

Jefferson County Circuit Court
Case File - Civil
May 1866-

Box

17 Folders 34

Burgess, James Jr.
Burgess, William
Burgess, Eliza
Allen, Elizabeth, et al

vs.

Twining, William
Moody, Charles D.
Hattelman, Henry
Murphy, [Unknown], et al

Injunction

Enjoin removal of staves, cordwood, timber
from land at Sulphur Springs; other plaintiffs
John O'Fallon, Jr., David J. Allen; other
defendants J. G. Hammett, William Stouse,
Supreme Court

Lease made this 20th day of June
A.D. 1865, between James Burgess, Eliza Burgess,
Wm Burgess, Arthur Burgess, and Elisabeth Allen,
formerly Elisabeth Burgess - heirs of Sandeep Burgess
dec'd, & John C. Fallon & Co, party of the first part
and Wm Swining, & Chas D Moody, party of
the second part.

No I

The said party of the first part, in
consideration of the sum hereinafter stipulated
to be paid by the party of the second part,
lease for the term of ten (10) years from &
after the date hereof, to the said party of the
second part, for the purpose of selling the timber
and wood thereon, the following described
lands, situate in Jefferson County, State of Missouri
Viz - The East half of the South west quarter
of section Thirty six (36); The north half of the
South East quarter, and the South west quarter
of section Thirty five (35), all in Township
forty two (42), North of Range Five (5), East,
and containing 320 Acres.

No II

And the said party of the second part,
agrees to pay within the first five years
in consideration of said lease, said party of
the first part, the sum of Thirty two hundred
dollars (\$3,200), in manner following - Viz,

Four hundred & fifty dollars (\$450.) on the execution of this lease, and the sum of Ten dollars (\$10.) per Acre, for every acre cut over on said premises, until the remaining sum of Twenty Seven hundred and fifty dollars (\$2,750.) shall have been paid; And the said party of the second part agree that payment shall be made every three months, and that the first payment shall be made the 20th day of December A. D. 1865. That an additional sum of two and one half dollars shall be paid for every acre that shall be cut over east of the main dividing ridge, to be credited on the Thirty two hundred dollars; and that not less than the sum of Five hundred & fifty dollars shall be paid every year during the first five years of this lease in addition to the first payment of \$450. dollars, provided the sum of Thirty two hundred dollars, shall not have been previously paid, it being the intent to pay that amount no more. It is however agreed that an additional sum of Two and one half dollars per acre, shall be paid on Two ninths, $\frac{2}{9}$, of said leased land, to the said John O'Halloran Jr, at the quarterly settlement above mentioned, in consideration of the use of his mill in cutting said timber. —

No III And the parties to ^{this} lease agree in the event they cannot agree, as to the quantity of land cut over, that the Surveyor of Jefferson County, for the time being, shall be umpire between them, and his decision as to said quantity shall be conclusive and final, between them.

No IV And the parties to this lease agree, that party of the second part, shall have the right to set up on said leased land a Sawmill and other Machinery for the purpose of cutting up said timber and that at the expiration of said lease or before ~~or before~~ if the party of the second part desire it, provided all indebtedness due party of the first part at the time shall have been paid, they shall have the right to remove the same.

No V And the party of the second part agree, at the expiration of their lease, to yield quiet possession of said leased land, and that they will return the log house, and fences in as good order as the same now are, ordinary wear excepted.

No VI And the party of the second part agree, that they lease said land for the purpose of

cutting the timber and wood therefrom solely; and they agree ~~and they agree~~ that they will not do or suffer anything that does not belong legitimately to their business, and that they will not commit nor suffer any nuisance, by selling liquors, or otherwise on said premises - And the said party of the first part covenants that the said premises are free from incumbrance, and that they will defend said party of the second part, in the possession of said premises, against the lawful claims of all persons -

No VII

And the parties to this lease agree, that the said party of the first part shall have a lien on all the timber, wood, staves, and fixtures, for the security of the payment of rent as the same shall become due. - and that all the provisions of Art No 13, of the lease of even date herewith, between John C Fallon and said party of the second part, shall apply to & become part of this lease, including lien and right of forfeiture & sale on the part of the party of the first part, & conditions of reinstatement of party of the second part, the same as if said Article No 13, were here transcribed; and said Article No 13 shall govern proceedings in case of default by party of second part.

No VIII

And the party of the second tract agree, that they ^{will} surrender to the party of the first tract, within five years all those parts of the leased land which lie east of the main dividing ridge, including all parts of the tract, which are accessible for teams from the east; and and that they will surrender the western portion of the lands so soon as the timber can be taken off, consistently with the terms of a lease held from John C. Wallow & of even date herewith this instrument leasing to the party of the second tract for the use of the timber certain tracts adjoining or near the tract granted in this lease; but it is expressly agreed that the whole of said land shall be surrendered within the terms of this lease, or ten years.

The covenants and alterations in article no 8, were altered, and read, before the execution and signing of the foregoing instrument.

Whereunto we hereby set our

hands and seal the day and year
first foregoing mentioned written.
Signed

James Burgess S.S.

Wm Burgess S.S.

Oliza Burgess S.S.

Elizabeth Allen S.S.

S.S.

Wm Downing S.S.

Chas D Moody S.S.

John Challender S.S.

A true Copy
J. S. Brooks

The original of this Lease is stamped with a
\$1.50 - of U. S. Revenue Stamps -

State of Missouri,

JEFFERSON COUNTY.

SAMUEL A. REED

do hereby certify that

is

Book

State of Missouri
County of Jefferson) I, Samuel A. Peppy
clerk of the circuit court, and ex officio
Recorder, within and for said County
do hereby certify that the foregoing in-
strument of writing was filed March 27th
A.D. 1866, for record in my Office, and
was duly Recorded April 9th A.D. 1866
in Book (V) page 639 of following.

In Witness whereof I have hereto set my
hand and affixed the seal of
said Court at office in
the Town of Hillsboro, Mo.
date last aforesaid.

Samuel A. Peppy, Recorder



Deeds

From

George Heine
and

John A. Walton

To

Wm. W. W. W.

and

Charles Moody

{Copy}

Filed March 2nd 1886

J. A. Repply. Recorder
205 Main

James Burgess, Jr. Wm Burgess,
Eliza Burgess, Elizabeth Allen
David J. Allen and John
O'Hallor Jr. Plaintiffs

vs
Wm Twining and Charles D.
Moody Defendants,

To Wm Twining and Charles D. Moody
the above named defendants,

You are hereby notified that
we shall apply to two of the Justices of the
Jefferson County Court, at Hillsboro, on
the 11th day of April 1866, for an injunction
against you, to restrain you from remov-
ing any staves, stove timber, cord wood
or other timber or any of the fixtures to
the mill situate and being on the land
you leased of us by a lease, dated the
20th day of June 1865, which land lies
near Sulphur Springs in Jefferson Co Mo.

Thomas & Ahlers

Attys for Plaintiffs,

I Return the within, on the 11th day of April 1866
Defendant, ^{William Dunning,} not served the within
in my respective County

C. C. Fletcher Sheriff
by John Niagara Deft

Copy for Dunning

James Burger, Jr. Wm
Burger, Eliza Burger,
Elizabeth Allen, David
J. Allen and John O'Hallon Jr., Plaintiffs
vs
Wm Twining and Charles
D. Moody Defendants

To Wm Twining and Charles D. Moody
the above named Defendants.

