

Jefferson County Circuit Court
Case file - civil

May 1866, No. 48

Perkins, Henry

^{vs}
Hesser, James P.

Set aside deed

160 acres in S25T40N3E; involved
\$13,089.18 judgment from Supreme Court
of Pennsylvania against Ellis Clark
and Alfred P. Hesser

Box

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Folder

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Henry Perkins, Plaintiff } In the Circuit
James P. Hesser, Defendant } Court of Jefferson
County Missouri
May Term 1866

Plaintiff states ~~that~~ that on the 1st day
of September 1853 and for a number
of years previously thereto one Ellis Clark
and Alfred P. Hesser were doing business
in the City of Philadelphia in the State
of Pennsylvania, ^{in Partnership} under the name & style
of Clark and Hesser, Plaintiff further
states that said Clark & Hesser while
doing business as aforesaid became
largely involved in debt that is to say
to Plaintiff in the sum of Thirteen ~~Thousand~~
Thousand ^{and eighty one} ⁴³/₁₀₀ Dollars and to divers other
persons in said City of Philadelphia to
whom they owed large amounts of money
amounting in the aggregate to between
Thirty and fifty Thousand Dollars —
that being so involved in debt and invol-
-vent said Clark & Hesser dissolved
partnership about the day of
1855 leaving said debts unpaid
and said Alfred P. Hesser absconded
from the State of Pennsylvania and
located in Jefferson County Missouri
that after said Alfred P. Hesser came to
Missouri as aforesaid he conceived
the idea & design of hindering, delay-
-ing and defeating his Creditors aforesaid
in the collection of their demands
against him and the more effectually

to Compass and carry out said Fraud-
ulent design he did purchase from
one John M. Potts & wife with his
own money on the 18th day of
August 1856 the following described
Real Estate situate in Jefferson County
Missouri, viz. The west half of the South
East quarter and the South half of the
South West quarter of Section Twenty
five Township Forty Range Three East
containing one hundred and sixty ~~and~~
acres And procured said Real Estate
to be conveyed by Deed to his wife
Anna S. S. Desser, and afterwards caus-
ed improvements of the value of several
Thousand Dollars to be put upon said
Land with his own money and after-
wards, to wit, some time in the summer of
1861, said Alfred P. Desser departed
this life

Plaintiff states that after the death
of said Alfred P. Desser, to wit, on
the 23rd day of September 1863 the said
Anna S. S. the widow of said Alfred P.
Desser intermarried with one Stewart S.
Viley and that said Anna S. S. and Ste-
wart S. Viley after the marriage aforesaid
to wit, on the 5th of November 1864
executed and delivered to the Defendant
a deed to the aforesaid Real Estate
which deed has been duly admitted to
Record in the Recorders Office of said
County of Jefferson and that the

Defendant is claiming Title to said Land
under said Deed

Plaintiff avers that at the
time said Alfred P. Hesser absconded
from the State of Pennsylvania &
located in Missouri as aforesaid ~~said~~
~~Anna S.S. and James P. Hesser~~, and at
the time he purchased the Real Estate
aforesaid and had the same conveyed
to said Anna S.S. and at the time said
Anna S.S. and Stewart S. Wiley executed
and delivered the Deed aforesaid to
Defendant, they the said Anna S.S.
and James P. Hesser, and each of them
well knew that said Anna S.S. had
never paid any money for said Land
that said Alfred P. Hesser, was largely
involved in debt in the State of Pennsy-
lvania that he had absconded from
them to avoid his Creditors and that he
had purchased said Land with his
own money and caused the Deed to
be made to his wife said Anna S.S. for
the purpose of hindering delaying and
defeating the Plaintiff and other,
existing Creditors in the collection of
their Demands against him.

