

Jefferson County Circuit Court
Case Files - Civil
June 1863

Box No.

14 Folder No. 46

Hiney, Bazile

vs

Thomas, John

Thomas, Emma

Suber, Lamar E.

Nullify Deed

S19-T40-R5E purchased

20 May 1858, 36 acres;

Supreme Court

Bazile Honey, Plaintiff
Against
John Thomas and Emma
Thomas, Defendants.

In the Jefferson Circuit
Court, June Term 1863.

Plaintiff states that heretofore to wit on
or about the 20th day of May 1858 John
Thomas, ^{one} of said Defendants purchased with his
own money, the following described land, situ-
ate in Jefferson County Missouri, of Jas. B. Raw-
lin, W. B. Belt, D. D. Mitchell & H. Loker
and to wit: The South fractional
half of the North West fractional quarter of
Section nineteen, Township forty Range five
East, containing thirty six $\frac{93}{100}$ acres; that
at the time of said purchase by John Thomas
the said John was largely in debt and being so
in debt, conceived the design of hindering
delaying and defrauding his creditors both
prior and subsequent and for the purpose
of Consummating ^{ing} such fraudulent design
had the conveyance to said real estate made
to his wife, Emma Thomas, the other de-
fendant herein, which Plaintiff alleges to be
voluntary and void as to him for want of consid-
eration and because of the fraudulent intent of
the said John, as is in this petition charged.

Plaintiff avers that afterwards to wit on
the 18th day of December 1860 he recovered
judgment against the said John Thomas, in the
Circuit Court of Jefferson County Missouri for
the sum of seventy five dollars upon which

Judgment an execution was issued dated the
14th day of April 1862 returnable to the June
Term of said Circuit Court, by virtue and
authority of which execution the Sheriff of
said County at the Adjourned Term of said
Court held at Hillsboro on the 12th day of Jan.
1863, and on the day of the month & year
last aforesaid - the June Term of said Court
having expired, sold all the right, title and
interest of the said John in and to the above
described lands, and at such Plaintiff became
the purchaser thereof - Plaintiff therefore
avows that said real estate belongs to him
by virtue of the execution sale aforesaid.

He therefore prays the Court to declare
the conveyance from said Bowlin and others
to the said Emma J. Thomas, void - to divest
Defendants of whatever title they or either may
have to said real estate and to vest the title
therein absolutely in Plaintiff.

Beal & Thomas

Attys for Plaintiff

John L. Thomas makes oath & says that he
believes the above petition and the matters
therein stated are true.
Sworn to & subscribed before } John L. Thomas,
on this 19th day of March }
1863.

Elias & Honey Clerk

Boyle Messier

3

1834 Messier

Potters

Michael Messier 19th 1863
Elias McConery Clerk

Stamp paid by 0948 4053

affd.	90
copy put	75
at back	50
msl 22 copy	140
double 4	10

The State of Missouri, } ss.
COUNTY OF JEFFERSON.

2
To the Sheritt of the County of Jefferson---Greeting:

We command you, that you summon *John Thomas*
and *Emma J. Thomas*

if they be found in your County, that they
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 second Monday after the fourth
Monday of *May* next, then and there to answer w.
Barile Hiney

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

Witness, ELIAS F. HONEY, Clerk of our said Circuit
Court, with the seal thereof hereunto affixed, at office
in Hillsboro, this *Twenty-first*
day of *March* A. D. 18*63*



Elias F. Honey

Clerk Circuit Court.

TO JEFFERSON CIRCUIT COURT

June 1st Term, 1863

1802

Bazile Whirey

vs } Defendants

John Thomas

Emma J. Thomas.

Sheriff Fees \$2.00

Filed April 6th 1863

Edw J. Hooten

Clerk

Executed the within writ at the County of Jefferson State of Missouri on the 4th Day of April 1863 on the within named Defendants by delivering to said John Thomas a true copy of this writ and annexed petition also on Emma J. Thomas by delivering to her a true copy of this writ as furnished by the Clerk

Jerome B. Dover Sheriff

Bazile Hixey

vs

John Thomas &

Emma Thomas,

Samar E Suber

In the County Court of Jefferson
County, Missouri

The plaintiff states that heretofore to wit on or about the 20th day of May 1858, John Thomas one of the defendants purchased with his own money the following described land situate in Jefferson County Mo of James B Bowler, Henry B Bell, D D Mitchell & H Loker and to wit the South fractional half of the North West fractional quarter of Section nineteen, Township forty Range five East containing 36³/₄ acres of land that at the time of said purchase by John Thomas, the said Thomas was largely in debt and in insolvent circumstances, and being so indebted & insolvent, he conceived the idea and design of hindering, delaying & defrauding his creditors existing and subsequent and for this fraudulent purpose of placing the land beyond the reach of such creditors and to secure to himself the secret benefit thereof he caused the title of said land to be placed in Samar E Suber trustee for Emma J Thomas, the wife of said John Thomas, by deed of date of May 18658. The plaintiff charges that the conveyance of said land to said Suber in trust for Emma J Thomas, was an continuance made by said Thomas, with the connivance of his wife, for the purpose of defrauding hindering and delaying the creditors existing & subsequent of said Thomas, and said

and for those reasons are null & void as to said creditors being voluntarily as to Mrs. Thomas and because of such fraudulent intent as is charged in this petition