You are hereby notified that we
shall apply to two of the Justices of the Jefferson
County Court, at Hillsboro on the 11th day of
April 1866, for an injunction against
you to restrain you from removing any
Staves - Stone timber - Cord wood or other
timber or any of the fixtures to the mill
situate and being on the land you
leased of us by a lease dated the 20th
day of June 1865, which land lies near
Sulphur Springs in Jefferson Co. Ind.
Thomas & Athley,
Attys for Plaintiffs

I executed the within writ at the County of Jefferson
mo on the 10th day of April 1866 on Charles D
Moody by leaving a true of the same at his usual
place of abode with a whit member of his family
of the age of fifteen years

C. C. Fletcher Sheriff
by John Vinyard Deft

James Braggs et al

vs

Twining & Moody

Original

Sheriff Fee

75

John O'Fallon jr. Plaintiff, }
vs. }
Gm Trining and Charles }
D Moody, Defendants. }

To Gm Trining and Charles D.
Moody the above named defendants,

You are hereby notified,
that I shall apply to two of the Justices,
of the Jefferson County Court at Hillsboro,
on the 11th day of April 1866, for an in-
junction against you, restraining and
enjoining you from removing any
staves, stove timbers, cord wood, lum-
ber, plank, cabins, mills or mill-
fixtures from the land which you
leased of me, by a Lease, dated June
20th 1865, and also from land, leased
of me and the Burgers' heirs of the
same date as the Lease of me,

Thomas C. Shivers
Atty for plff.

I executed the within writ at the County of Jefferson
Mo on the 10th day of April 1866 on Charles P
moody by Leaving a true copy of the same at his
usual place of abode with a white man his
Famblly of the age of fifteen years &

C. C. Fletcher Sheriff
by John Vinyard Deft

75

Sheriff Fee

James Burgess jr, Wm Burgess
Eliza Burgess, Elizabeth Allen
David J. Allen and John O'
Fallon jr. Plaintiffs.

vs.
Michael W. Green, Defendant.

To Michael W. Green, the above
named defendant,

You are hereby notified, that we
shall apply to two of the Justices of the
Jefferson County Court, at Hillsboro on
the 11th day of April 1866, for an injunc-
tion against you to enjoin and restrain
you from removing any slaves, slave-
timber, board wood, lumber, cabins,
mills or mill fixtures situate on
the land leased of us by Trining and
Moody by a Lease dated the 20th day
of June 1865 and from removing
same out of Jefferson County.

Thomas J. Ahlers
Atty for pliffs.

I executed the within writ at the County of
Jefferson Mo on the 10th day of April 1866 on
Michael W Green by Delivering to him a true
copy of the same

C. C. Fletcher Sheriff
By John Vinyard Dept

Michael W Green

Sheriff Fee

75-

James Burger, Jr. Wm Burger,
Eliza Burger, Elizabeth
Allen, David J. Allen
and John O'Fallon for Plaintiffs

vs
Henry Kottelman, defendant

To Henry Kottelman, the above
named Defendant.

You are hereby notified that
I shall on the 11th day of April 1866, apply
to two of the Justices of the Jefferson County
Court at Hillsboro, for an injunction
to restrain you from removing any Staves
Stave Timber - Cord wood - mill or mill
fixtures from the land leased of us
by Swining & Moody near Sulphur Springs
Jefferson County Mo, and from removing
same out of Jefferson County.

Thomas & Athol
Attys for Plaintiffs

Copy this notice omit the
balance -

Thomas

I executed the within writ at the County of Jefferson
Missouri on the Tenth day of April 1866 on
Henry Kattelman by Delivering to him a true
Copy of the Same

C. C. Fletcher Sheriff
by John Vinyard Deput

James Burgess et al

vs

Henry Kattelman

Original

Sheriff Fee 75

John O'Fallon *plff*,

vs.

Henry Kattleman,

Murray,

J. G. Hammel, *Wm* Strause

Luke Stubbs, defendants.

To the above named defendants.

You are hereby notified, that I shall apply to two of the justices of the Jefferson County Court at Hillsboro, on the 11th day of April 1866, for an injunction against you, restraining and enjoining you from removing any staves, stave timber, board wood, lumber, plank, baling mules or mill fixtures from the land which you leased of me by a Lease, dated June 20th 1865, and also from land leased of me and the Burgess' heirs of the same date, as the Case of me.

Thomas A. Ahlner
Att'y for plff

I executed the within at the County of Jefferson Mo
on the 10th day of April 1866 on Henry Kattman
Murray J. B. Hammel William Stouse
and Luke Stubbs by Delivering to each of them
a true copy of the same or within writ

C. C. Fletcher Sheriff
by John Vinyard Deft

Original

James Burgess et al

vs
Burning, Moody, et al

Filed April 11th 1866
Cammell H. P. Clerk

James Burgess, Jr. ^{vs} ~~Mr~~ Burgess
Eliza Burgess, Elizabeth, John O'Fallon ^{Alley} &
~~Allen~~ and David J. Allen, Plaintiffs

^{vs}
Wm Swining and Charles D.
Moody, Henry Kattelman-
Murray,
J. G. Hammel - and
Wm House Defendants

In the Jefferson Circuit
Court. May Term 1866.

Plaintiffs state that they did on the 20th
day of June 1865, lease to Wm Swining
and Charles D. Moody, two of said Defendants
for a term of ten years the following real
estate situated in Jefferson County Missouri
to wit: The E¹/₂ of the SW¹/₄ of Sec. 36, & the N¹/₂
of the SE¹/₄ & the SW¹/₄ of Sec. 35, all in Town=
Ship Forty two, Range five East, containing
three hundred and twenty acres: & that said
premises were leased to said Swining &
Moody "for the purpose of cutting the
timber and wood therefrom &c."

Plaintiffs further state that among other
stipulations and covenants contained in
said lease, a copy of which is here to
the Court shown, are the following
to wit: "And the said parties of the second

part (meaning the said Turning & Moody) agrees to pay within the first five years, in consideration of said lease, said party of the first part (meaning the said Plaintiffs), the sum of Thirty two hundred dollars (\$3200) in manner following viz: Four hundred and Fifty dollars (\$450) on the execution of this lease, and the sum of ten dollars (\$10) in acre for every acre cut over on said premises until the remaining sum of Twenty Seven and Fifty dollars (\$2750) shall have been paid; And the said party of the second ^{part} agrees that payment shall be made every three months and that the first payment shall be made the 20th day of December A. D. 1865; - That an additional sum of two and one half dollars shall be paid for every acre that shall be cut over east of the main dividing ridge to be credited on on the Thirty two hundred dollars; and that not less than the sum of Five hundred & fifty dollars shall be paid every year during the first five years of this lease, in addition to the first payment of (\$450) dollars, provided the sum of Thirty two hundred dollars shall not have been previously paid: it being the intent to pay that amount and no more. It is