Plaintiff states further that he
obtained judgment against said
Ellis Clark and Alfred P. Hesser in the
Supreme Court of Pennsylvania for the
Eastern District at the January Term of
said Court, to wit, on the day of

1860 for the sum of Thirteen
Thousand Eighty nine & 100 Dollars
(a copy of which marked (a) is hereto
annexed) which judgment together
with the interest thereon at six per
cent from the rendition thereof is
still due plaintiff and unpaid
plaintiff further says that the Estate
of said Alfred P. Hesser is now in
course of administration in the afore
said County of Jefferson and that
the assets of said Estate are only
sufficient to pay a very small portion of
plaintiffs judgment.

that ~~the~~ plaintiff therefore prays
the Court ~~that~~ the deed aforesaid
from Anna S. and Stewart S. Wiley
to James P. Hesser the Defendant may
be set aside and that the Court will
order and decree that the Real Estate
aforesaid be sold to pay the aforesaid
judgment in favor of plaintiff and
render such further judgments and
decrees as may be just and right

Jo: J. Williams
Atty. for plaintiff

Jo: J. Williams Attorney for plaintiff says that
he believes the foregoing petition & the matters
as therein stated are true

Swoone to and subscribed
before me April 25th 1866
W. M. Mullin Clk. Co. Court

Jo: J. Williams

Henry Perkins

James A. Wheeler

This is a Bill to extend
Leeds Hall Lane &c

Filed April 23rd 1866
Samuel A. H. H. H. H.
Clerk

Let process issue to
Sheriff of St. Louis County,
William

2 Dated 1866

Henry Perkins, Plaintiff } In the Circuit Court
vs } of Jefferson County
James P. Hesser, Defendant } Missouri, May Term 1866.

Plaintiff states that on the 12th day of September 1853, and for a number of years previously thereto one Ellis Clark and Alfred P. Hesser were doing business in the City of Philadelphia in the State of Pennsylvania in copartnership under the name & style of Clark & Hesser. Plaintiff further states that said Clark & Hesser while doing business as aforesaid became largely involved in debt that is to say to plaintiff in the sum of Thirteen thousand and eighty one Dollars $4^{\frac{3}{100}}$ and to divers other persons in said City of Philadelphia to whom they owed large amounts of money amounting in the aggregate to between thirty and forty thousand Dollars, that being so involved in debt and insolvent said Clark & Hesser, dissolved partnership about the day of 1855 leaving said debts unpaid and said Alfred P. Hesser absconded from the State of Pennsylvania and located in Jefferson County Missouri that after said Alfred P. Hesser came to Missouri as aforesaid, he conceived the idea & design of hindering, delaying and defrauding

his creditors aforesaid in the collection of their demands against him and he more effectually to compass and carry out said fraudulent design he did purchase from one John W. Balto & wife with his own money on the 18th day of August 1856. the following described Real Estate situate in Jefferson County Missouri Viz: The west half of the south east quarter and the south half of the south west quarter of section twentyfive Township Forty Range Three East Containing one hundred and sixty Acres, and procured said Real Estate to be conveyed by Deed to his wife Anna S. S. Hesser, and afterwards caused improvements of the value of several thousand Dollars to be put upon said land with his own money and afterwards, O. W. it, sometime in the summer of 1861, said Alfred P. Hesser departed this life.

Plaintiff states that after the death of said Alfred P. Hesser. O. W. it: on the 23rd day of September 1863, the said Anna S. S. Hesser the widow of said Alfred P. Hesser intermarried with one Stewart S. S. Wiley and that said Anna S. S. and Stewart S. Wiley after the marriage aforesaid, O. W. it: On the 5th of November 1864 executed and

delivered to the Defendant a Deed to the aforesaid Real Estate which Deed has been duly admitted to record in the Recorders Office of said County of Jefferson and that the Defendant is claiming title to said Land under said Deed.

Plaintiff avers that at the time said Alfred P. Heffner absconded from the State of Pennsylvania & located in Missouri as aforesaid and at the time he purchased the Real Estate aforesaid and had the same conveyed to said Anna S. S. and at the time said Anna S. S. and Stewart S. Wiley executed and delivered the Deed aforesaid to Defendant, they the said Anna S. S. and James P. Heffner, and each of them well knew that said Anna S. S. had never paid any money for said Land that said Alfred P. Heffner was largely involved in debt in the State of Pennsylvania that he had absconded from there to avoid his creditors and that he had purchased said Land with his own money and caused the Deed to be made to his wife said Anna S. S. for the purpose of hindering, delaying and defeating the plaintiff and other existing creditors in the collection of their demands against him.