Plaintiff avers that afterwards to wit on the 18th day of December 1860, he recovered judgment against said John Thomas in the Circuit Court of Jefferson County Mo for the sum of seventy five dollars upon which judgment an execution was issued dated the 14th day of April 1862, returnable to the June Term of said Circuit Court, that there was no Circuit Court in session at the June Term 1862 that in consequence of which failure of Court the Sheriff of said County proceeded to sell the land levied on at the adjourned term of said Circuit Court and the Hillbors on the 12th of January 1863 and did on the ^{day of} January 1863. Sell all the right title and interest of John Thomas in and to the above described land by virtue of said execution at the Court house door in Hillbors and said Sale Bazile Hury became the purchaser of the above described premises by which purchase said Plaintiff became entitled to the land aforesaid

He prays the Court to declare the conveyance from said Bowling & others to Lamer & Sabes trustee for Emma J. Thomas void to divest defendants of whatever title they or either of them may have to said real estate and to vest the same in plaintiff absolutely and for a wish for possession

thereof and for all other proper relief
Shuman & Real Atty for Plff

J A Real Atty for plff makes ^{oath} ~~oath~~ ^{that} the foregoing petition & the matters therein
as stated he believes to be true

Subscribed & sworn to before me

June 15 1863

Chas D Hoony clk

J A Real Atty
for Plff

2

Paige Shiny

as

John Thomas & others

Answered Petition

Filed June 15th 1863
Curtis & Hovey

Bazile Hiney, Plaintiff	} In the Circuit Court of Jef- ferson County Missouri,
Against	
John Thomas	
Emma J. Thomas, Lamar E. Suber, - defendants	

The Defendants demur to the petition of Plaintiff for the following grounds of objections.

1. - That the said petition does not state facts sufficient to constitute a Cause of action. In this, - It is not averred in said Petition that Plaintiff was a Creditor of the said John Thomas at the time, it is alleged he bought the land described from J. B. Bowlin and Others, and had the deed made to Lamar E. Suber for the use of Emma J. Thomas.
2. - It is not averred that the judgment plaintiff obtained against John Thomas, was based on a debt the said John Thomas owed Plaintiff at the time said Deed from Bowlin and Others was made to Lamar E. Suber for the use of Emma J. Thomas.
3. - It is not averred that said Deed operated to hinder, ~~defraud~~ delay Plaintiff as an existing Creditor of said John Thomas, in the collection of his demands.

A. Green
} Attorney for Defendants

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In Circuit Court
Jefferson County

Barthel Hines
vs,

John Thomas &
Others

Demurrer

Filed Feb. 26 1863

Chas. Honey
Clerk

Demurrer Sustained

+

Bazile Keiney, Plaintiff,
 John & Emma J. Thomas,
 and Lamon E. Seiber
 Defendants

In the Upper
 Circuit Court,
 Dec. Term 1868.

Now this day comes the
 Plaintiff and for an amended petition
 states that John Thomas one of said defendants
 purchased the following real estate
 with his own money to wit: the pt^l
 of the Sec. 19 T. 40 R 5 E. containing
 $36\frac{3}{100}$ acres of land situate in Upper
 County Mo.: that at the time of said purchase
 by said John Thomas, the said Thomas was
 largely indebted to sundry persons and
 utterly insolvent - having no property what
 ever either to satisfy his then or future
 creditors and being so indebted and
 insolvent & worthless, he conceived
 the design of hindering, defrauding
 and delaying his creditors, both existing
 and subsequent and for the purpose
 of placing his land & property beyond
 the reach of his existing creditors &
 those to whom he intended at the
 time to become indebted and to secure
 to himself the secret benefit thereof
 he caused the title of said land to be
 placed in Lamon E. Seiber in trust
 for the benefit of Mrs. Thomas the said
 John Thomas's wife by and dated May
 1858. The Plaintiff charges that the conveyance
 of said land to said Seiber in trust

for said Emma J. Thomas with the con-
nivance of the latter, ^{was made} for the purpose
and design of hindering, defrauding and
delaying his then existing creditors and
of those to whom he anticipated becoming
indebted in the future: that immediately
after the making said conveyance to said
Leber in manner and for the purposes
aforesaid, Mrs. Emma J. Thomas and
John Thomas became indebted to
Bazile Honey the Plaintiff herein for
the board of said Emma J. and for sin-
dry articles for the improvement of
said land, upon which indebtedness
Plaintiff afterwards to wit on the 18th
day of December 1862 recovered judgment
against the said John Thomas for the
sum of seventy five dollars upon
which judgment an execution was
issued dated April 14th 1862, directed
to the Sheriff of Jefferson County by vir-
tue of which execution the Sheriff aforesaid
on the 16th day of January 1863 sold
said land to satisfy said judgment and
at such sale this Plaintiff was then
and then the purchaser and has re-
ceived the deed of said Sheriff to said land.
Plaintiff therefore prays the Court de-
clare said conveyance to said Leber in
trust as aforesaid fraudulent as to this
Plaintiff & to divert defendants of all title
both legal & equitable and to vest the

the same absolutely in Plaintiff who
is a creditor of said Emma J. & John
Thomas, and for other proper relief.
Beal & Thomas
Attys for Plaintiff

John L. Thomas makes oath & says
that he believes the above petition
and the matters therein stated
are true.