however agreed that an additional sum of two and one half dollars in a acre shall be paid on two months of said land to the said John O'Halloran at the next settlement above mentioned in consideration of the use of his mill in cutting said timber" And the parties to this lease agree that the said party of the first part shall have a lien on all the timber wood, staves, and fixtures for the security of the payment of rent as the same shall become due; and that all the provisions of Art No. 13, of the lease of even date herewith, between John O'Halloran and the said party of the second part shall apply to become part of this lease, including lien and right of forfeiture and sale on the part of the party of the first part & conditions of reinstatement of party of the second part; the same as if said article No. 13, were here transcribed and the said Article No 13, shall govern proceedings in case of default by party of second part," and that said article No 13, referred to above is in words and figures as follows viz: And the said party of the second part agree that the said party of the first part shall have a lien upon all the timber, staves, cordwood and fixtures to the mill to secure the payment

of said rent as it accrues & the performance of all the covenants & conditions of this lease on the part & in case default shall be made by the party of the second part in the payment of rent or in the performance of either of said covenants then the party of the first part shall ^{have} the right to forfeit this lease & to take immediate possession of said timber, staves, cordwood & fixtures & sell the same at public sale after having given thirty (30) days notice of the time, place and terms of said sale by publication of the same in any newspaper published in said Jefferson County or in St Louis County, if there be none published in Jefferson County & also by posting up two (2) written notices of said sale one at some conspicuous place on said mill above described and one on the door of the Post Office at Sulphur Springs in said Jefferson County - and the party of the first part shall apply the proceeds of such sale, if any there be, to the payment of said sale & the indebtedness due the party of the first part, & the surplus if any shall be paid to the party of the second and it is further agreed that in case said party shall prior to any actual sale

as above provided, pay said party of the first part whatever is due to him under this lease & costs of said proceedings, then the party of the first part shall relinquish said timber, staves, cordwood, fixtures &c. & the party of the second part shall be reinstated in the possession of the same, and shall be permitted to proceed as originally in the prosecution of their business, provided they do so immediately."

Plaintiffs further state that in pursuance of said lease and the covenants and stipulations therein contained, the said Twining and Moody proceeded in the year 1865, to cut the timber off said land on the "East side of the Main dividing ridge," which runs through said land and have up to the first of April 1866, chopped over about one hundred and thirty acres of said land: that by the terms of said lease as set forth in the foregoing part of this petition said Twining & Moody have become liable to pay Plaintiff \$12.50 per acre for seven months of said one hundred and thirty acres and to the said John O'Halloran one of said Plaintiffs the sum of \$15.00 per acre for two months of said one

hundred and thirty acres, making the total
Amount due said Plaintiffs under said
lease come to \$16 83.

Plaintiffs further state that said Swining
Moody have erected on said premises ^{a sawmill},
and have sawed about one hundred & fifty
thousand staves - that they have cut about
one hundred cords of wood
and have on hand other timber not yet
removed from the land, upon all of
which as well as the fixtures to the mill
Plaintiffs have a lien for the payment
of said sum of \$16 83, by reason
of the failure of said Swining & Moody
to pay the same when it fell due - no
part of which is yet paid, although they
have been often requested to do so.

Plaintiffs further state that within the last
few days the said Swining & Moody have
turned over to Henry Kattelmon —
Murray ^{Mr. Stouse} and J. G. Hammel said Kattelmon
timber &c which they the said Kattelmon
Murray & Hammel are removing
to the R. R. with the intent to ship the same
to St. Louis to be there sold. Plaintiffs
over that said Kattelmon, Murray, ^{Stouse} and
Hammel well knew before they received
said staves & timber that Plaintiffs had

a lien thereon for the payment of their rent and that there was a larger sum for rent due Plaintiffs from said Swearing & Moody.

Plaintiffs further state that said Swearing Moody, ^{Stover} Murray & Hemmel are utterly insolvent so that a suit at law against them would be unavailing; that Plaintiffs are in great danger of losing their lien upon said stones, timber & mill fixtures by reason of the acts of all the defendants which would cause irreparable damage to them.

Plaintiffs therefore pray the Court to grant them an injunction against the defendants to restrain and enjoin them from removing said stones, cordwood - other timber or mill fixtures from said land or from the landing at Sulphur Springs or out of Jefferson County Mo., and to order the same to be delivered over to Plaintiffs so that they may proceed to sell the same in pursuance of the terms of said lease & for other proper relief.

Thomas D. Shivers,
Attys for Plaintiffs.

James Buys Jr. makes oath & says that he believes the above petition & the matters

therein as stated an true -
Sworn to & subscribed
before me April 11th
1866

Henry Fothergill
Notary Public

James Burgess - Jr

James Burgess & Co

or

Swining & Co

Petition for an Injunction
from

We, the undersigned, John O'Fallon by
his agent James Burgess Jr. & James Burgess Jr.
as principals Michael H. Green

acknowledge ourselves to be indebted to Wm.
Trimming, Charles D. Moody, Henry Kattelmann
Murray and J. G. Hammel ^{and Wm. House} in
the sum of ~~thirty three hundred fifty~~ ^{five thousand} dollars
for the payment of which we bind our-
selves, our heirs, executors and administra-
tors

The condition of the above bond is, that
whereas James Burgess, Jr. Wm. Burgess, Eliza
Burgess, Elizabeth Allen, John O'Fallon Jr.
and David G. Allen, have made this day
application for an injunction before two of
the Justices of the County Court of Jefferson County
Mo. against said Wm. Trimming, Charles D.
Moody, Henry Kattelmann Murray
and J. G. Hammel ^{and Wm. House} to restrain them from
removing any staves, store timbers, cord
wood, mills and mill fixtures from
the land leased by said Wm. Trimming
and Charles D. Moody of said James
Burgess, Eliza Burgess, Wm. Burgess, Elizabeth
Allen and John O'Fallon, by Lease dated
20th of June 1865, and from removing the
same out of Jefferson County, and where-
as an injunction has been granted by
two of the Justices of said County Court,
as requested; Now therefore if the
said Applicants for said injunction shall

~~secede~~ abide the decision which may
be made thereon and pay all sums
of money, damages and costs, that
may be adjudged against them, if
the injunction shall be dissolved
then this bond to be void, other-
wise to remain in full force,

Witness our hands and
seals this eleventh day of
April eighteen hundred
and sixty six at Hillsboro
Jefferson Co. Mo.

John O. Hallam *(seal)*
By his agent James Burge *(seal)*



James Burge *(seal)*
W. H. Greene *(seal)*
G. W. Horney *(seal)*

approved April 11 1866
Ira J. Beckett
William Hendrickson
County Court Justices

James Ruger Jr. Wm Ruger,
Elija Ruger, Elizabeth
Allen, David J. Allen &
John O'Hallon Jr. Plaintiffs

vs
Jm Swining, Charles D.
Moody, Henry Rothelmon,
Murray, &
J. G. Hammel, Defts

To the Sheriff of the County of
Jefferson, Treating:

Whereas on the 11th day of April 1866, the
above Plaintiffs presented their petition to
the undersigned Two Justices of the County
Court of said County, in vacation praying
an injunction against the above depts.
to enjoin & restrain them from removing
any stones, stone timber, cord wood, or
mill fixtures from Sulphur Springs
landings or out of Jefferson County which
was cut by them or either of them upon
the following real estate in said
County to wit: The E $\frac{1}{2}$ of the NW $\frac{1}{4}$ Sec.
36, & the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ & the NW $\frac{1}{4}$ of Sec.
35, all in Township 42, Range 5-6,
Containing 320 acres & also to restrain
them from removing said stones, stone
timber, cord wood or mill fixtures from

from said land: That said Plaintiffs showed to the satisfaction of the Court - That said Defendants had been duly served with notice of their intended application for an injunction ~~and it appearing~~ from said petition that they are entitled to the relief prayed for.

