

DeFerson County Circuit Court
Case File - Civil

Box

16 Folder 49

November 1865, No. 15

Foster, James F.

vs.
Bush, Isadore

Nettle, Robert E.

Replevin

180 cords of wood; \$175 damages

James F. Foster, - plaintiff } In the Circuit
Against } Court of Jef=
Isadore Bush, } defendants } ferson County,
& Robert E. Nettle, } Missouri,

The Plaintiff states that he is the owner of, and entitled to the possession of, the following specific personal property, to wit, one hundred cords of wood, lying on a cliff near Foster's Station, on the St. Louis and Iron Mountain Railroad on land ^{and situate in Jefferson County Missouri} known as the Elcker Land, and of the value of four hundred dollars, - which wood the said Defendants wrongfully detain from the Plaintiff. He therefore asks Judgment for the recovery of said property, and seventy five dollars damages for the detention thereof.

Plaintiff further states that he is the owner of, and entitled to the possession of, the following specific personal property, to wit, a certain other Lot of Cord wood, being Eighty Cords of wood lying on Land lately conveyed to Defendant ^{said Isadore Bush} by Plaintiff, and about three quarters of a mile from said Railroad, ~~and in~~ Jefferson County ~~Missouri~~, which wood is of the value of ~~one~~ ^{two} hundred and ~~thirty~~ ^{twenty} dollars, and which the Defendants wrongfully detain from the Plaintiff.

Plaintiff therefore asks Judgment for the recovery of said property, and fifty dollars damages for the detention thereof.

Attest Green
Attorney for Plaintiff

James F. Foster the Plaintiff, makes oath and says the above and foregoing Petition, and the matters therein, as stated, he believes to be true; that the Plaintiff is the owner of and entitled to the two Lots of Cord wood described in said Petition, - that the same is wrongfully detained by the Defendants - that the actual value of said wood is ^{five} ~~ten~~ hundred and ~~thirty~~ ^{twenty} dollars, - that the same has not been seized under any process, execution, or attachment, against the property of the Plaintiff, - and that the Plaintiff will be in danger of losing his said property unless it be taken out of the possession of the Defendants, or otherwise secured, and that said property was wrongfully taken ^{by defendants} from the Plaintiff, and that Plaintiff's right of action accrued within one year next before the filing of this suit.

Swim band subscri^d }
bet before me this }
25th day of Sept }
1865 }

Samuel A. Reppy, Jr.

James F. Foster, - Plaintiff } In the Circuit
Against } Court of Jefferson
Isadore Bush, } defendants } son County,
& Robert E. Nettle, } Missouri.

We, James F. Foster, as Principal,
and John Smith and James C. Power
as securities, acknowledge ourselves to stand
indebted to Isadore Bush & Robert E. Nettle,
the Defendants, in the penal sum of ~~four~~
^{twelve} hundred and ~~forty~~^{four} dollars, to be
void upon this condition: That, if the
said James F. Foster shall prosecute the
above entitled action with effect, and
without delay; shall return the one hun-
dred and eighty cords of wood, claimed in
his petition to the said Defendants, if re-
turn thereof be adjudged, and in default
of such delivery, (if so adjudged) that
he will pay to Defendants the assessed
value of said property, and will pay all
damages for the taking and detention
thereof to Defendants, and will pay all
costs which may accrue in said action
and that may be adjudged against him,
then this Bond shall be null and void,
otherwise to remain in full force.

Witness our hands and seals this
25th day of September 1865,

Witness
Al Green

Approved by me
this 25 day of Sept 1865 -
H. C. Fletcher, Sheriff

James F. Foster
James C. Power
John ^{his} Smith
Mark

Seal

Seal

Seal

In Circuit Court
Jefferson County

James S. Strotes
vs.
Marion Bush

Petition in Replevin,
where defendant, Strotes,
has taken & to sell, as
his own, the property of
Marion Bush, for
the protection of
the property,
A. Green
for Strotes.

Filed Sept 25 1865.
Circuit Ct. Jefferson Co. Mo.