Plaintiff states further that he obtained

Judgment against said Ellis Clark and
Alfred P. Heffer in the Supreme Court
of Pennsylvania for the Eastern District
at the January Term of said Court To
Wit: On the day of 1860
for the sum of Thirteen Thousand Eighty
nine & ¹⁴/₁₀₀ Dollars (a copy of which mark-
ed (A) is hereto annexed). which judgment
together with the interest thereon at six
per cent from the rendition thereof is
still due plaintiff and unpaid.

Plaintiff further says that the Estate of
said Alfred P. Heffer is now in course
of Administration in the aforesaid County
of Jefferson and that the assets of said
Estate are only sufficient to pay a very
small portion of plaintiff's judgment.

Plaintiff therefore prays the Court that
the Deed aforesaid from Anna B. and
Stewart B. Wiley to James P. Heffer the
Defendant, may be set aside and
that the Court will order and decree
that the Real Estate aforesaid be sold
to pay the aforesaid judgment in favor
of plaintiff and render such further jud-
gments and decrees as may be just
and right.

Jos. J. Williams
Atty for Plaintiff

Geo. J. Williams Attorney, for plaintiff
says that he believes the foregoing petition
& the matters as therein stated are true.
Sworn to and subscribed before Geo J. Williams
on April 25th 1866.

R. W. McMullin

Clerk County Ct.

A true and correct copy of the original
petition and affidavit now on file in
my Office

Witness my hand and seal of
the Jefferson County Circuit
affixed this Twenty Fifth day
of April A.D. 1866.

Samuel A. Peppin
Clerk

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

The State of Missouri
To the Sheriff of the County of *Jefferson* Greeting:

We command you, that you summon

James P. Heuser

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 *May* next, then and there to answer unto

Henry Perkins

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

Samuel A. Rapley
Witness, **ELIAS F. HONEY,** Clerk of our said Circuit
Court, with the seal thereof hereunto affixed, at office
in Hillsboro, this *Twenty fifth*
day of *April* A. D. 18*66*.

Samuel A. Rapley
Clerk Circuit Court.



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TO JEFFERSON CIRCUIT COURT

May 25th, 1866

Henry Perkins

vs

James P. H. H. H. H.
25 April 1866

Original Petition

Filed April 25th 1866.

Samuel A. H. H. H.
Clerk



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

The State of Missouri

To the Sheriff of the County of ~~Jefferson~~ ^{St. Louis} Greeting:

We command you, that you summon

James P. Heffer

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~~ ^{Monday} after the fourth
Monday of *May* next, then and there to answer unto

Henry Perkins

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. Peppy* **ELIAS F. HONEY**, Clerk of our said Circuit
Court, with the seal thereof hereunto affixed, at office
in Hillsboro, this *Twenty-fifth*
day of *April* A. D. 18*66*.

Samuel A. Peppy
Clerk Circuit Court.

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TO JEFFERSON CIRCUIT COURT

May 1st 1866

Henry Perkins

vs.

James P. Heffer

225-1866

25-1866

delivered to the clerk

Executed this writ in the County of St Louis on the 28th day of April 1866 by delivering a copy of the writ and petition as furnished by the clerk to James P. Heffer

\$150 paid

John C. Vogel Sheriff
By Louis Schween
Dpt.



Estate of Alfred P. Hesser
1866 } To Henry Perkins Dr.

To Amount of the following
Judgment, To wit,

Henry Perkins vs Ellis Clark and Alfred P. Hesser late co partners under the firm of Clark & Hesser	} In the Supreme Court of Pennsylvania in and for the Eastern District Of January Term 1860 No. 285
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On Motion of H. Perkins plffs Atty the
Court order Judgment to be entered in the
above case for Plaintiff for want of
an affidavit of defence Co. die
Judgment

Damages assessed at thirteen Thousand and Eighty one Dollars and forty three cents \$130.81 43 Interest on same at 6 per Cent from February 25 th 1860 4970.90 Total \$18052.33

allowed in total
To James P. Hesser Admr. de Bonis Hon
of the Estate of Alfred P. Hesser —
Your are hereby
Notified that I will present a
Judgment of which the above is
a copy to the County Court of
Jefferson County Missouri at the
Court House in the Town of

Hillsboro in said County of
Jefferson on Wednesday the 16th
day of May 1866 for allowance
against the Estate of Alfred J.
Hesser Deceased or as soon
after said 16th day of May as a
hearing of said Cause can be
had. When and where you can
appear and defend the same

April 25th 1866

Henry Perkins
By J. J. Williams
His Attorney

Henry Perkins
vs
Edw. J. P. Heeler

Notice of Claim

Original

225-

Sheriff make return
on this copy
with
for cell.

