

Jefferson County Circuit Court
Case Files - Civil

October 1858

Box

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O'Fallon, Jr., and John
vs

Nash, William
Nash, Elizabeth
Nash, Joseph
Nash, Ann, et al

Partition

160 acres in T41 R5, 6 E, other
defendants Nancy Riddle, William
H. Riddle

John O'Halloran Jr. - Plaintiff,
Against
William Nash, Elizabeth
Nash, Ann Nash, and
Joseph Nash, - Defendants.

In the Circuit
Court of Jef-
ferson County,
Missouri.

Plaintiff states that he and the
Defendants hold as tenants in common
the following described several tracts of land
situate in Jefferson County, Missouri, to wit:
The South West quarter of the North West
quarter, and the North West quarter of the
South West quarter of Section No. Six, in
Township No. Forty one, of Range No. Six
East, containing eighty acres; also, Lot No.
one, of the North East quarter of Section
No. one, in Township No. Forty one, of
No. five East, containing eighty ac.

Plaintiff states that said Lands de-
scended to Thomas Nash, Henry Nash
and the Defendants, by inheritance as the
children and heirs of Elizabeth Nash
^{senior} who died seized of the same in fee simple.
Plaintiff states that he purchased the in-
terest of Thomas Nash and Henry Nash
from their Administrators respectively, and
received deeds for the same, each of said
heirs being entitled to the undivided one
sixth of said Lands. Plaintiff therefore
states that he is entitled in fee to the
undivided one third part of said Lands,
and that the Defendants he believes
are each entitled to the undivided one
sixth of said Lands.

Plaintiff prays the Court for a

division and partition of said Lands,
according to the respective rights of the
Parties interested therein, and for a sale
thereof, if it shall appear that partition
cannot be made without great incon-
venience to the owners. Plaintiff herewith
files deeds for the interest he claims.

} Above Signed
} Attorney for Plaintiff

John O'Fallon Jr., Plaintiff, makes oath
and says the above petition, and the matters
therein as stated, he believes to be true; and
he further states that he believes the Defen-
dants are all non-residents of the State of Missouri.

Subscribed and
Oct. 27th 1858

John O'Fallon Jr.

Elias F. Honeysack

220 27

In Circuit Court
of Jefferson County

John O'Halloran Jr.

vs.

Wm. Brock, & others

Plaintiffs for Partition

Filed Oct. 27th 1858

Edw. J. Kearney ckt

1111

STATE OF MISSOURI,
COUNTY OF ST. LOUIS.

Personally appeared before the undersigned, a Notary Public, within and for the County of St. Louis,

John Shunk who, being duly sworn,

deposeth and saith, that the annexed advertisement was published in the "Missouri Republican," printed in this

State, the newspaper of which he is printer, for *five*

times, the first insertion being on the *twenty eighth* day of *May* 18*59*

and the last insertion on the *twenty fifth* day of *February* 18*59*

In the Circuit Court—October 27th, 1858.
STATE OF MISSOURI, ss.
County of Jefferson.

John O'Fallon, Jr., Plaintiff,

vs.
William Nash, Elizabeth Nash, } Order of Publication.
Ann Nash and Joseph Nash, de-
fendants.

NOW, at this day comes said plaintiff, and files his petition verified by affidavit, stating that said defendants are all non-residents of the State of Missouri, it is therefore ordered by the Court, that said defendants be notified by publication of the commencement of this action, the object and general nature of which is to make partition and division of the following described real estate, situate and lying in the county of Jefferson, State of Missouri, to-wit: The south-west quarter of the north-west quarter, and the north-west quarter of the south-west quarter of section number six, in township number forty-one, of range number six east, containing eighty acres. Also lot number one, in township number forty-one of range number five east, containing eighty acres, and that unless they be and appear at the next term of this Court, to be begun and held on the twenty fifth day of April next, and on or before the sixth day thereof, answer the said petition, that a copy be taken as confessed. It is further ordered, that a copy of this order be published for four weeks successively in the Missouri Republican, a newspaper printed and published in St. Louis, the last insertion to be at least four weeks before said next term.

I, Elias F. Honey, Clerk of the Circuit Court, within and for said county, do hereby certify that the foregoing is a true copy of the order of said Court, as full and complete as the same remains of record in my office.