You are therefore Commaneded to give notice to the said Defendants, ~~Wm Swearing~~, Charles D. Morley, Henry Mattelman — Murrey, & J. G. Hummel, their agents, employees and servants that they are hereby ordered, enjoined and restrained from removing any staves stove timber - Cord wood or mill fixtures from said premises or from Sulphur Springs Landing or from Jefferson County Mo. And you are further make return of this writ to the Circuit Court on the first day of the next Term thereof to be begun & held at Hillsboro on the 2nd Monday of May 1866. & have you then & there this writ.

In witness whereof we, Wm Hendrickson and Ira J. Beckett, two of the Justices of the County Court of Jefferson County & ofore said have here to subscribed ~~our~~ names, this 11th April 1866.

Ira J Beckett

William Hendrickson

County Court Justices

James Burroughs
at
per
Swain & Mundy

Attest April 11th 1866,
James A. H. Appleby

James Burgess J. W. Burgess Elgin
Burgess Elizabeth Allen David Allen
& John O'Fallon Jr Plaintiffs

vs
W. L. Swining Charles D. Murdy, Henry
Kettlemann Murry &
J. S. Samuel Defts

To the Sheriff of the County of Jefferson
Whereas on this 11th day of April 1866, the above plaintiffs
presented their petition to the undersigned two Justices of
the County Court of said County in vacation praying
an injunction against the above Defts. to enjoin & restrain
them from removing any staves stave timber cordwood
or mill fixtures from Sulphur Spring Landing or out of
Jefferson County which was cut by them or either of them
upon the following real estate in said County to wit
the E 1/2 of the S W 1/4 Sec 36 & the N 1/2 of the S E 1/4 & the S W 1/4
of Sec 35 all in Township 42 Range 5 E, containing
320 acres & also to restrain them from removing said
staves, stave timber cordwood or mill fixtures from
said land, that said plaintiffs showed to the satisfaction
of the Court that said defendants had been duly served
with notice of their intended application for an injunction
now and at appearing from the petition that they are
entitled to the relief prayed for.

It is therefore commanded to give
notice to the said Defendants W. L. Swining Charles D. Murdy
Henry Kettlemann Murry & J. S. Samuel

their agents employees & servants that they are hereby
ordered, enjoined & restrained from removing any staves
stave timber, cordwood or mill fixtures from said
premises or from Sulphur Springs landing or from
Jefferson County Mo And you are further to make
return of this writ to the Circuit Court on the first
day of the next term thereof to be begun and held at
Hillsboro on the 2nd Monday in May 1866 & have you
then & there this writ

In Witness whereof we W^m Hendrickson
and I^m J^m Beckett two of the Justices of the County
Court of Jefferson County aforesaid have hereto
subscribed our names this 1st April 1866

I^m J^m Beckett
William Hendrickson

A True copy of the original order in this behalf
made on file in my office.

Seal

Witness Samuel A. Peppy Clerk of
the Circuit Court of said Jefferson County
with the seal of said Court hereunto
affixed this 1st day of April 1866
Samuel A. Peppy clk

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 *William Furning, Charles D. Moody, Henry Kattelman, Murray, J. E. Hammel, and William Stone*

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 unto *James Burgess, Jr. William Burgess, Eliza Burgess, Elizabeth Allen, John O'Fallon, Jr. and Daniel J. Allen*

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

Witness, *Samuel W. Rapp*, ~~Elias F. Honey~~, Clerk of our said Circuit Court, with the seal thereof hereunto affixed, at office in Hillsboro, this *Eleventh* day of *April* A. D. 1866

Seal



Samuel W. Rapp
Clerk Circuit Court.

Presented the within writ at the County of Jefferson
 Missouri on the 12th day of April 1866 by delivering
 to C. D. Moody the first one served a true
 copy of the within writ & annexed petition and
 by delivering to Wm Twining's agent - Henry Kallstrom
 & R. D. Munoy ^{each} a true copy of the within writ &
 order of injunction

C. C. Fletcher Sheriff

By John Vinyard Deft.

TO JEFFERSON CIRCUIT COURT

May Term, 1866

James Burgess Jr

Wm Burgess, Eliza

Burgess, Elizabeth Allen,

John O Fallon Jr and

David J. Allen

vs Wm Twining

Charles D Moody, Henry

Kallstrom et al

Sheriff's fees \$7.50
 12.00

chd

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 *Henry Ratteman*

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
James Burgess Jr et al

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

Elias F. Honey
Witness, *ELIAS F. HONEY*, Clerk of our said Circuit

Court, with the seal thereof hereunto affixed, at office
in Hillsboro, this *11th*

day of *April* A. D. 18*00*

Samuel A. Reppe
Clerk Circuit Court.

TO JEFFERSON CIRCUIT COURT

May

Sept, 1866

James Burgess & Co
for summons
Edward Moody et al.

For pay for McDanielman

680
19,73-
9,46
3-11-63

James Bingen Jr, & Others } In the Circuit
vs. } Court of Jef=
Moody & Twining, & Others } ferson County

Answers of D. R. Murray, J. S. Mann
and J. H. ~~Starr~~ ~~Starr~~, defendants in the above
entitled Cause. - These Defendants Answer=
ing the petition of Plaintiffs, state that
they have no information or knowledge
sufficient to form a belief of whether the
Defendants, William Twining & Charles D.
Moody, cut timber on 130 acres of land belong=
ing to Plaintiffs, nor whether said Moody
& Twining were indebted to Plaintiffs in
the sum of 1683 dollars, or any other sum
or not. But these Defendants state that
before this suit was brought, they purchased
of said Moody & Twining 35000 staves at
\$12 per thousand and 20000 of heading
at \$14 per thousand, amounting in ^{the} aggreg=
ate to 700 dollars, - That said staves and
heading were received in payment of that
amount of money, which the said Moody
and Twining justly owed to these De=
fendants for their work & labor done and
performed for them in the manufacture
of the same, And these Defendants state
that said staves & heading were sold & delivered
to these Defendants before this suit was brought.

These Defendants therefore state that they are the legal owners of said Slaves & heading, & were when this suit was brought, and they therefore deny that Plaintiffs had any lien upon said Slaves & heading when this suit was brought, - & deny that they had any right to enjoin & restrain these Defendants from removing or disposing of said property.

A. Green
Atty for Defts.

J. G. Hamner one of the above defendants makes oath and says the above Answer and the matter therein as stated he believes to be true. John G. Hamner
Sworn to and Subscribed
before me this 15th
day of May 1866
Saml A. Rappell

In Circuit Court
Jefferson County

James Bingham &
John B.

Moody & Lumbering
& John

Answer
of Murray, Heamuel,
& Stone

Filed May 10th 1866.
Exam. A. B. P. P. B. B.