Sworn to & subscribed } John L. Thomas
before me Dec. 12 1863 }
Elias J. Hooley Clerk



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Barry Mear

27

Emma J. & John Mear

& A. E. Duke.

Frederick Potter

Filed Dec 12 1863

Chas J. Mear

Clerk

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To,

Benny Bapts

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
16th day of December 1863 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 *Isabel Hensley vs*
Plaintiff and *Joe & Emma Thomas* Defendant on the
part of *Plaintiff* 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

28th day of *dec* A. D. 186 *3*

Elias F. Honey
Clerk.

TO JEFFERSON CIRCUIT COURT.

December Term, 1863

Barle Hirrey

vs
Mrs Emma Thomas

for Plff
Benj. Sapp

J. B. Dower Sheriff Dec 30

I executed the within writ by reading in
the presents and hearing of J. B. Sapp on
the 10 day of Dec 1863

J. B. Dower Sheriff
by E. J. Chas

Bazile Wiley, - Plaintiff Against John Thomas, Emma J. Thomas, and Lamar E. Suber, - defendants,	} In the Circuit Court of Jefferson County, Missouri
--	--

John Thomas and Emma J. Thomas,
 his wife, defendants herein, for Answer to Plain-
 tiff's Amended petition, filed December 12th 1863,
 deny that the said John Thomas purchased
 with his own money the land described in
 said Petition, containing $36 \frac{3}{100}$ acres. They state
 that said Land was purchased with the money
 of Lamar E. Suber, brother to said Emma J.
 Thomas, for her own separate use and benefit,
 and that he had the deed made to himself
 as her trustee, to secure to her a home for her-
 self and family, and not through ^{any} fraudulent
 design. These Defendants deny that the said
 John Thomas was largely indebted to sundry
 persons, and utterly insolvent, when said deed
 to Lamar E. Suber was made. And they deny
 that said John Thomas conceived the design
 of hindering, defrauding, and delaying his
 creditors, both existing and subsequent, and
 that he for ~~the~~ purpose of placing his land
 and property beyond the reach of his exist-
 ing creditors, those to whom he intended
 at the time to become indebted, and to secure
 to himself the secret benefit thereof, caused
 the title of said Land to be placed in Lamar
 E. Suber, in trust for the benefit of his wife, the
 said Emma J. Thomas, by a deed made

the 30th day of May, 1858. And they deny that the said John Thomas had no property whatever, at the time said deed was made, to satisfy his creditors, if any had then existed, - and as to future creditors, he did not contemplate making any if he could avoid it. They deny that said Conveyance of said Land to said Suber in Trust for said Emma J. Thomas, was made with her connivance, for the purpose & with the design of hindering, defrauding, and delaying any existing creditors of John Thomas, or any to whom he anticipated becoming indebted in the future. And they deny that immediately after said Conveyance to Suber was made, the said John Thomas became indebted to Bazile Wiley, for the board of said Emma J. Thomas, and for sundry articles for the improvement of said Land. ~~On the contrary, they~~ ~~did not at that time, nor for upwards~~ of a year after said deed was made have any acquaintance with Bazile Wiley, and they deny that John Thomas owed said Wiley anything at the time said deed was made, - and deny that said John Thomas contemplated, ^{at said time} becoming indebted to Bazile Wiley in the future. And therefore, they deny that Bazile Wiley, (not being a creditor either existing, or in contemplation) can legally or equitably attack the validity of said deed, by alleging that it is voluntary as to Creditors. These Defendants

Further state that the Judgment said
Bazile Wiley obtained on the 18th day of
December 1860, against John Thomas, for
73 dollars, was obtained by fraud; and
they deny that said Land was legally
sold under any Execution issued upon
said Judgment, or that any legal Term
of the Circuit Court of Jefferson County
was held in January 1863. They deny
that Bazile Wiley acquired any right,
or title to said Land by virtue of any
purchase ^{under said Execution} in January 1863 from the
Sheriff of said County, or by virtue of
any deed received from said Sheriff.

They deny that Bazile Wiley is a creditor
of the said Emma J. Thomas, and deny that
he has any right, title, or interest whatever,
to the land aforesaid, or to the possession
thereof. — These Defendants therefore
deny that Plaintiff has any right, legal
or equitable, to have said Conveyance of
said Land to Lamar E. Suber, in Trust
for Emma J. Thomas, set aside, or to divest
him or her of their legal & Equitable title
to the same, or to vest the title of said Land
in the Plaintiff. And having denied all fraud &
all material allegations in said petition, these Defend-
ants say that the title to said Land ought in Justice
& Equity to remain where it is, in said Lamar E.
Suber in Trust for said Emma J. Thomas, and they
deny that Plaintiff has any just or equitable
ground to interfere with the title thereof.

Abner Green
Atty for Defendants

John Thomas, one of the defendants, makes oath and says the above & foregoing Answer and the matter therein as stated he believes to be true.