James D. Foster, - plaintiff
Against
Isadore Bush, - dependants
& Robert E. Kettle }

In the Circuit Court
of Jefferson County Missouri,

The Plaintiff states that he is the owner of, and entitled to the possession of the following specific personal property, To Wit: One hundred cords of wood, lying on a cliff near Foster's Station, on the St Louis and Iron Mountain Rail road on land known as the Elder land and situate in Jefferson County Missouri and of the value of four hundred dollars, - which wood the said Defendants wrongfully detain from the Plaintiff. He therefore asks judgment for the recovery of said property, and seventy five dollars damages for the detentions thereof. Plaintiff further states that he is the owner of, and entitled to the possession of the following specific personal property To Wit: a certain other Lot of Cord wood, being Eighty cords of wood lying on Land lately

conveyed to defendant said Isadore
Bush by Plaintiff, and about three
quarters of a mile from said Railroad
land in Jefferson County Missouri
which wood is of the value of two
hundred and twenty dollars, and
which the Defendants wrongfully
detain from the Plaintiff.

Plaintiff therefore asks judgment
for the recovery of said property, and
fifty dollars damages for the dete=
nion thereof.

Abner Green
Attorney for Plaintiff

James G. Foster, the Plaintiff,
makes oath and says the above
and foregoing Petition, and the mat=
ters therein also stated he believes to
be true; that the plaintiff is the
owner of and entitled to the two lots
of cord wood described in said peti=
tion, — that the same is wrongfully
detained by the Defendants. — that the
actual value of said wood is
six hundred and twenty dollars,
that the same has not been seized
under any process, execution or

attachment against the property of
the plaintiff, - and that the plain-
tiff will be in danger of losing his
said property unless it be taken
out of the possession of the defend-
ants, or otherwise secured, and that
said property was wrongfully
taken by defendants from the plain-
tiff and that plaintiff's rights of
action accrued within one year
next before the filing of this suit!

Sworn to and subscri-
bed before me this
25th day of Sept 1865

J. J. Foster

Samuel H. Reppy clk

A True copy of the original
petition and affidavit on file in
my office.

Witness my hand the
seal of said Court affixed
at office this 25th
day of September 1865

Samuel H. Reppy clk

James H. Foster Plaintiff } In the circuit
Against } court of Jefferson
Isodore Bush and } county. November
Robert E. Nettle Defendants, Term 1865.

The State of Missouri to the Sheriff
of Jefferson County. Greeting;

You are hereby com-
manded to take One Hundred and Eighty
cords of wood, ^{as described in Plaintiff's Petition} One hundred cords in one
lot and Eighty in the other, of the value
of Six hundred and twenty dollars, from
the possession of Isodore Bush and
Robert E. Nettle, and to deliver the same
to the plaintiff, James H. Foster, upon
his giving the bond required by law;
and you will make due return of
this order on the 13th day of November
next.

In Witness whereof I have
hereto set my hand and
the seal of said circuit
court, this 25th day of
September AD 1865.

Samuel A. Rapp, clk

In obedience to the within order, (the said James F. Foster, the plaintiff, having given the Bond required by law, & approved by me,) I did, on the 26th day of September 1865, in Jefferson County Missouri seize & levy upon the Cord wood mentioned and described herein, To wit a Lot of 100 cords of wood, being on what is called the Glacier Land, and Eighty cords of wood, on land lately conveyed by plaintiff to said Theodore Bush, about $\frac{3}{4}$ of a mile from said Rail road, then in possession Defendants, and did then & there deliver the same into the possession of the said Plaintiff.

C. C. Fletcher
Sheriff of Jefferson Co Mo

Jefferson Circuit Court
November Term 1865

James F. Foster
vs
The Sheriff of Jefferson Co Mo
Theodore Bush
and
Robert C. Nettie

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

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

We command you, that you summon

Reuben

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 second Monday after the fourth
Monday of November next, then and there to answer unto

James L. Haster

upon his original petition, a copy whereof is herunto 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 herunto affixed, at office
in Hillsboro, this 25th

day of September, D. 18

Samuel A. Rapp

Clerk Circuit Court.



I Executed this writ in the County of Jeff
erson State of Missouri on the 26th day of
Sept 1865 by delivering to Robert E. Nettie a true
copy of the within writ and annexed petition
as furnish to me by the clerk

Ch. Fletcher
Sherriff

257440
TO JEFFERSON CIRCUIT COURT

November Term, 1865

James H. Foster

vs. J. J. J. J. J.