Whereas James Burgess Jr, William Burgess,
Eliza Burgess, Elizabeth Allen, and Jas. O'
Fallon Jr, on the 20th day of June AD 1865
leased to Twining and Moody certain lands par-
ticularly described in said lease for the
purpose of cutting the timber thereon &
and whereas it was provided by said
lease that said O'Fallon Jr and Burgess^s
Heirs should have a lien upon all the
staves, stove timber, cordwood, and mill
fixtures for the payment of the rent for
said land and that in case default should
be made in the payment of the rent
for said land and it fell due the said
lessors should have the power to sell said
staves, stove timber, cordwood, and mill fix-
tures, to satisfy the rent due for rent said
whereas it was further provided that in case

the said Turning and Moody should pay said lessors the amt. of rent due them before any actual sale under said lease then they should have the right to resume their power under said lease; and whereas it is desired by said lessors to lease said land to other parties immediately and whereas the said Turning & Moody are indebted to said O'Fallon and Burger's heirs under said lease in about the sum of Seventeen hundred Dollars and are not desirous of resuming said lease. Now Therefore in consideration of the premises and of the mutual agreements on the part of the parties to their contract the said Turning & Moody hereby release to said lessors any right they still retain and transfer to said lessors all the bondwrit, stores, Haverstock, bedding, & mill pictures, & things or may have under said lease, to pay the amount of rent due them and resume the power of said lease; and the said lessors hereby release the said Turning & Moody from any further liability to them for rent and agree to take the

cordwood, staves, stave timber, heading, and mill
fixtures, for their debt aforesaid of Seventeen
Hundred Dollars - It is further understood by the
parties hereto that this is a full settlement
of said claim for rent and shall operate as
a receipt in full for that claim -

May 28th 1866 - Moody and Yarnum

James Burgess Jr
William Burgess
Olga Burgess
Elizabeth Allen By
Geo O Fallon Jr By
James Burgess Jr

Agreement 1

Receipt

Burgess & Hens

Sho. O'Sullivan &
and

Stearns & Moody

Coby & Co returned
to Conway, Mass

James Burgess, Jr. W^m Burgess }
 Eliza Burgess, Elizabeth Allen, }
 John O'Hallow Jr. & David J. Allen, - Plaintiffs }
 Against
 W^m Twining, & Charles D. Moody, }
 Henry Kattlemans, - Murray, }
 + J. G. Hamman, & W^m Stouss, - Defendants }
 In the Circuit Court
 of Jefferson County,

Henry Kattlemans, one of the above Defendants, for Answer to Plaintiffs petition, states that he has ^{no} knowledge or information sufficient to form a belief of whether the said defendants W^m Twining & Charles D. Moody chopped timber on one hundred & thirty acres of Land belonging to Plaintiffs, as described in their petition, nor whether they owe Plaintiffs sixteen hundred & eighty three dollars, or any sum whatever for the rent of the Land described in their petition, and therefore proof is required.

This Defendant states that by the terms of the Lease from Plaintiffs to said Twining and Moody, they had the right to sell and dispose of stave-timber as fast as they sawed it, and that this was the object of their undertaking. And hence this Defendant did on the 6th day of April 1866, purchase of said W^m Twining & Charles D. Moody two Lots of stave-timber, then sawed at their sawmill on said premises, - one Lot of 63500 Staves at \$12 per 1000, amounting to \$762.00, and one lot of 25000 Staves at \$9^{per 1000}, amounting to \$225.00, - making the total sum of \$987.00

Which money this Defendant paid to said
Twining & Moody at the time for said staves,
by creating their Account with that amount.
As this Defendant states that said Twining
and Moody were at that time indebted
to him on Account, for Store ^{or other property} goods, they had
previously bought of him in the sum of
\$982.00, and that this Defendant therefore
bought said staves in good faith, and re-
ceived ^{them} in payment of said debt. - He fur-
ther states that of the Lot of 63500 staves
61000 had been delivered to him by said
Twining & Moody, and he had hauled them
to the Railroad ready to be shipped before
Plaintiffs instituted this suit, and that
the 20000 staves had also been delivered
to him, and he had turned them over to Wm
House, who had hauled them away before
the commencement of this suit. - This Defendant
therefore says that he had in good faith
bought and paid for said staves and they
were all delivered to him before this suit
was commenced, - and that therefore his
right and title to them was complete.
This Defendant therefore denies that the
Plaintiffs had any lien upon said staves
for the payment of rent, at the time this suit
was brought, and when the injunction
was served upon him. - He therefore says
that he is the legal owner of said staves,
and he denies that Plaintiffs have any
lien upon them, or any right to enjoin
him from removing or disposing of said
property as he pleases. - This Defendant there-

fre denies that Plaintiffs have any right
legal or equitable to enforce their lien against
said property, or to any judgment against
this Defendant for said property, or to affect
his right to the same, But this Defendant
claims that said injunction ought never to have
been granted against him, and that the same ought
to be dissolved

A. Green, Newcombe
Attorneys for D^d Kattleman

Henry Kattleman, a defendant, makes oath
and says the above Answer and the matters therein
as stated he believes to be true,
Sworn to and Subscribed before
me this 15th day of May 1866 Henry Kattleman
Saml A. Rappell

In Circuit Court
Jefferson County

James Bingham,
and Others

vs.
Wm. Y. Downing,
J. B. D. Moore, &c.

Shower of
Henry Kallman

Filed May 14th 1866.
Saml. A. D. P. by Ellis

James Burgess Jr, W^m Burgess }
Eloja Burgess, Elizabeth Allen, }
John O'Fallon Jr, & David J. Allen, - Plaintiffs
Against

W^m Twining, & Charles D. Moody, }
Henry Kattelman, - Murray, }
J. G. Hammon, & W^m Stouse, - Defendants

} In the Circuit Court
} of Jefferson County Mo.
May Term 1866.

Now at this day comes Henry Kattelman, one of the above Defendants, and moves the Court to dissolve the injunction granted in the above Cause, so far as it applies to the property claimed by this Defendant, as set forth in his Answer, for the following reasons;

- 1- Because the Plaintiffs had no lien on the Stave timber claimed by this Defendant, at the time he was enjoined, as this Defendant had bought & paid for the same, & it was delivered to Defendant before the injunction was served upon him.
- 2, - Because this Defendant was the legal owner of said Stave timber described in his Answer at the time this suit was brought and the injunction ought not therefore to have been granted against him, in re-

gard to said property.

3 - Because no sufficient legal or equitable grounds exist why this Defendant should be enjoined & restrained from removing and disposing of said property

4 - Because said injunction is illegal and inequitable, and ought never to have been granted against this Defendant in regard to said property.

} A. Green & C. A. Newcomb,
} Attys for W. Kattelman

In Circuit Court
of Jefferson County

James Burgess Jr,
vs.
Others.

Moses & Sonning,
vs
Mary Hattenman &
Others,

Motion

by Hattenman
to disprove the
imputation

Filed May 15th 1866
Jas. A. A. by Ellis

COUNTY OF JEFFERSON.

The State of Missouri,

To Joel E. Johnston

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 fourth, 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

vs et al
Plaintiff and

Henry Waldman is

Defendant, on the part of

Plaintiffs

and herein you are in no wise to fail.

WITNESS, SAM'L A. REPPY, Clerk of our said Court,

with the Seal thereof hereto affixed, at office, this

15 day of

May

A. D. 1866

Sam'l A. Reppy Clerk.