Emended and Subscribed } John Thomas
before me this 28th day of }
April A D 1864
Elias J. Honey Clerk. per et

In Circuit Court
of Jefferson County
Barile W. May
vs.
John Thomas &
others

Answer of
John & Emma J. May
to Amended Petition

Filed April 28th 1864

Elias J. Honey

Clerk
Filed June 8-1864
E. J. Honey & Co.

Bazile Wincey, Plaintiff } In the Circuit
 Against } Court of Jefferson
 John, & Emma J. Thomas } County,
 and Lamar E. Suber, Defendants.

Lamar E. Suber, one of the above de-
 fendants, for Answered to Plaintiffs amended
 petition, denies that John Thomas, one of the
 above named Defendants, purchased with
 his own money the following described Lands
 situate in Jefferson County Missouri, to wit, the
 South fractional half of the North West fractional
 quarter of Section 19, in Township 40, of Range
 five East, containing $36\frac{93}{100}$ acres, - On the con-
 trary this Defendant states that he (being a
 Brother of Emma J. Thomas, the wife of said
 John Thomas,) purchased and paid for said
 Land himself, with his own money, and had
 the deed made to himself, as trustee for said
 Emma J. Thomas, to hold said property in
 trust for her sole and separate use & benefit,
 intending thereby to provide a home for his
 said sister under all circumstances, And
 this Defendant denies that he combined &
 conspired with John Thomas, to enable
 him to defraud his creditors, He states
 that he has no knowledge or information
 sufficient to form a belief as to whether said
 John Thomas was largely indebted at the
 time said deed for said Land was made
 or not, His best belief however is, that said
 John Thomas was not largely indebted
 at that time, But, whether he was or not,

This Defendant is not aware of any rule of law
equity which would preclude him from giving
such material aid to his Sister as he saw proper.
This Defendant denies, that the conveyance
of said Land to himself, in Trust for Emma
J. Thomas, was made for the purpose and
with the design of hindering, defrauding and
delaying the Creditors, existing or subsequent
of said John Thomas, - or of any Creditors, that
he anticipated becoming indebted to in the
future. And, as to whether said John Thomas,
immediately after said Conveyance became
indebted to Bazile Viney, upon which he got
Judgment, execution & sale of the Land
this Defendant states, that he has no suf-
ficient knowledge or information to form
a belief, and therefore requires proof.
And this Defendant denies, that John Thomas,
caused the legal title to said Land to be
placed in this Defendant, in Trust for Em-
ma J. Thomas, for the purpose & with the
design of hindering, delaying, & defraud-
ing the Creditors, existing or subsequent,
of said John Thomas, - or of those to whom
he intended to become indebted, - or that said
John Thomas might have the secret benefit
of said Property, - And this Defendant
states, that he is the legal owner of said Land,
in Trust for the use & benefit of said Emma
J. Thomas, - and he denies that Bazile
Viney acquired any right, title, or interest
whatever in said Land, by virtue of any
Judgment he may have got against said

John Thomas, or sale of the same under any
 Execution upon such judgment, And
 he denies, that Plaintiff has any title
 to said Land or right to the possession
 thereof, - and denies, that he has any Equi-
 table right to have said deed annulled
 or the title of this Defendant to said Land
 diverted, or to vest the same in Plaintiff,
 Defendant denies, that Plaintiff is en-
 titled to the relief he prays, or to disturb
 the title to said Land, or interfere with
 the rights of this Defendant Moreto.

L. E. Luter.

State of Missouri }
 County of St Louis } ss

Lamar E. Luter, one of the above
 defendants, makes oath, and says the
 above Answer, and the matters therein
 as stated he believes to be true.
 Sworn to & acknowledged & Subscribed before
 me this 18th day of May 1864.

E. S. Rome
 Notary Public



7

In Circuit Court
Jefferson County
Barrie Henry
vs
John Thomas &
Others

Shirmon of
Lamar & Dickson

March 1844
vs Henry & Mc
Heal June 8th 1844
vs Henry & Mc



Bazile Wiley, - Plaintiff	} In the Circuit Court of Jef- ferson County Missouri.
Against	
John Thomas,	
Emma J. Thomas, & } Lamar E. Suber, - Defendants	

The Defendants demur to the amended petition of Plaintiff, filed Dec^r 19th 1863, for the following grounds of objection.

1. - That said amended petition does not state facts sufficient to constitute a cause of action,
2. - The petition does not aver, that the plaintiff was a creditor of John Thomas, at the time it alleges, he purchased the Land in question, and had the title placed in Lamar E. Suber, in trust for Emma J. Thomas.
3. - It is not averred in the petition, that the judgment Bazile Wiley afterwards obtained against John Thomas, was based on a debt existing against him, at the time the said Conveyance to Lamar E. Suber was made.
4. - It is not averred, either that Bazile Wiley was a Creditor, at the time of said Conveyance, or that he claims title in priority with a Creditor, existing at the time said Conveyance was made.
5. - The allegation that said Conveyance to Lamar E. Suber, was made to defraud existing Creditors, and those to whom the said

John Thomas intended becoming indebted,
is too indefinite and uncertain.

6 - There is no allegation that John Thomas contemplated becoming indebted to Bazile Wiley, and that said conveyance was made to defraud him of such contemplated indebtedness.