Robert E. Nettie

Fletcher Sherriff 150

Fletcher - 285

25 Sept 1865

Filed Oct-19 1865.
Saml. A. Reppert

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

The State of Missouri

St. Louis

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

We command you, that you summon, Godore Bush

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 second Monday after the fourth
Monday of November next, then and there to answer unto

James F. Foster

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

Witness, Samuel A. Reppy Clerk of our said Circuit

Court, with the seal thereof hereunto affixed, at office
in Hillsboro, this Twenty Fifth
day of September A. D. 1865

Samuel A. Reppy
Clerk Circuit Court.

15

TO JEFFERSON CIRCUIT COURT

November Term, 1865

James F. Foster

vs. ~~Samuel~~

Isidore Bush

25 Sept

Filed Oct 16th 1865
Samuel A. Rappell

Executed this writ in the County of St Louis
on the 6th day of October 1865, by delivering a copy
of the writ and petition as furnished by the Clerk
to Isidor. Bush

Fees \$1.00 paid by
J. F. Foster

John C. Fogel Sheriff
Jacob S. May and Cys

James J. Foster - Plaintiff

~ against ~

Iseidor Bush and
Robert C. Hettle - Defendants.

Jefferson County Circuit Court
November Term 1865

Iseidor Bush, one of the defendants in the above entitled cause, states that he has no knowledge or information sufficient to form a belief as to whether the plaintiff was the owner of the one hundred cords, or any other quantity, of wood lying on a cliff near Foster's station, on land known as the "Elder land", as set forth in plaintiff's petition and therefore demand proof of said allegation. ~~~~~

This defendant admits that he purchased the land known as the "Elder land" of the States Saving Institution, about the twentieth day of March A. D. 1865 and that he is now the owner thereof, but avers that no reservation was made by his grantor of wood upon said land, nor did he ever give any person permission to place or store wood upon said land since his purchase aforesaid. And this defendant has reason to believe and does believe that a portion, if not all, of said wood is his property and was cut upon this defendant's lands and drawn to said cliff after the purchase of the "Elder land" aforesaid. ~~~~~

Defendant further states that he purchased a tract of land, of the plaintiff, in Jefferson County, Missouri about the 26th day of February A. D. 1865, but whether the plaintiff owned any, and how much, cord wood upon said land this defendant has no knowledge or information sufficient to

form a belief and therefore leaves the plaintiff to make proof of such ownership. This defendant further states that he never consented to the deposit of wood either upon the "Elder land" or upon the land purchased by this defendant of the plaintiff, and that neither the plaintiff nor any person in his behalf ever tendered to this defendant or to any person for him any compensation for storage or for the use of his land, upon which to store any cord wood and this defendant denies that the plaintiff has the right of possession of any of the wood upon either piece of said land even if he is the owner thereof, until defendants' lien thereon is paid; but he admits that certain quantities of cord wood, but the amount he is unable to state, are now lying upon said two pieces of land and have been since his purchase aforesaid, as he is informed and believes, and have not been removed by plaintiff or any person acting in his behalf up to the present time.

This defendant admits that he had in his employ, at the time of the service of the petition in this case, a man by the name of Robert C. Nettle, but what action, if any, the said Nettle took in reference to said wood, this defendant has no knowledge or information sufficient to form a belief but this defendant admits that he gave to said Nettle directions not to suffer any wood to be taken from the premises aforesaid without the consent of this defendant and gave him no other directions relating thereto, it being the intention of this defendant to ascertain the ownership of any property claimed upon said land and

to insist (in case such ownership was established) upon
a reasonable and fair compensation for the use of said
land and damage for such occupation, before said wood
was removed therefrom. And this defendant now insists
that he is entitled to and claims a lien upon said wood for
storage and damages resulting from the use and occupation
of his land aforesaid, even if the plaintiff shall estab-
lish his ownership thereto, in the sum of three hundred
dollars and for which with reasonable costs this defendant
asks judgment

Jaycox & Kellogg Attys
for Defendant Bush.

State of Missouri
County of St. Louis } Isidor Bush, one of the defendants
in the above entitled cause, makes
oath and says that the foregoing answer and the matters
and things as therein set forth he believes to be true.
Subscribed & sworn to

State of Missouri } Isidor Bush
County of St. Louis }
Subscribed & sworn to, this 26th day of October
AD 1865, before me, a Notary Public within
& for the County & State aforesaid.