I enclose \$50 within at the County
of Jefferson Missouri on the 15th day
of May 1866 on Jesse B. Johnson
by reading in hearing

C. C. Fletcher

Sheriff
By John Vinyard Deft

SUBPENA.

TO
Jefferson Circuit Court

..... May Term, 1866

James Durgess
vs
Henry Katterman

Sheriff fee 50

COUNTY OF JEFFERSON.

The State of Missouri,

To

*John C. Johnson, John McLean
Mend Haines & John W. Vinyard*

(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 *18th* day of *May* *1866*, 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

Plaintiff and

*James B. Rogers vs. Robert
Henry Caldwell*

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

WITNESS, SAM'L A. REPPY, Clerk of our said Court,

with the Seal thereof hereto affixed, at office, this

15th day of *May*

A. D. 186*6*

Samuel A. Reppy

SUBPENA.

TO
Jefferson Circuit Court

May Term, 1864

James Burgess, et al
vs
Henry Kallstrom

Witnesses for Defendants

Jesse G. Johnston
John McLean
Wm. Stover
John Vineyard

Fletcher Sheriff 1864

I executed the within Subpoena
on the within named John McLean
and John Stover by reading the same
in their presence and hearing at
the Court of Jeff. Court on 2nd March
on the 17 day of May 1864
J. G. Johnston
J. H. Johnston

COUNTY OF JEFFERSON.

The State of Missouri,

To

John Vinyard

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 18th day of May A. D. 1866, 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 Waller & others

Plaintiff and

Meady & Dwining & Co. Callahan

Defendant, on the part of Plaintiff

and herein you are in no wise to fail.

WITNESS, SAM'L A. REPPY, Clerk of our said Court,

with the Seal thereof hereto affixed, at office, this

17th day of May

A. D. 1866

Sam'l A. Reppy Clerk.

Executed this 2nd day of May 1866
by reading the same in the presence and
hearing of the within named John
Vinyard,
D. C. Fletcher Sheriff

SUBPENA.

To

Jefferson Circuit Court

May Term, 1866.

James Burgess
vs

Perin & Moody
& Henry Kattenman

Witness for all

John Vinyard

Fletcher fee 50

James Burgess Jr
William Burgess
Eliza Burgess Elizabeth
Allen, John O'Fallon &
David J. Allen, Plaintiffs

vs
William Trining, Charles
O'Moody, Henry Kattenbach
— Murray, J. G. Hammel &
Wm Stouck Defendants

May Term, 1866

of the Circuit
Court of Jefferson
County —

Charles O'Moody, one of the above
named Defendants, for answer to
Plaintiffs petition ~~avows~~ admits that
he did together with William Trining on
the 20th June 1865 lease from said
Plaintiffs the real estate described in said
petition and for the purpose therein mentioned.
Said Defendant further admits that his
lease contains the stipulations and cove-
nants described in said petition.

Said Defendant further admits that he
did proceed in pursuance of the terms of
said lease to cut the timber and wood
off of that part of said leased land de-
scribed as lying "east of the main divi-
ding ridge" — but said Defendant denies
that he has up to the 1st April A.D. 1866 or

Since chopped over one hundred and thirty acres of said land, or "about" that amount, and that he has become liable to pay said Plaintiffs the sum of \$1683.

And said Defendant avers that he has under & in pursuance of the terms of said lease, according to his best knowledge and belief, cut a portion of the timber and wood on seventy five acres on said leased land amounting in value to not more than one half $\frac{1}{2}$, the value of the timber & wood on said seventy five acres at the time when said Defendant commenced cutting therefrom under said lease, and that one half $\frac{1}{2}$ ^{the date of the commencement of this suit} the value of the timber and wood at ^{remained & is} said time still remains standing on said seventy five acres - and said Defendant avers that there is due said Plaintiffs the sum of Four hundred and ninety two Dollars and seven cents \$492 $\frac{7}{10}$, and no more.

Said Defendant admitting that there is on said leased land a sawmill and one hundred cord of cord wood avers that there is in addition fifty 50, cords of slave timber, a large amount of down timber amounting in value to \$100, and one hundred saw logs amounting in value to Three hundred Dollars.

Said Defendant denies that he has at any time "turned over" to Henry Kattlemann — Murray, Wm Stouse and J. G. Hammel or either of them any staves timber &c, but avers that in pursuance of the terms of said lease and in accordance with its spirit & to pay a bona-fide & existing debt he sold to said Kattlemann and said Murray certain staves which they have in part removed from said leased land —

Said Defendant further avers that he received said lease for the purpose of cutting timber and wood from the leased land, & selling the same — That it was the gist of the said lease, that ~~he~~ he has done nothing not in accordance with the spirit & terms of said lease — & that ^{was at commencement of this suit & now} there is an abundance of security to ^{the} Plaintiff in the way of fixtures, cord-wood, stove timber & sawlog, above mentioned to secure said indebtedness of \$492⁰⁰ due ^{or \$2000} to Plaintiff — & that he has sustained large damages ^{or \$2000} in consequence of the granting of this temporary injunction by the County Court of St. Jefferson County — & he prays, ^{that} injunction may be dissolved & that upon a full hearing of the merits of this case,

that such damages may be awarded
to you Defendant as may appear right
& that the Court will grant such further
relief as to the Court may seem right
to the extent of your Defendant may
require.

Charles D. Moody per se

Charles D. Moody, Defendant, makes
oath and says the above Answer and
the matters & things therein contained as stated
he believes to be true.

Charles D. Moody

Subscribed to
before me this 18 day of May
1886
Samuel H. Pippy Clerk

Circuit Court, May Term 1886
Jefferson Co. Missouri,

James Burges Jr
et al

Wm. T. Moring
Chas. D. Moody

Answer of
Chas. D. Moody

Injunction

Filed May 18th 1886
Samuel H. Pippy Clerk

Public Sale of Staves & heading.

By virtue of an Order of sale of the Circuit Court of Jefferson County, Missouri, given at the May Term 1866 thereof, on the 19th day of May 1866, in two certain cases of injunction, in which James Burgess jr. and others and John O'Fallon jr. respectively, are plaintiffs and Wm. Trining and Charles D. Moody and others are defendants, and which said Order is directed to the undersigned, Sheriff of said County of Jefferson I will on

Saturday the 9th day of June 1866, between 9 o'cl. A.M. and 5 o'cl P.M., at the town of Sulphur Springs, on the O. M. R. R. in said County, sell at public auction to the highest bidder for cash the following personal property to wit;

" 123,500 staves and
" 20,000 heading,

9000
2100
\$11100

Chas C Fletcher
Sheriff of Jefferson Co Mo

Paul Power
65 Worcester

Worcester
28 Worcester 46 Worcester
at Mill -

28 Worcester all done
at the mill

Worcester
Worcester

more for
4 Worcester Worcester
on Mill -

7 Worcester done on
at Mill

I pursuance of the above order I did on
the 9th day of June 1866 at Sulphur Spring Landing
in ~~the~~ County of Jefferson sell the foregoing
property of Moody & Winney after given ten
days notice of the time terms & place of sale
by six written notices put up in six of
public places in said County 123.500 Staves
more or less for the price & sum of nine hundred
dollars to Anton Yerger Also 20.000 heading
more or less for the price & sum of two hundred
& ten dollars to Anton Yerger he being the
highest ^{bids} for the said property which was
struck off to him at said price & sum

C. C. Fletcher
Sheriff

State of Missouri In The Circuit Court
County of Jefferson 5 May Term A.D. 1866.