7 - The said deed to Lamar E. Suber was on record in Jefferson County before said John Thomas became indebted to Bazile Wiley, hence it could not operate as a fraud upon him, as he credited John Thomas, knowing that he had no interest whatever in said Land.

5-

In Circuit Court
Jefferson County

Barile Henry
vs.

John Thomas
of theirs

Decreed

To amend a petition

June 4th 1864

Filed

2nd Money Bill

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To

A. H. Thomas

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 *13 day of May 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 *Paule Striving*

Plaintiff and

E. J. Thomas & John Thomas

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

13

day of

May

A. D. 1865

A. H. Honey

Clerk.

SUBPOENA

TO JEFFERSON CIRCUIT COURT.

May Term, 1865

B Hiney
vs
Thomas

Witness
A B Thomas

Sheriff fees 75

*I enclose this I pa in with as per
on the 13 day of May 1865 my receiving
the same in the presence of J. W. S.
Haines*

*J. W. S.
Haines*

In the Supreme Court held at St. Louis, of the State of Missouri,

October Term 1885

Monday, Oct. 30th 1885

Bazile Kiney, Respondent
vs
John Thomas & Emma Thomas
Appellants

} Appeal from
Jefferson Circuit
Court.

Now again come the parties aforesaid, by their respective attorneys, and the Court being now sufficiently advised of and concerning the premises, doth consider and adjudge that the judgment rendered herein by the said Jefferson Circuit Court be reversed, annulled, and for naught held and esteemed: That the said Appellants be restored to all things which they have lost by reason of the said judgment: That the said cause be remanded to the aforesaid Circuit Court for further proceedings to be had therein, in conformity with the opinion of this Court herein delivered and filed, and that the said Appellants recover of the said Respondent their costs and charges herein expended, and have execution therefor.

STATE OF MISSOURI, SS.

John A. Willis
I, ANDREW W. MEAD, Clerk of the Supreme Court, held at St. Louis, of the State of Missouri, certify that the above and foregoing is a full, true and complete copy of the judgment rendered in the above entitled cause, as fully as the same remains of record in my office.

In Testimony Whereof, I have herunto set my hand and affixed the seal of said Court, at office in the City of St. Louis, this twenty-fifth day of November, A. D. eighteen hundred and eighty-five

John A. Willis Clerk.

1802

Supreme Court of Missouri.

Barile Henry

vs

John A. Sumner Thomas

MANDATE.

Judgment

Reversed and Remanded.

No. 11 *October Term, 1865*

Wm. H. H. H. H. H.

Wm. H. H. H. H. H.

Clerk	<i>Wm. H. H. H. H. H.</i>	\$4.00
Marshal	<i>Wm. H. H. H. H. H.</i>	20
	<i>Wm. H. H. H. H. H.</i>	10.00
	<i>Wm. H. H. H. H. H.</i>	48.80
	<i>Wm. H. H. H. H. H.</i>	63.60

STATE OF MISSOURI, SS.

I, *ANDREW W. MEAD*, Clerk of the Supreme Court, held at St. Louis, of the State of Missouri, certify, that the foregoing fee bill is a true copy, in the aggregate, from the Fee Book in my office, and that the said *Defendant* is liable for the same.

Witness, my hand, and the seal of said Court, at office, in the City of St. Louis, this *28th* day of *February* in the year of our Lord eighteen hundred and sixty *six*.

O. S. Stillwell Clerk.

1802

No. 11. October Term 1865.

Supreme Court of Mo.

Bazile Hiney Resp.
#6360

vs
Ino & Thomas

FEE BILL.

Revised & Remanded

Real & Thomas

Bazile Winey, - Plaintiff

Against

John Thomas, Emma J.

Thomas, & Lamar E. Suber, - Defendants,

In the Circuit
Court of Jefferson
County Mo.

John Thomas and Emma J. Thomas, his wife, defendants, for Answered to Plaintiff's amended petition, filed November the 23rd 1865, deny that said John Thomas was on the 20th day of May 1858, largely indebted to sundry persons, or that he was in embarrassed circumstances, or that he was utterly insolvent; and deny that he had no property out of which any money could be made on execution. And they deny that he purchased of W. B. Bell and others the Real estate described in Plaintiff's petition, containing $36\frac{3}{100}$ acres, for the sum of 153 dollars, And these Defendants deny that the whole or any part, of the consideration money for said Land, moved from, or was paid by said John Thomas. And they deny that said John Thomas was on the 20th day of May 1858, embarrassed and insolvent, - and deny that he on that day, or at any other time, in order to cheat and defraud his creditors, prior or subsequent, or to hinder or delay said Creditors in their proper actions, and remedies against him, or to prevent the collection of any debt which he then owed, or might contract in the future, combined, colluded and conspired with Lamar E. Suber, or Emma J. Thomas, to effectuate any fraudulent or covinous design on any Creditor of said John Thomas, - and they deny that by the advice or consent of said Lamar