In testimony whereof, I hereto set my hand, and affix the seal of said Court, January 27th, 1859.
ELIAS F. HONEY, Clerk.

Printer's Fee, *6.00*

Affidavit, *25*
\$6.25

to and subscribed before me, this *twenty sixth*

day of *May* 18*59*

John Bennett

Notary Public

STATE OF MISSOURI,
COUNTY OF ST. LOUIS. }

Personally appeared before the undersigned, a Notary Public, within and for the County of St. Louis,
John Shuck — — — — — who, being duly sworn,

deposeth and saith, that the annexed advertisement was published in the "Missouri Republican," printed in this State, the newspaper of which he is printer, for *five* — — — — — times, the first insertion being on the *twenty eighth* day of *May* 18*59* and the last insertion on the *twenty fifth* day of *February* 18*59* as follows:

May 28 40 4
4 " 5
11 " 6
18 " 7
" 25 " 8

John Shuck

Sworn to and subscribed before me, this *twenty sixth*

day of *May* 18*59*

Printer's Fee, *6.00*

John Bennett

Affidavit,

25
6.25

Notary Public

John D. Fallow Jr.

vs

Partition

William Nash, Elizabeth
Nash, Ann Nash, and Joseph
Nash & Nancy Riddle & Wm H. Riddle

Now at this day come William Nash and Elizabeth Nash Two of said Defendants and for answer to Plaintiff's petition heretofore filed in this behalf state that it is true as is in said petition alleged that they together with Plaintiff hold the Land therein described as Tenants in common and that it is true as stated by Plaintiff in his said petition that said Land descended to Thomas Nash, Henry Nash & Defendants as the heirs of Elizabeth Nash deceased and that Plaintiff owns the shares of Thomas & Henry aforesaid, their shares amounting together to one third said Land.

Defendants for further answer state that there is a misnomer of one of said Defendants to wit Ann Nash: that the said Elizabeth Nash deceased had no child by that name and suppose that Plaintiff ^{meant} by her, Nancy Riddle formerly Nancy Nash; that Joseph Nash departed this life about the year 1852 leaving no children or their descendants by reason of which his share (one sixth) descended to William Elizabeth & Nancy his brothers and sisters then living making their shares each in said Land amount to two ninths each instead of one sixth each as is alleged by Plaintiff in his said petition.

Defendants for further answer state that Plaintiff has from time to time for some years cut

destroyed and carried away a great quantity of timber from said Land, of great value to wit of the ^{value of} One thousand dollars.

Defendants therefore pray the Court to adjudge Two ninths of said Land to each one of them instead of one sixth as prayed by Plaintiff in his said petition & that Plaintiff be required by order of the Court to make a discovery under oath of the whole amount and value of the timber cut and carried away by him from said Land.

Thomas & Phipkin

Attys for Defendants.

William L. Riddle Agent for William & Elizabeth Nash makes oath & says that he believes to be the foregoing Answer and the matters as therein stated are true -

William L. Riddle

Sworn to & Subscribed before me
this 3^d May 1879

A. W. Hefner, Clerk, Co. Ct.

John Hallon Jr
Million Mark et al
Governor of Million
& Legation -

Alma June 7th 1859
Alma & Henry etc

John O'Fallon Jr. }
vs. } Partition
John Nash et al }

State of Missouri }
Jefferson County }

Be it remembered
that on this day appeared before me
~~John S. Thomas~~ E. F. Honey Clerk
of Circuit Court within & for said
State & County John S. Thomas who
being duly sworn says that the late
Elizabeth Nash deceased had a
daughter by the name of Nancy who
intermarried with W. S. Riddle that
the said Nancy has departed this life
leaving three minor children
as also her husband the said W. S.
Riddle: that the names of the said
minor children are John L. Lewis
C. & William R. Riddle: that the
said Nancy was the owner of $\frac{2}{3}$
of the property involved in the above
suit & that the said W. S. Riddle as
her husband has a life estate in the
said $\frac{2}{3}$ & that the said minors are
each entitled to $\frac{1}{3}$ of $\frac{2}{3}$ of said Nancy's
interest & further says not.