Among other proceedings, the following remains of Record

James Burgess & Etal

vs

Injunction

Chas. D. Moody & Wm. G. Tinning

Now at this day comes the
Said Plaintiff, and on his application the Court doth
order that the Sheriff of Jefferson County Missouri, advertise,
for Sale, and proceed to Sell the personal property in
Plaintiffs petition mentioned, by giving such notice of
the time, terms, and place of Sale, and of the property
to be sold, as the law directs in such cases made and
provided, and that he make due return of his proceedings
herein to this Court, at the adjourned term thereof
to be begun and held at the Court House in Hillsboro
in Said County, on Monday June 18th 1866.

A true copy from the Record

In Testimony Whereof I have hereto
set my hand and affixed the Seal of
Said Court this 19th day of May 1866.

Samuel H. Pepper Clerk

Post Office Circuit Court
June Term 1846.

James Burgess & Son
203 Order of Sale
W. D. Monday and W. Tuesday

Replevy bill

\$2.50



James Burgess, & Others, - plaintiffs
Against

Charles D. Moody, & Others, - defendants,

} In the Circuit Court
} of Jefferson County Mo,

Henry Kattlesman, one of the Defendants in the above entitled Cause, moves the Court to set aside the Judgment in the above Cause and grant a new-trial for the following reasons;

- 1- Because the Court erred in overruling the motion of this Defendant, to dissolve the injunction so far as it applies to the property claimed by this defendant.
- 2- Because the Court erred in construing the law governing the case,
- 3- Because the finding of the Court is against the evidence,
- 4- Because the finding of the Court, & the judgment thereon, is against the law and evidence in the Cause,
- 5- Because the Court erred in refusing the instructions or declarations of law asked by this Defendant,
- 6- Because the Court gave illegal & improper instructions or declarations of law for the Plaintiffs
- 7- Because the Judgment is for the wrong party,

- 8- Because the Judgment is against the law of the Cause
- 9- Because the Court received illegal and improper evidence,
- 10- Because the Court admitted in evidence the Petition of John O'Hallon Jr, against against Charles D. Moody William Twining and others,
- 11 Because the Judgment is for the Plain
tiffs, when it should have been for the Defendants,
- 12- Because the Court erred in admit
ting fraud evidence offered by Plain
tiffs to vary and contradict the written agreement ~~made~~ made by Plaintiffs and said Moody & Twining, compromising this suit, & which was read in evidence by Defendant,

A. Green
J. A. H. Smith
Attorneys for Henry
Katterman

Geo Rogers
Father

B,

Worcester, & vicinity
of Mass

Providence

For Providence

Filed Nov 12 1866

Samuel A. Phelps

Edith

3 In the Circuit Court of Jef=
3 ferson County, Nov. Term 1866.

Be it remembered that, on this 17th day of November 1866, at the November Term of said Court, the above entitled Cause coming on to be heard, and being submitted to the Court, on a motion heretofore filed by Henry Kattelman, one of the Defendants in said Cause, to dissolve the injunction granted therein, and which motion is as follows, to wit, (here copy same) And on the hearing of said motion, the Plaintiffs to sustain their Cause introduced the following evidence, to wit - (here copy said Lease) 1st a Lease, executed by Plaintiffs to Moody & Twining, on 20th of June 1865, as follows, James Burgess, ^{one of the Plaintiffs} who states that, some time in September 1865, said Moody & Twining took possession of the Lands previously leased to them by the Plaintiffs. They erected ^{and attached} a Stave ~~to a saw mill on said leased premises~~ ^{at the time they took possession} and at first they cut wood mostly on the land they had leased of John O'Hallon, - they cut ^{timber} over about 81 acres of Plaintiffs land, - made over 200,000, or 300,000, staves in the winter & spring of 1865, & 1866, and disposed of the same, - the most of the staves they had on hand about the first of April 1866, were made of timber taken from Plaintiffs land & perhaps some from O'Hallon's Land, About the time this suit was brought, Moody & Twining had on the premises, about 66 cords of wood, & 20 cords of stave-timber, undisposed of, & this was about all they left there. About the 38th of March 1866, Henry Kattelman came to me at Sulphur Springs, and expressed some uneasiness about the firm of Moody & Twining, - he said the firm owed him 900 & odd dollars,

and he must have his money, & that he meant to try and get it. I said, if he would give them time I thought he would get his money. He said he meant to have it. I told him, I had a lien on the Staves, wood &c at the Mill by virtue of the Lease I had made to Moody & Twining, - and that they were owing me for the rent of the premises, - I told him there were two payments past due on said Lease, - but I did not tell him the amount, - he again said he must have his money, -

In another conversation with Henry Kattleman, about the 10th of April 1866, he said he knew there was a Lease at the Clerk's office at Willsboro to Moody & Twining, but it was not on record, and he did not read it, ~~as, ^{he} ~~was~~ ^{it} ~~was~~ ^{not} ~~on~~ ^{on} ~~record~~ ^{record}~~ - but that he had bought the Staves before this, - said Kattleman hauled the most of the Staves to Sulphur Springs before the 10th of April 1866, - I do not know of my own knowledge that Moody & Twining are insolvent. They paid in \$400, when the Lease was made, & this was all the rent they had paid when this suit was brought, - The installments falling due under the Lease, in December 1865, and March 1866, were then due and unpaid, and have not been fully paid yet. About the time this suit was brought Moody & Twining were indebted to Parker, M. W. Green, - Henry Kattleman, Jno. O'Fallon & these Plaintiffs, and disposed of nearly all their property in payment of said debts, and the balance on compromise with these plaintiffs.

John L. Thomas, - says, I had a talk with Henry Kattleman at the April Term 1866 of the County Court, - He ^{to get me & Slugs} came to bring a suit, ^{by attachment} against Moody & Twining, - I told him that James Burgess had a Lease which was a lien on the Staves, cord-wood, and other timber taken off the Land.

On the 10th of April 1866, I served a notice on Moody & Twining, that Burgess & O'Fallon regarded the

We, the undersigned, Henry Kattelman
as Principal and E. Amor and Joseph White
as Securities acknowledge ourselves in-
debted to James Burgess Jr, Eliza Burgess, Eliz-
abeth Allen, John O'Hallow Jr, and David J.
Allen in the sum of Two thousand dollars,
to be void upon this Condition; Whereas, Henry
Kattelman has appealed from the Judgment
of the Circuit Court of Jefferson County Mis-
souri to the Second District Court of Missouri, in
an action, wherein said James Burgess, Jr, Eliza
Burgess, Elizabeth Allen, John O'Hallow Jr, and
David J. Allen are Plaintiffs, and Charles D. Moody
and William Twining, Henry Kattelman, and
others are Defendants, Now, if said Henry
Kattelman shall prosecute his appeal with due
diligence to a decision in said District Court
and shall perform such Judgment as shall
be given by the said District Court, or such as
the said District Court may direct the Circuit Court
to give, and if the Judgment of such Court or
any part thereof be affirmed, that he will Com-
ply with and perform the same, so far as it
may be affirmed, and will pay all damages
and costs which may ^{be} awarded against him
the said Appellant, by the said District Court,
then this recognizance shall be null and
void, otherwise to remain in full force,

In witness whereof, we have hereto sub-
scribed our names and affixed our seals
this 12th day of December 1866.

