn states that the foregoing answer and the matters therein as stated he believes to be true

Sworn to & subscribed before me } James Smith }
this 1st day of September 1858 } }
Elias J. Hooley Clerk } Mark

Jefferson County

Elizabeth Brewer (and)
Martha Howard

as!

James Smith &
Saml. Magoffin

Executors of James Smith.

Filed Sept. 1st 1858
Oliver & Hovey

COUNTY OF JEFFERSON.

The State of Missouri,

To

Thos & Rankin m & Co. John A. Boga. Thos Smith
Jordan and Smith

Greeting:

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 27th day of October next
at St. Louis then and there to testify, and the truth to say in a
certain matter of controversy, now pending in our said Court, wherein
Elijah Pomeroy et al is Plaintiff and
James Smith et al the Defendant on the said
of defend.

and here you are in no wise to fail.

Witness,

THOMAS E. JEFFERSON

Shelf of our said Court

with the Seal of my Office affixed, at office this

27th day of October A. D. 1858

John A. Boga

Clerk.

I Executed the within writ at the County
 of Jefferson on 23rd day of October 1858
 by ~~Reading~~ Leaving a true copy
 at Wm S Keane Thomas O Smith
 Places of abode with a free
 white member of the family
 under age of fifteen years also
 also on A Smith by Reading the
 same in his presence and hearing
 also an ~~Chas~~ Rankin under
 by Reading in his presence
 and hearing

at Court House
 Sheriff
 J. B. Pinner
 Deft

To Circuit Court

Oct Term 1858

Elijah Boover et al

vs
 Jas Smith & Sam Magoffin

for debt
 Chas S Rankin

Wm S Keane

Johna Gofa

Wm Smith

Frederick Smith

Sheriff 8200

COUNTY OF JEFFERSON.

The State of Missouri,
To Susan Leitchell

Greeting:

You are hereby commanded, that seeking aside all manner of
excuse and delay, you appear before our Council Court for the
County aforesaid, on the 27th day of October 1858
at Stettin, then and there to testify, and the docket to say in a
certain matter of controversy, now pending in our said Court, wherein
Alfred Reeves & Martha Howard Plaintiff and
James Smith and Margaret Defendant on the part
of defendants and hereby you are made so part.

Witness, THOMAS D. FLETCHER, Clerk of our said Court
this 27th day of October 1858

with the Seal thereof hereto affixed, and office thus

27th day of October A. D. 1858
Thos D Hooley Clerk.

To Sirsail Court

Oct. 20th 1858

Eliza Brewster

no

Adm. & Land Mag. office

for deft.

Susan Whitcomb

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To

Joan Heischel

GREETING:

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our *Jurisdiction* Court for the County aforesaid, on the

9th ~~10th~~ *day of June next*

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 *Elvah Brewer et al*

Plaintiff and *Jos Smith Adam Magoffin*

Defendant on the

part of *defendants* and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court

with the Seal thereof hereto affixed, at office this

23^d

day of *April*

A. D. 1859

Elias F. Honey

Clerk.

To Circuit Court
June Term 1859

Elizah. Brewster

vs
Leah Southwell & Margaret

for
Susan Mitchell

I acknowledge service of this subpoena at
Camden this 8th day of May 1859.

Susan Mitchell

County of Jefferson, set.

THE STATE OF MISSOURI,

To any Judge or Justice of the Peace or other Judicial Officer
of the State of *Kentucky*, Greeting:

We, reposing special trust and confidence in your integrity and circumspection,
do authorize and require you, that you cause to come before you, such person or per-
sons as shall be named to you by *Elijah Brewer and Martha*
Howard or their.

Attorney or Agent, and him or them examine upon his, her or their corporal oath,
(to be by you administered,) touching their knowledge of any thing that may relate
to a certain matter of controversy, now pending in our Circuit Court, for the County
of Jefferson, wherein *Elijah Brewer and Martha How-*
ard are _____

and *JAMES Smith and Samuel Magoffin* ^{plaintiffs}
are _____

_____ ^{defendant},
on the part of the *Plaintiffs* ; and having so reduced the said depositions
so taken by you, as aforesaid, in writing, you are required to send the same, together
with this commission, enclosed under your seal, to our said Circuit Court, with all
convenient speed.

Elias D. Honey

Witness, ~~JOHN S. MATHEWS~~, Clerk of our said Circuit
Court, at *Hillsboro* this *twenty first*
day of *April* in the year of our Lord one
thousand eight hundred and *fifty nine*

Elias D. Honey

Clerk C. C.