Sworn to & subscribed
before me this 10th } J. S. Thomas
day of June 1839. }

Elias F. Honey

John Challers.

125

John Challers

off. doc't.

Filed June 9th 1859
Elias J. Hooley
Att'y

John O'Fallon Jr, } In Circuit Court
vs, } Jefferson County
William Nash, Et al, }

Plaintiff moves the Court to strike out all that part of the Answer of William and Elizabeth Nash, which sets up a claim against Plaintiff of \$1000, for timber alleged to have been cut and carried away by Plaintiff, and which seeks a discovery of the amount, for the following reasons:

1st - Said alleged trespasses cannot be enquired into in this form of action, and it constitutes no defence to Plaintiff's action.

2 - A claim for unliquidated damages is not admissible as an offset, nor can bills of discovery be allowed by way of Answer.

Al Green
Atty. for Plaintiff

John A. Talcott
18,

William Park
& others

Agitation to strike
out hearts of Amos,
of Reab's,

Filed. June 14th 1859
Oliver J. Stearns

overrule & June 13th 1860
Book 50 page

THE STATE OF MISSOURI,

COUNTY OF JEFFERSON.

To, *James Burgess, Jr. James Burgess ad.*

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

20th 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 *John O. Dalton Jr.*

Plaintiff and *Wm. Smith et al.* are

Defendant on the

part of *Defendant* 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

17th day of *May* A. D. 18*86*

Elias F. Honey

Clerk.

To Concord Court

June Term 1860

John O Hall on fr

for
Mrs. Aschewals

per depts.
James Burgess for

James Burgess for

Sheriff fees \$100

I Sworn the within debt by reading
the same in the Presence and hearing
of Jas Burgess sen and Jas Burgess
Jr on the 30th day of May 1860

J C Power Deputy
Sheriff

THE STATE OF MISSOURI,

COUNTY OF JEFFERSON.

To *John Cook Augustus Rankin & Joseph L. Lonsdale,*

GREETING:

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our *Jefferson Circuit* Court for the County aforesaid, on the *20th day of June 1865* 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 *John O'Fallon Jr.* is Plaintiff and *Asa Neal 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

18th day of *June* A. D. 18*65*

E. F. Honey

Clerk.

Executed the within Subpoena by
reading in the presence and hearing of
Jno^o Cook Joseph Landolt and
Augustus Rankin - this 20th June
1860

Lewis R. Waters

John O'Fallon Jr. } In Jefferson Circuit
 vs } June Term
 William Nash et al } 1860

To the Hon. the
 Circuit Court of Jefferson Co.
 Your petitioners John S. Riddle
 Lewis C. Riddle & William Riddle
 by the Guardian William S. Riddle Sr.
 would respectfully state that they are
 the children & heirs at law of Nancy
 Riddle deceased, formerly Nancy Nash
 who was a daughter of Nash deceased
 the ancestor of defendants & that they
 are entitled to their mother's share
 in the land mentioned & set forth in Plai-
 tiff's petition: that their mother's share
 would have been, if she still lived
 $\frac{2}{9}$ of said land & that they are entitled
 to said $\frac{2}{9}$ of said land as tenants in
 coparcenary or are each entitled to $\frac{2}{9}$
 of said land.

They therefore ask to be made
 parties defendants in this action in
 order that their shares may be litigated
 & settled.

John S. Riddle
 William Riddle Jr.
 Lewis C. Riddle
 By
 W. S. Riddle
 Guardian.

J. O'Fallon Jr
vs

me Mark et al

Petition to be sworn
for Div De.

Filed June 15th 1860
Clerk of Henry
Clark

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To *John Scott, August, Rankin*
and Standish, his Clerk &c

GREETING:

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

18th day of December

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 *John A. Walker Jr* Plaintiff and *Wm. Clark et al* Defendant on the part of *defendant* 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 *Nov*

A. D. 18*80*

Oliver A. Honey

Clerk.