Executed this notice in the County of St. Louis on
the 28th day of April by, delivering a copy of the Notice
John C. Vogel Clerk
By Louis Schween
App.

pes. 75 pua

Henry Perkins
vs
Ellis Clark and
Alfred P. Hesser late
copartners & under the
firm of "Clark & Hesser"

In the Sup. Ct of Pennysl-
vania for the Eastern District
Of January Term 1860.
No. 285-
February 25th 1860. Judg-
ment. So die; Damages
"assessed at Thirteen thousand
& Eighty one Dollars & forty three
cents - (\$13,081.43)

Henry Perkins on oath deposes & says that
he has given credit to the Estate of Alfred P.
Hesser deceased, for all just credits and
off-sets to which it is entitled, and that
the balance claimed on the above, and ap-
pearing to be due by the within judgment
is justly due -

Henry Perkins

State of Pennsylvania } S.S.
City & County of Philadelphia }

I William V. Asher a Notary Public
in and for the City, County, and State afore-
said do hereby certify that on the fifth
day of May A.D. 1866 personally appeared
before me, the above named Henry
Perkins, who under oath deposes and

saye that the facts set forth in the
foregoing affidavit are just and true.

In witness whereof I have hereto
set my hand & affixed my official seal
at office in said City & County on the
day and year last aforesaid —

Wm. A. Baker
Notary Public
Philadelphia Pa



Henry Perdue
or
Edw. A. P. Perdue

paid

Filed Dec. 12th 1862.
Samuel A. Peckay, clerk, Co.

Dec. 15th 1862
Wm. M. M. M. M. M.

William

Wm. M. M. M.

Henry Perkins, Plaintiff
 vs
 James P. Hesser, Defendant

In the Superior
 Circuit Court.
 Nov. Term 1866.

Now at this day comes said Defendant,
 for answer to the petition of the Plaintiff
 states that it is true as is in said petition
 alleged that A. P. Hesser was in partnership
 in 1853, with Ellis Clark in the mercantile
 business in the City of Philadelphia, but
 as to whether the firm of Clark & Hesser
 became "largely involved in debt that is to
 say to Plaintiff in the sum of fifteen thousand
 and eighty one $\frac{43}{100}$ dollars, and to divers other
 persons in said City of Philadelphia to
 whom they owed large sums of money amount-
 ing in the aggregate to thirty thousand
 dollars," this Defendant has not sufficient
 knowledge or information to form a
 belief & requires strict proof.

Defendant denies that A. P. Hesser paid
 the consideration money for the land
 described in said petition with the intent
 to hinder, delay and defraud his creditors
 or to cheat them of their just demands -
 but on the contrary avers that the purchase
 price of said land was paid by Anna
 S. Hesser, out of her own means
 and the deed for the same was made

to the said Anna in good faith with
no intention of defrauding the creditors
of said A. P. Hesser.

Defendant admits that said Anna has
conveyed said land to him, but he denies
that he at the time of the conveyance
to him any knowledge or information of
any fraudulent design on the part of
said A. P. Hesser, if any existed, to cheat
and defraud his creditors, or that said
A. P. was largely indebted or that he
had paid the purchase money for
said land out of his own money &
requires strict proof of defendant's
knowledge of all these facts.

Defendant denies that Plaintiff in the
Supreme Court of Pennsylvania
or any other obtained on the — day of
1866 judgment against A. P. Hesser for
thirteen thousand & eighty one ⁴⁸/₁₀₀ dollars
or any other sum.

Defendant for further answer, states that
in August 1864, he gave a deed of trust
upon said land to one Horton Jervis for
\$1250. under which the trust was
sold same to John L. Thomas & John
L. Thomas since sold same to Joseph
P. Hesser, so that this Defendant

has no further interest in said land.
wants to be discharged with his costs.