Joseph P Vastine
Notary Public
St Louis Mo
Mo

David S. Foster -

Is
John Bush and
Robert & Little Squaw

Friend of Mr Bush

Filed Nov 13 1865.
David & Little Squaw
Will not appear here for -



James H. Foster, - Plaintiff	}	In the Circuit
Against		Court of Jefferson
Isidor Bush, &		County Missouri
Robert E. Nettle, - Defendants	}	

The Plaintiff moves the Court to strike out the following part of the answer of Isidor Bush, - To wit;

"And this Defendant now insists that he is entitled to and claims a lien upon said wood for storage and damages resulting from the use and occupation of his land aforesaid, even if the plaintiff shall establish his ownership thereto, in the sum of three hundred dollars, and for which with reasonable costs this defendant asks judgment." for the following reasons,

- 1 - Because said allegation is no defense to this action, - as Defendant had no lien on said wood, and if he had, he does not aver that he ever informed Plaintiff of it, and demanded pay for storage, or the use of the Land occupied by the wood.
- 2 - Said Defendants claim of 300 dollars for storage & damages, is a claim for unliquidated damages, and not admissible as an offset, or counter claim, in a case in

the nature of Replevin.

3 - The Defendant had no lien on the wood,
which would justify him in detain-
ing the wood against the rightful
owner.

Abner Green,
Attorney for Plaintiff

James H. Foster

vs.

David Bush &

R. E. Nettles

Motion to

strike out part of

Def's Answer

Filed Nov 21 1865.

Saml. A. Reppert

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To *Charles S. Sanders & Joseph H. B. Ryan*

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 *23rd* day of *May* next at Hillsboro, then and there to testify, and the truth to say in ascertain matter of controversy, now pending in our said Court, wherein

James, Sr. & Sons

Plaintiff and *Leador Smith* is

Defendant on the part of *Plaintiff* and herein you are in no wise to fail.

WITNESS, *Wm. H. H. H. H.*, Clerk of our said Court,

with the Seal thereof hereunto affixed, at office, this *26th* day of *March* A. D. 18*66*

Samuel M. O'Byrne Clerk.

SUBPOENA

TO JEFFERSON CIRCUIT COURT.

May Term, 1866

Foster

Bush

3rd S Rankin

18th Capt Lyon

Fetches Sheriff 100

I Execute the within as in the
County of St Louis in the 3rd day of June 1866 on
Chas J Rankin and on the 18th day of June 1866
on Capt Lyon by receiving the same

Wm H. H. H.
Sheriff

THE STATE OF MISSOURI,

COUNTY OF JEFFERSON.

To *M. A. Douthett, Thomas Johnson & Williams,*
James

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 *23 day of May 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 *James, & Foster* is

Plaintiff and *Cartor Burck & D. E. Wattle* are

Defendants on the part of *Plaintiff's* and herein you are in no wise to fail.

WITNESS, *Samuel A. Douthett*, Clerk of our said Court,

with the Seal thereof hereof affixed, at office, this
23 day of *April* A. D. 186*6*

Samuel A. Douthett
Clerk.

SUBPOENA

TO JEFFERSON CIRCUIT COURT.

May Term, 1866

James J. Foster
vs
Isador Bush

Witnesses for Plaintiff

M. A. Cornthal
Thomas Johnson &
William James

Fletcher Sheriff 150

I Execute the within & see in the County of
Jefferson on West Branch on the 1st day of May 1866
by reading the same in his presence hearing and
on the 1st day of May 1866 by a copy.
on the 1st day of May 1866 by a copy.

W. C. Fletcher
Sheriff

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To *George Herndon & Joshua Herndon*

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 *23* day of *May* 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 *James S. Stroter* is

Plaintiff and *David Birch & C. Schettle* are

Defendants on the part of *Plaintiff's* and herein you are in no wise to fail.

WITNESS, ~~ELIAS F. JOHNSON~~ *Samuel A. Ophry*, Clerk of our said Court,

with the Seal thereof hereto affixed, at office, this *23* day of *April* A. D. 186*6*

Samuel A. Ophry
Clerk.

SUBPOENA

TO JEFFERSON CIRCUIT COURT.

May Term, 1866

James D. Foster
vs

Isador Bush

Witnesses for Plaintiff

George H. Crutman &
Joshua Herrington.

Fletcher Sheriff 85

I do certify the within ~~is~~ in the County
of Jefferson on the 4th day of May 1866 are found
Herrington by receiving the same in his presence.
Hearing ~~as~~ George Crutman is not found in
my County—

G. H. Fletcher
Sheriff