I presented the within writ in the
County of Jeff on the 29th day of Feb 1860
by Reading to A Rankin Jas Burgess
Dr John Cook or Joseph Landolter

J C Penner
Sherriff

Colerick Court
Decem Term 1860

John O'Fallon Jr.

vs
Wm. Ash et al

August, Rankin
John Cook
Joseph Landolter
James Burgess Dr
Sherriff fees \$2.00

John O'Halloran Jr }
v.
Wm Nash et al }

In the Jefferson Circuit Court

And now at this day comes
the plaintiff and for replication to the Counter
claim set up by defendants says that he
denies that plaintiff has from time to time for
some years cut, destroyed, and carried away a
great quantity of timber from the lands mentioned
in the petition of great value to wit of the value
of one thousand dollars.

Green Johnson
for plaintiff

State of Wisconsin }
County of Jefferson }

John O'Halloran Jr big day
sworn states that the foregoing replication and the
matters therein stated he believes to be true
Sworn to Subscribed before
me this 19. Dec. 1860

John O'Halloran Jr

Elias J. Honey clerk

My dear Mr. C.

John O. Hallen

v

Dear Sir,

Reply to

Letter of 1865.

Dec 20th 1865

Wm. J. Hoover
Clerk

John O'Fallon Jr.

Elizabeth Nash et al. } Partition

Now come the Parties &
move the Court to suspend the sale
of land in this cause, because it
Nash's believe that if the same is sold
at this time it will be occupied.

John O'Fallon Jr.
Pro Se

John L. Thomas
Att'y for Defts -

John A. Hallenbach
v.s.

Elizabeth W. Hackett

Witness to and signed

State of New York.

20. 27

Filed Jan'y 14th 1863

Wm. J. H. H. H.
Clerk

John C. Fallon Jr } In the Circuit Court June
vs } Order of sale } Term 1863.
William Nash et al } To the Hon Circuit Court of
Jefferson County Missouri

The undersigned Sheriff of Jefferson County would respectfully report that in obedience to the annexed order of sale issued from the office of the clerk of said court that having previously given not less than twenty days notice of the time terms and place of sale and what Real Estate was to be sold and where situate by putting up six advertisements in the most public places in said Jefferson County Missouri a copy of which advertisement is herewith filed and makes a part of this report I did agreeably with said Advertisements at the Court house door in the town of Hillsboro on Saturday the seventeenth day of June A.D. 1863. between the hours of nine o'clock in the forenoon and five in the afternoon of said day and during the session of the Circuit Court for said County at the June term thereof for the year eighteen hundred and sixty three expose to sale publicly by auction the following described Real Estate situate in said Jefferson County To wit: The S.W. qr of the N.W. qr & N.W. qr of the S.W. qr of Section No. 6 in Township No. 41 of Range 6 East containing forty acres each also Lot No. 1 of the N.E. qr of Section one in Township No. 41 of Range No. 5 East containing 80 acres and John L. Thomas became the purchaser of the first described forty acres at and for the price and sum of one hundred and eighty Dollars on which he has to me in hand paid ten per cent and gave his note for the balance as required by Terms of sale and ~~John L. Thomas~~

James Burges, Jr became the purchaser of the
second and third described Tracts and for the
price and sum of, Six hundred and fifty five
Dollars on which, he has to me in hand paid
ten per cent and gave his note for the Balance
as required by Terms of sale and This Report
is Respectfully submitted

Jerome B. Dover Sheriff

SHERIFF SALE IN PARTITION.

John O'Fallon Jr.
vs
Jm Nash et al

In the Circuit Court of Jefferson Co., Mo.

By virtue and authority of an order made by the Circuit Court of the County of Jefferson, State of Missouri, at its ~~June~~ November Term, A. D. 1860, I will, on the thirteen day of June next, 1863, at the Court House door, in the Town of Hillsboro, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day, offer for sale at public auction to the highest bidder, the following described land or real estate, to-wit: the ~~S~~W $\frac{1}{4}$ of the NW $\frac{1}{4}$ & NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section No 6 Township No 41 Range 6 East containing 80 Acres, also lot 1 of the NE $\frac{1}{4}$ of Section one in Township No 41 Range No 5 East containing 80 acres, lying in Jefferson County, Missouri.

For the purpose of making partition between said parties, for which the purchaser will be required to pay ten per cent. of the purchase money in hand at the time of sale, the balance in twelve months; the purchaser giving his bond, with approved security, bearing interest at the rate of six per cent. per annum from date, this first day of May 1863

JEROME B. DOVER, Sheriff.