Green, Thomas & Ahlberg
Atty for Deft.

A. Perkins

3
P. Wenzel

Anna

Fleet Seph 27-1866.
 Saml & Wm J. Kelly

State of Missouri } In the County Court
County of Jefferson } May 16th 1866,
The following proceeding was had, to wit

Henry Perkins } On Transcript of Judgment,
Est. of A.P. Hesser Decd. } Filed, and by consent of
parties continued until the next term of this Court,

July 6th 1866, The following Transcript
Henry Perkins }
James P. Hesser Adm., } On a Judgment.
of Est. of A.P. Hesser Decd. } Now again at this day
come the parties by their Attorneys, and said cause
coming on to be heard upon the claim of Plaintiff,
the Court after hearing all and singular the evidence
offered by both parties, together with the argument
of Counsel, doth find that the estate of Alfred
P. Hesser Decd. is justly indebted to the plaintiff
in the sum of eighteen Thousand fifty two & ³³/₁₀₀
Dollars. It is therefore considered and adjudged
by the Court that the claim of said plaintiff be
allowed against said estate for the aforesaid sum
of Eighteen Thousand fifty two & ³³/₁₀₀ Dollars and
placed in the seventh class.

July 16th 1866, The following writ

Henry Perkins } On a Judgment,
James P. Heaser Adm^r. }
of A. P. Heaser Decd } Now at this day comes
said administrator and files his affidavit
for appeal to the Circuit Court of Jefferson County
Mo, stating among other things that this affiant
believes him self aggrieved by the decision of
this Court whereupon it is ordered that the ap-
peal be granted.

I, A. McMullin Clerk of the County Court
of Jefferson County Mo, hereby certify the above
and foregoing to be a true and correct trans-
cript of the Record of said Court in the case
of Henry Perkins vs Est. of A. P. Heaser Decd.

In Testimony Whereof I hereunto
set my hand and affix the seal
of said Court this 11th day of
Oct. A.D. 1866

A. McMullin Clerk

Henry Perkins
as
Cosh of A. P. Weaver

Filed Oct 12th 1866.

Daniel A. Tophy,
clerk circuit co.

Henry Perkins }
James P. Messer admr. } An Circuit Court
of Estate of A. P. Messer } Jefferson County
Mo. Nov Term 1866

Plaintiff moves the Court to set aside
the finding of the Court in this Cause &
grant him a new Trial for the
following reasons. To wit:-

1st Because the Court erred in
refusing to permit Plaintiff to read in
evidence the Transcript of Judgment
of Supreme Court of Pennsylvania
in the Case of Henry Perkins vs
Ellis Clark & Alfred P. Messer, offered
in evidence in this Cause by Plaintiff

2nd Because the finding of the Court is
against the Law

Jos. J. Williams
Atty for Plaintiff

Perkins

Heiser

Motion for new
trial

Filed Nov 17 1866

Saml A. B. May

W. H. H.

Henry Perkins } In the Circuit-
James P. Messer admr. } Court- Jefferson
of A. P. Messer died } County Mo.

Nov. Term 1866

Be it remembered that on the Trial of
the above entitled Cause the Plaintiff to-
sustain his action offered to read in
evidence a Transcript of a Judgment of
the Supreme Court of Pennsylvania
in a Cause of Henry Perkins vs Ellis Clark
and Alfred P. Messer, which Transcript is
in words & figures as follows to wit: (here
Copy Transcript-) which Transcript the
Court refused to permit the Plaintiff to read
to which action of the Court Plaintiff then
& there excepted whereupon the Court which
was all the evidence offered in said Cause
the Court then rendered Judgment in favor
of Defendant & against the Plaintiff

which Judgment is in words as follows, to wit:
(here copy Judgment-) to which action of the
Court in rendering Judgment in favor of
~~Defendant~~ Plaintiff & against Plaintiff Plaintiff then
and there excepted & renders his Bill of
Exceptions which he asks may be signed sealed
and made a part of the Record which is done

J. H. Vail Judge

{ Seal }

Perkins

Mason

Bill of Explanations