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To *Joshua Waga, David Rankin, Clerk and*
Sonthe. The O. Sonthe

GREETING:

You are hereby commanded, that setting aside all manner of excuse and delay, you
appear before our *Justice* Court for the County aforesaid, on the

Eight day of June next 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 *Elisha Brewster et al* are
Plaintiff and *Jos Sonthe et al* Magistrate are Defendant on the
part of *defendants* and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court
with the Seal thereof hereto affixed, at office this

21st day of *May* A. D. 1859

Elias F. Honey
Clerk.

To Circuit Court
June Term 1859

Elijah Brewer et al

vs

Smith & Magoffin

for debt

Joshua Goza

Chas P Ranchin

The C. Smith

Jerd. Smith

Sherriff fees \$2.00

I Executed the within writ in the
County of Jefferson on the 31st day of
May 1859 by reading the same in
the Presence and hearing of C. S. Rankin
also on the 2nd day of June 1859 on David
Smith and Josh Goza by reading
the same in the Presence and
hearing Jas C. Rankin
Sherriff

Walter Howard
et al
against
James Smith &
Samuel W. Coffin

In the Jefferson County Circuit Court

To James Smith & Samuel W. Coffin

You are hereby notified, that depositions of witnesses, to be read in evidence in the above entitled cause, on the part of the Plaintiff, will be taken at the Office of the Clerk of the Circuit Court in the City of Chicago.

in the County of Cook and State of Illinois
the 28th day of May 1859, between the hours of eight o'clock in the forenoon and six o'clock in the afternoon; and that the taking of said depositions, if not completed on that day, will be continued from day to day, at the same place, and between the same hours, till completed.

Wm. F. Hall atty for
Plaintiff.

Notice to take
Depositions
Sheriff fee 50cts

I executed the within notice in the County of Jefferson
State of Missouri on James Smith by reading & delivering him
a true copy of said notice on the 25th day of April
A D 1859 Oscar J. Davis Sheriff
of Jefferson Co Missouri

Elyah Brewer &
Martha Howard

Samuel M^o Soffin
unpleaded unto Samuel
Smith.

In the County Court
of Jefferson County

The said defendant Samuel M^o Soffin
for answer to said petition states that he
has no knowledge or information sufficient to
form a belief whether any such marriage contract
as that set forth in said petition or any marriage
contract between said Martha Howard & Nicholas
Howard ever existed or of its terms acknowledge-
ment or record of the same & he deems that
he ever had any actual notice of said marriage
contract at the time he purchased an interest
from said defendant Samuel Smith in said
land or before or since that time

Defendant admits that up to the time
of the execution of the deed of said Martha Howard
her husband Nicholas Howard to said Samuel
Smith the lands in said petition mentioned &
all other lands in ^{that part of} Jefferson County were of
comparatively small value & that at the
time of said execution of said deed & for some
time afterwards they continued to be of small
value, so much so that said defendant about
the time of the execution of said deed purchased
tracts of land in the neighborhood of said tract
at one dollar & twenty-five cents per acre.
Defendant deems that prospectively said
land became of great value except in the
opinion & imagination of some misguided
individuals

Defendant has not knowledge or information sufficient to form a belief as to the relations confidential or otherwise which existed between James Smith & Thomas Applegate or between them and said Smith & said Martha Howard or as to said land having been sold in partition and what was done with a portion of the proceeds of the same nor as to any or all of the allegations of said petition in relation to any of said matters, but if they are to effect him, he asks for strict proof of the same

Defendant denies that he ever conceived any design of cheating & defrauding said Martha out of said land at any time & denies that he was to furnish the money to make the purchase

Defendant has heard that said Smith went to Louisville prior to the visit then when said Martha & her husband resided to him then and for said land but denies that said visit was made in furtherance of any design between said Smith & this defendant & states that at that time neither said defendant Magoffin nor any agent of his knew any thing in relation to said land or had any intention of purchasing the same or any part of it or being in any way interested therein

Defendant has not knowledge or information sufficient to form a belief what conversations took place between said Smith & said Martha Howard & her husband or whether any & if so what representations were there made by said Smith to them but if said conversations or representations are to effect him he requires strict proof of the same *

* Said defendant is informed and believes that the said Rail Road was not located through said land until sometime after the purchase was made from said plaintiffs and that other routes were being examined with reference to said location but

Said defendant may be permitted to doubt, however, whether the running of a rail road track through a tract of land, unless upon that track a station of said road is to be established, impairs the value of that land in any degree but he has no knowledge or information sufficient to form a belief as to whether said Smith concealed the fact - that the Laramie or Iron Mountain road had been located through said tract or as to the building of said road & against proof.