E. Suber, or Emma J. Thomas. The title of said Real Estate was ^{by the direction of John Thomas} placed in the name of said Lamar E. Suber in Trust for the sole and separate use of said Emma J. Thomas, (wife of said John Thomas) to cheat, defraud, hinder, or delay any Creditor, existing or subsequent of said John Thomas. - They admit that H. B. Belt and others, on the 20th day of May 1858, Conveyed the Land described in Plaintiff's Petition, to Lamar E. Suber, (brother of Emma J. Thomas) to be held by him in trust for the sole and separate use of Emma J. Thomas; but they deny that said Conveyance was made to cheat, defraud, hinder or delay any creditor of John Thomas. - They state that said Land was bought and paid for by Lamar E. Suber, in ^{order} to provide a home for his Sister, the said Emma J. Thomas. And these Defendants deny the specific charge, "that John Thomas used his own means in the purchase of said real estate," and deny "that he had the title of said real estate placed in said Lamar E. Suber, in trust for Emma J. Thomas, with the express design, & intention, & with the advice and Consent of said Suber, and Emma J. Thomas, to cheat, and defraud all of his (John Thomas's) Creditors, as well those to whom he was then indebted, as those to whom he anticipated becoming indebted in the future, and to hinder and delay his said Creditors in their lawful actions and remedies against him, and to put his own means and money in such a Condition that he could have the secret use and enjoyment thereof, and at the same time keep his Creditors at arms length." These Defenda-

and emphatically deny each and every allegation contained in Plaintiff's last portentous sentence. They deny that said Conveyance was made to said Suber for the use of Emma J. Thomas to cheat or defraud either existing or subsequent Creditors of John Thomas, - and deny that he was at that time indebted to any person, or contemplated becoming indebted to any one beyond his means to pay. These Defendants deny that said improvements on the Land were made entirely of John Thomas's money, and deny that he expended 2500 dollars in improvements thereon, and deny that it was any fraud on Plaintiff, for him, ^{said John Thomas} to labor to improve his wife's property. They further state that said Deed was on record in ^{prior to the time John Thomas contracted said debt with Bazile Wines,} Jefferson County, and that Plaintiff therefore knew John Thomas was not the owner of said Land, and therefore said Conveyance did not, and could not, have operated as a fraud on Plaintiff. Defendants admit that Bazile Wines did by false and fraudulent means obtain judgment against John Thomas in the Circuit Court of Jefferson County for seventy five dollars, on the 18th of December 1860, - but they deny that any valid sale of said Land was made by the Sheriff of said County on the 15th day of ^{January} ~~April~~ 1863, under a valid execution issued upon said fraudulent judgment. They deny that Plaintiff acquired any right, title, or interest in said Land, by reason of any pretended sale thereof under said Execution, and deny that John Thomas had any title to ^{or interest in} said Land to sell. They state that they have no knowledge, or information sufficient to form a belief of whether Plaintiff obtained a Deed from the Sheriff of said County, for said Land, or not, - And

they deny that Plaintiff had obtained any Sheriff's deed for said Land when this suit was instituted. They therefore deny that Plaintiff has any right to recover possession of or to maintain any action on his pretended claim to the same said Land. These Defendants deny that Plaintiff has any right, title or interest whatever in, and to, the Land in question, - They deny again that said Deed from W. B. Bett and others to Larnar E. Suber, in Trust for the use of Emma J. Thomas, was made through any fraudulent, or Covinous design, or intention, by the Connivance, of John, or Emma J. Thomas, or said Suber, to defraud any creditor, prior or subsequent, of John Thomas, - and they deny that said deed is voluntary and fraudulent as to any creditor of John Thomas, and deny that it is void as to his creditors. And they deny that John Thomas had any creditors when said Deed was made, that he was not able to pay, And they deny that Bazile Viney (Plaintiff) was a creditor of John Thomas at the time said deed was made. They did not even know that such a man existed, much less, did they Contemplate a fraud on him. Defendants deny that said Deed from Bett & others to Suber for the use of Emma J. Thomas, was voluntary as to John Thomas's creditors, and deny that there was any resulting trust in said conveyance for the benefit of his creditors, - and deny that he had any creditors at the time & deny that he contemplated having any, & deny that said deed was made by the connivance, of

said Luther & Emma J. Thomas, or by any fraud-
ulent designs upon John Thomas's Creditors.

They deny that any resulting trust to said Land
was sold under said Execution, or that Whiney
bought or acquired any right, title, or interest
^{legal or equitable} whatever in said Land. And Defendants deny
that the Sheriff of Jefferson County had executed
any deed for said Land, prior to, or at the time,
when this suit was instituted, to the Plaintiff.

Defendants deny that any just or equitable grounds
exist for setting aside the deed from W. B. Belt
& others to Lamar E. Luther, for said Land, to the use of
Emma J. Thomas, - and deny that Plaintiff (not
being a creditor of John Thomas, when said deed
was made) can impeach the same for fraud, or
invoke the Equitable jurisdiction of the Court to
interfere with the title of said Emma J. Thomas
to said Land. And they deny, in conclusion, all
fraud in the petition alleged, and deny that Plain-
tiff has any right to have said deed set aside
& annulled, or to have said Emma J. Thomas's in-
terest, or title to said Land, divested or interfered
with, or to have the title thereto vested in the
Plaintiff, - and deny that Plaintiff has any
Equity whatever in his cause, or right to maintain any
action against Defendants.

3 Abner Green
Attorney for Defendants.

Emma J. Thomas one of the above
Defendants makes oath & says that the above Answer
and the matters therein ^{as} stated ~~are~~ ^{she} believe to be true,

Subscribed & sworn to before me this
18th day of April 1866.