State of Missouri
County of Jefferson

In the Circuit Court
December 30th 1860

John O. Fallon Jr.

William Nash, Elizabeth Nash
William S. Riddle, John S. Riddle
Lewis C. Riddle & Mrs. Riddle Jr.

In Partition

Order of Sale

Now again at this day come the parties aforesaid by their respective attorneys, and thereupon comes a Jury to wit: Thomas Burges, J. H. A. Miller, Alex. Baile, George Bell, Newman Pounds, Simpson Pounds, Milton Long, R. W. Weaver, J. J. Dodge, W. Brindly James Pounds and John Huskey twelve good and lawful men, who being elected tried and sworn, well and truly to try the counter claim herein and to render a true verdict according to the evidence, return into court here the following verdict viz: 'We the Jury find the value of the timber cut and used by the plaintiff on the lands in controversy to be Fifty Eight dollars and Ninety cents: It is therefore considered by the court, that said defendants recover of said Plaintiff two thirds of said Fifty eight dollars and Ninety cents, the amount so found by the Jury as aforesaid: And thereupon this cause coming on to be heard upon the petitions, answer and evidence submitted by the parties respectively, the court doth find that the said plaintiff and defendants are the owners of and interested as tenants in common of the lands and premises in the petition of

Plaintiff described, to wit: The South West quarter of North West quarter, and North West quarter of South West quarter of Section Six in Township Forty-one of Range Six East, containing Eighty acres: Also lot No One of the North East quarter of Section One, in Township Forty one of Range Six East, containing Eighty acres: in the following proportions, the said Plaintiff John O'Fallon Jr is entitled to one undivided third part thereof, and the said Defendants, William Nash, Elizabeth Nash are each entitled to two thirds, and the said defendants William S Riddle to a counterey interest in two thirds thereof, and the said John S. Riddle Lewis C. Riddle and William Riddle Jr. as heirs of Nancy Nash deceased are entitled to two thirds each of said land subject to the counterey of the said William S. Riddle aforesaid: And it appearing to the satisfaction of the Court, that said lands are so situate that partition in kind cannot be made without great prejudice to the said owners: It is ordered and adjudged by the Court that the Sheriff of Jefferson County do proceed to sell the said lands and premises, at Public Vendue to the highest bidder, for two per cent of the purchase money in cash at the time of Sale, and the residue in twelve months, and for the deferred payment, he take from the purchaser or purchasers, a bond or note with good security bearing Six per cent interest from date; that sale take place on some day during the Session of the Circuit Court for said County, Notice thereof being given by the Sheriff in the same manner prescribed by law, for sales of

Real Estate, under execution, the sale being in all things conducted in the manner provided by law for such sales: and pay over the proceeds thereof to the respective parties herein according to their several rights and interests therein as found by the Court deducting however from the share or interest of said Plaintiff the sum of thirty nine dollars and twenty six and two thirds cents the amount so found by the Jury aforesaid for the timber cut and used by said Plaintiff as aforesaid paying said deduction to the said defendants according to their respective rights and interests therein as herein set forth, and report his proceedings herein to the Court, and this Cause is continued

State of Missouri }
County of Jefferson } I, the undersigned clerk of the
Circuit Court within and for said County hereby certify that the foregoing is a full, true and complete copy of the judgment and order of sale, made by said Court in the above entitled cause as fully as the same remains and appears on the records of said Court in my office

In Testimony whereof I hereto set
my hand and affix the seal of said
Court at office in Hillsboro this Twen-
ty Seventh day of March A D 1861
Elias J. Honey Clerk

20 Jefferson Davis Court
Wm. Brown 1861
Sale Oct. 13 June '63

John O'Brien Jr.
as J. Under Sale
William Nash et al

Sold, June 18th 1863
Elias & Co only
J. C. C.

We the Mayor and for each the
Sum of Fifty Eight Dollars 00/100

Summed

In the sum paid the value of the lumber sold and
paid by the quantity in the land in controversy
to a party by the do hereby certify

Summed

Summed

Filed Dec 20th 1860

Elias H. Honey