Said defendant has not knowledge or information sufficient to form a belief as to any statements or conversations of said Smith when he returned to Jefferson County nor as to any relation of said Martha being about to write or writing to her in relation thereto nor as to said Smith being alarmed & setting off nor as to his second arrival in Louisiana nor as to whether Smith beat the mail or the mail beat Smith nor as to the statements made or conversations had by said Smith on said visit with said Martha or her husband nor as to any concealment by him but against strict proof of the same if he is to be affected by any of them.

Defendant denies that said Smith made said purchase from himself & the defendant or with the defendant's money and denies that he fraudulently conspired or confederated with said Smith or any one else to defraud said Martha out of her land or that he had any thing to do with the procuring of said conveyance from said Martha her husband to said Smith; denies that said land was sold

at one third or one fourth its value or that he
had any knowledge or notice or reason to believe
of the existence of any marriage contract between
said Martha & her husband at any time except
from the statements in said petition.

Defendant denies that said James Smith
was his agent at any time or that said
purchase was made by said Smith on the joint
account of himself & said Smith but on
the contrary states that said Smith some short
time before the death of said Martha & her husband
was executed to him told an agent of the
defendant who was then engaged in entering
& purchasing land in that vicinity for
defendant that he, Smith, had contracted to
buy said land at the price & upon the terms
named in said petition & that if said defendant
would advance to him said Smith sufficient
money to enable him to make the cash pay-
ment, that he would sell & convey to
the defendant one half of said land at
the same rate which he paid for it, to which
proposition the defendant acceded & did
accordingly pay to said Smith one thousand
dollars in cash payment for said half
of said land. Said Smith some time after
the execution of the deed to him did convey
to the defendant an undivided half of
said land and the defendant had long before the com-
mencement of this suit paid to said Smith the remaining portion of said purchase money.
Defendant denies all knowledge or notice
of any unfairness, concealment or fraud or
misrepresentation in relation to the purchase
of said land by said Smith or any reason to
believe then or since that any such was expected
and he now believes that the whole was done on

part of said Smith in perfect good faith, but
whether it has so done or not he insists that his
rights in & title to the undivided half of said
land are in no wise affected & that said
plaintiff is entitled to no relief as far as he
is concerned
S. Magoffin

State of Missouri }
County of St Louis } ss

Samuel Magoffin defendant makes oath
and says that the above answer and the matters therein as stated, he
believes to be true
S. Magoffin

Sworn to and subscribed
before me this 19th day of
March 1859.

Witness my hand and Seal of the St Louis County
Court the day last of aforesaid.

Josiah Thornburgh
clerk

no 22.

Trial June 5 1859.

Elijah Bremer et al
vs.

Daniel May of his & heirs

Answer of May of his

Jud. June 1859
Oliver Honeywell

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To *James L. Goga, Jackson and Smith vs Charles S Rankin Wm. J. Howe*

GREETING:

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our *Verdick* Court for the County aforesaid, on the *13th day of December next* 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 *Elijah Weaver et al* are Plaintiff and *James Smith et al* are Defendant on the part of *Defendants* and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court
with the Seal thereof hereto affixed, at office this

15th day of *October* A. D. 185*9*

Elias F. Honey
Clerk.

Forfeited - Court

Decr. Term 1859

Elijah Brewer

vs J. Spru

James Smith et als

for debt

Joshua L. Goza

Jordan and Smith

Lehas S. Rankin 23

Wm S. Howe 16

Sherriff fees 82.00

I Entered the within writ in
the County of Jeff on the 16th day of
Novr 1859 by Reading the same in
the presence and hearing of Wm
S. Howe also on 17th Smith on the
19th day above on 20th Rankin
on the 23rd day

J. C. Powers Deft. Wt

THE STATE OF MISSOURI,

COUNTY OF JEFFERSON.

To *Joshua Berger, Elias J Rankin Defendant* and *Sonthe
William & Horne*

GREETING:

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our *Concise* Court for the County aforesaid, on the *13th day of June next* 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 *Elijah Hanes & Martha Howard are* Plaintiff and *Jas Smith & Samuel Magaffee are* Defendants on the part of *Defendants* and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court with the Seal thereof hereto affixed, at office this

6th day of *May* A. D. 18*80*

Elias F. Honey
Clerk.

2d Circuit Court.

June Term 1860

Elijah Brewer et al

"
James Smith et al

Indued Goga 15

C. S Rankin

David Smith

Wm S Howe 17

Sheriff fees \$200

I executed the within writ by reading the
same in the presence and hearing of
Joshua Goga on the 15th day of May 1860
and C. S Rankin on the 16th day
and W. S Howe on the 17th day
and D. Smith on the 6th day of
June by Copy J. C. Palmer Depty
Sheriff