E. J. Thomas

C. H. Bissett Justice of the Peace
Central Township Jefferson Co Mo.

In Ancient Court
Jefferson County

Barth Henry

vs.

John Thomas

Emma J. Thomas

Defendants

Plaintiff

Filed April 24th 1866

Samuel A. Coffey
Clerk

Bazile Hiney, Plaintiff

v

John and Emma J. Thomas &
Lamar E. Suber, Defendants

} In the Jefferson
Circuit Court, Nov. 7/1858

Plaintiff states, by way of an amended petition
by leave of Court, that on the 20th day of May
1858, John Thomas, one of said Defendants was
largely indebted to sundry persons, so much
so that he was in embarrassed circumstances
and utterly insolvent, ~~having~~ no property out
of which any money could be made or collected.
That being so embarrassed, insolvent and indebted,
the said John Thomas purchased of H.B. Pett and
others the following described real estate
situate in Jefferson County, Missouri, to wit:
The South fractional half of the North West
fractional quarter of Section Nineteen,
Township Forty Range Five East, contain-
ing thirty six $\frac{3}{100}$ acres, for the sum of
one hundred and fifty three dollars, ^{that is} the
whole of said consideration, to wit the sum
of one hundred and fifty three dollars, money
given and was paid by the said John Thomas.

Plaintiff further states that the said John
Thomas being so indebted embarrassed and insol-
vent on the 20th day of May, in order to cheat and
defraud his creditors, both prior and subsequent
and to hinder and delay his said creditors in

in their proper actions and remedies against him and to prevent the collection of any debt which he then owed or might contract in the future, combined, colluded and confederated with Lamar E. Seher and Emma J. Thomas the latter being his wife and the former, his wife's brother, and to effectuate the fraudulent and covinous designs of the said John Thomas, the title to said real estate, by the advice and Consent of all said defendants, was placed in the name of Lamar E. Seher in trust for the sole and separate use of said Emma J. Thomas, the wife of the said John Thomas, by conveyance executed by H. B. Bett and others dated the 20th day of May 1858, a copy of which is here to the Court shown, the original being in the possession of defendants. Plaintiff

specifically charges that said John Thomas having used his own means in the purchase of said real estate as aforesaid, had the title placed in said Seher in trust for his wife as aforesaid with the express design and intention and with the advice and Consent of said Seher and Emma J. to cheat and defraud all his creditors as well those to whom he was then indebted as those to whom he anticipated becoming indebted in the future and to hinder and delay his said creditors in their lawful actions and

remedies against him, and to put his own means and money in such a condition that he could have the secret use and enjoyment thereof, ^{and} at the same time keep his creditors at arms length.

Plaintiff further states that, ^{after} the purchase of said real estate by said John Thomas as aforesaid he commenced to improve said real estate and in buildings and a nursery he expended thereon about two thousand five hundred dollars of his own money - the said Emma J. Thomas neither furnishing any of said purchase money nor any part of said two thousand five hundred dollars - which last sum Plaintiff specifically charges, the said John Thomas expended ^{on} the aforesaid land instead of land the title to which was in his own name in order to cheat and defraud his creditors as aforesaid, and in order to reserve to himself the use and enjoyment of this property.

Plaintiff further charges that soon after the aforesaid conveyance to said Suber in trust as aforesaid, the John and Emma J. Thomas contracted a debt with Bazile Kenney the said Plaintiff, for the board of the said Emma J. and for sundry articles for the improvement of said land, in the sum of seventy five dollars, upon which indebtedness Plaintiff recovered judgment against the said John Thomas on the 18th day of Dec.

1860 in the Circuit Court of Jefferson County Mo.
for the sum of Seventy five dollars: that an
Execution was issued upon this judgment out of
said Circuit Court, dated the 14th day of April
1862 and directed to the Sheriff of Jefferson County
Missouri: that on the day last aforesaid
the Sheriff of said County levied upon the
real estate above described as the property
of said John Thomas and by virtue of said
Execution and levy, said Sheriff did on the
16th day of January 1863, sell said land to satisfy
said Judgment and at such sale this Plaintiff
then and there became the purchaser
thereof and did on the 14th day of November
1865, receive the deed of said Sheriff for said
land which is here to the Court shown.

Plaintiff therefore avers that by reason of the fraud-
ulent and covinous designs and intention of the
said John Thomas with the Connivance, Consent
and advice of the other Defendants herein in
the purchase of the above described real
estate as set forth in this petition, said
Conveyance of H. B. Bell and others to Samuel
B. Luber in trust for Emma J. Thomas the
wife of the said John Thomas, is fraudulent
and utterly void as to the creditors of the said
John Thomas both prior and subsequent of
whom this Plaintiff is one and there was
a resulting trust in the said John Thomas

for the benefit of his creditors both prior and subsequent and which resulting trust was sold by said Sheriff and by him conveyed to said Plaintiff as aforesaid by the deed aforesaid. and that Plaintiff by reason of said Sheriff's sale of said land by reason of his deed aforesaid has acquired the equitable title to said land.

Plaintiff therefore prays the Court to set aside and annul the deed executed by H.B. Best & others on the 20th day of May 1858 for the reasons set forth in this petition and to vest the ~~title~~ title to said land in Plaintiff. and for other proper relief.

Beal & Thomas,
Attys for Plaintiff.

B. Hiney makes oath & says that he believes the above petition & the matters therein stated are true

Sworn to & subscribed
before me May 15, 1864
H.M. Mullin Ch. Co. Clerk

Bazile Hiney

Baglio Heiney

E. J. Herman et al

3rd Amended Petition

Filed Nov 23-1865,
Circuit Ct. S. D. N. Y.

Bazile Wiley, Plaintiff } In Circuit
Agent } County of Jefferson
John Thomas & } Person County
Emma J. Thomas, Defendants } Missouri

To Bazile Wines, the above plain-
tiff, or John L. Thomas, his Attorney,

You are hereby notified that at the present Term of Court, to wit, on the 7th day of November 1866, I shall apply to the Circuit Court of Jefferson county aforesaid, for a change of venue of the above entitled Cause to some other County of said Circuit.

Almer Green
Attorney for Defendants

I served the within Notice, on John L. Thomas
the Attorney for the Plaintiff therein, at Hillsboro in
Jefferson County Missouri, on the fifth day of Novem-
ber 1866, by delivering to him a copy of the within
Notice,

Abner Green

Sworn to and Subscribed
before me Nov 7th AD 1866
Samuel A. Raper

Boyle Henry

vs.

John L. Thomas

Notice
for

Change of Venue

Filed Nov 7th 1866.

Saml A Raper clks

Bazile Winney, - Plaintiff } In the Circuit
Against } Court of Jefferson
John Thomas and } County Missouri
Emma J. Thomas, - Defendants.

To the Honorable the Circuit Court of
Jefferson County, Missouri;

The undersigned petitioners, John Thomas, and
Emma J. Thomas, the Defendants in the above en-
titled Cause, would respectfully state that they have
a just cause to believe and do believe that the Plain-
tiff in said Cause has an undue influence over
the Inhabitants of the County of Jefferson aforesaid,
and that such facts have only come to his knowl-
edge since the last Term of this Court.

They Defendants therefore pray your Honor-
able Court to award them a Change of venue
to some other County

John Thomas

John Thomas, one of the above Defendants, makes
oath and says the above petition and the Mat-
ters therein as stated he believes to be true, and that
he has just cause to believe and does believe that
the Defendants cannot have a fair trial of the
above Cause, on account of the Cause alleged
in said petition.

John Thomas

Sworn to and Subscribed }
before me, this 7th day of }
November A.D. 1866 }
Samuel A. Repply Clk }

Maryie Honey

18,

John W. J. Thomas

Specifying, and
affirming
for change of
venue

Filed Nov 2nd 1866.

Samuel A. McPherson

State of Missouri } p.
County of Jefferson } In the Circuit Court.
Fee Bill

Bazile Kinney

John & Emma J. Thomas }

E. T. Kinney clk, 1 copy ~~pet~~ 90¢ cert 50
mt. 14 copies 40¢ orders 60¢ amend pet. 25¢
aff. 25¢ denures 25¢ Judgt 50¢ order put 50¢
copy cert 50¢ motion 25¢ amend pet. 25¢ aff 25
Order 20¢ denures 25 Judgt 50
ans 25 aff 25, docketts 50 3 cont 75
Indexes 25 1 Spa 25 Cert Fee Bill 30
This fee Bill cert 1 deal 75 \$10.65

S. A. Reppay clk

Docketts 20¢ motion 20¢ Judgt 50,
amen pet 25¢ Subm. 35 Judgt 50
Order 20 cont 25 affd. 25
order 20 1 Spa 25 Indexes 20

335

Jerome B. Overshell

Serve Summons \$2.00

" 1 Spa 25 calls 20 70

270

Ed. Fletcher

Serve 1 Spa at 75 calls 30

105

\$17.75

State of Missouri }
County of Jefferson } In the Circuit Court.
Free Bill

Bazile Honey

vs.

John & Emma J. Thomas }

E. J. Honey, cl. copy pet. 90¢ c.s. 50¢

writ \$1. copies 40¢ orders 60¢ amend pet. 25¢

aff. 25¢ Denumer. 25¢ Judgt. 50¢ order pub. 50¢

Copy c.s. 50¢ Motion 25¢ Amend pet. 25¢ aff. 25¢

Order 20¢ Denumer 25¢ Judgt. 50¢

ans. 25¢ aff. 25¢ Docketts. 50¢ cont. 75¢

Index 25¢ 1 Spa. 25¢ Costs, per Bill 30¢

This free Bill cert. & Seal.

75¢

\$10.65

S. A. Peppy Clerk.

Docketts 20¢ motion 20¢ Judgt. 50¢

Amend. pet. 25¢ Subm. 35¢ Judgt. 50¢

Order 20¢ cont. 25¢ aff. 25¢

order 20¢ 1 Spa. 25¢ Index 20¢

3.35

Jerome B. Dives Sheriff.

Serve Summons. \$ 2.00

" Spa. 50¢ calls. 20¢

2.70

C. C. Stetson

Serve 1 Spa 75¢ calls 30¢

1.05

\$13.75

Beagle Wherry
as per Bill
for & amount of \$1000.00