Approved date afore- Henry Kattelman (Seal)
said, E. Amor (Seal)
Samuel A. Reppeck Joseph White (Seal)

In Circuit Court
Jefferson County

James Dingess,
and others

vs.
Moore & Fleming
Henry Kuttelanson
et al

Done
at Jefferson

Filed Dec 12 1866.

Samuel M. K. P. J. Clerk

Lease as forfeited, and that they would proceed to enforce their lien on the Staves and other property, for the payments of the rents due by the Lease, The Lease was not then recorded, (which notice is as follows, (here copy same). In the said Conversation with Kattleman, I told him that I had been spoken to by James Burgen to bring suit for him to establish his lien on the Staves and Cord woods &c, and if his Kattleman's suit would interfere with Burgen, I could not act as his Counsel, as Burgen had spoken to me first. He said he intended to attach the mule, & horse, & then drew up the attachment paper, for Kattleman,

John Vinyard - States, I ^{went up to} some - the attachment of Henry Kattleman against Moody & Twining, on the 5th of April 1866, - I went to his House, and waited awhile, & then Moody came over, and he and Kattleman compromised, by which Moody & Twining let Kattleman have the Staves in payment of the debt they owed him, and by this agreement & compromise I returned the attachment without a levy,

M. Neely - I saw Kattleman the day after he bought the Staves. He commenced hauling them away from the Factory on Friday & his team hauled some on Sunday, - some of the Staves were hauled to Sulphur Springs, and some were scattered along the road between the saw-mill and Sulphur Springs.

Jesse B. Johnson, - says, I was employed by Moody & Twining, & worked for them in the winter and spring of 1866, in hauling timber to their Saw-Mill, near Sulphur Springs, in Jefferson County, - The most of the timber they sawed in the winter was taken from John O'Fallon's Land, - that in March & April, they sawed mostly timber taken from James Burgess's Land, - though some was taken from O'Fallon's Land, - I cannot say whether the staves at the Saw-Mill on the 3rd of April 1866, (which were taken away by Henry Kattelman) were all manufactured out of timber taken from Burgess's Land, - but I think the most of them were, - though some of the timber was taken off O'Fallon's Land, - About the 3rd of April 1866, Henry Kattelman bought of Moody & Twining Eighty five thousand five hundred staves, & received the same in payment of a debt they owed him, Kattelman immediately afterwards commenced hauling the staves to Sulphur Springs, - and hauled the most of them there, in two or three days afterwards, - some were left on the road between the Mill & Sulphur Spring, - Kattelman hauled all the staves, except about 300 from the Saw-Mill, He hauled some on Sunday, - I was with the surveyor when the lines of the Burgess land was run and know the most the staves at the Saw-mill, ^{on 3rd April 1866} were made out of timber taken from this land, I heard teams running on Saturday night and think Kattelman's teams hauled some on Sunday.

The Defendants then in support of their defence proanced the following testimony, to wit,

Charles D. Moody, - who states that since this suit was brought, to wit, on the 20th of May 1866, the Firm of Moody & Twining made a compromise with the Plaintiffs, by which the Plaintiffs agreed to receive the ^{property} ~~sum of money~~ described by a written agreement made on the 20th May 1866, by way of compromise ~~for the sum of money~~ in full payment and satisfaction of all rents claimed by Plaintiffs as due on said Lease, - That said Compromise agreement was put in writing on the 20th of May 1866, and was signed by Moody & Twining, and by James Burgess, John O'Hallon & the other Plaintiffs to this suit, - The Defendants then proanced and read in evidence said written agreement between Plaintiffs & said Moody & Twining, dated 20th of May 1866, - as follows, ^{to wit,} (The Clerk will here copy the same)

1. Said Moody further states, - that although said written agreement recites, that said Mill, fixtures, & other property was received by Plain

tiffs in payment of 1700 dollars as the amount of the indebtedness of Moody & Twining to Plaintiffs for the rents due on said Lease, yet he did not consider that said Firm owed Plaintiffs that much, - or any ways near it, - that he did not consider that the said Firm owed Plaintiffs for said rents more than he stated in his Answer, - which was 480 dollars, - but that he consented that said written agreement be written in that way, to satisfy Plaintiffs, - that it was fully understood and agreed between the Parties to said written agreement, that the Plaintiffs would receive the property aforesaid in full satisfaction of their claim for the rents of said Lands, - and that said property was ~~delivered~~ ^{left by us for} to the Plaintiffs, - that as to the staves, he told Plaintiffs at the time said written agreement was made, that he did not consider he had any right to the staves, - that he had sold them to Henry Kattelman, - that he would leave that matter to Plaintiffs to settle with other claimants as best they could, - He did not pretend to sell the staves, that he ^{had} sold and delivered the staves to Henry Kattelman, the number was eighty five thousand and five hundred, they were all delivered to him before the injunction was sued

out. - We sold the staves to Henry Kattelman in payment of a debt of 984 dollars we owed him for goods & merchandise bought of him before that time, ~~We had cut and had timber~~ on the west side of the main landing ridge mentioned in the lease of the Burgess Land, but had not cut near all of the timber on this point, - and had cut timber over about 100 acres of the O'Hallon Land, though we had not ^{cut} this clear, - Of the staves sold & delivered to Kattelman about 25,000, were

inferior staves & taken from the O'Fallon land, and a small portion of the other staves were made out of timber taken from the O'Fallon land. There was at the time the Firm of Moody & Twining Com- promised with Plaintiffs about 600 or 700 Cords of wood on the Lomas of O'Fallon & Burgess left by Moody & Twining for ~~them~~ ^{him} besides about 60 Cords at the same mill, and ^{on the Plaintiff's} Considered at the time that the property trans- ferred to them by said written agreement was enough to pay them all we owed them, without the staves, We had no other property to pay the rents with, except the property mentioned in said written agreement, there were no staves left of any consequence except those in- volved in this suit & the suit against House et al

The Plaintiffs in rebuttal read in evidence a Lease executed by O'Fallon to Moody & Twining dated 20th of June 1866 - which is as follows, (here copy said Lease)

They also ~~The Plaintiffs~~ ^{one of the Plaintiffs} then in rebuttal introduced John O'Fallon, - who says the settlement produced in evidence by Defendants, was made in May last, at the House of James Burgess, - That we settled with Moody and Twining and we agreed to take the ^{property described in said written agreement} ~~the mill fixtures, cord-wood, staves &c~~, as specified in the written agreement or Receipt read in evi- dence by Defendants, in satisfaction for the rents due the Plaintiffs, - That Moody & Twining told us at the time, that they had sold the Staves to Henry Kattelman, and that they were nearly all removed from the Mill, and that he, Moody, did not think they (Moody & Twining) had ^{any} interest or right to the Staves sold to Kattelman, - but if they had any further right to the Staves, Plaintiffs could

it also, This was after the Settlement had been agreed upon, The seven^{teen} hundred dollars was agreed to be put into the Compromise Receipt, on request of Plaintiffs without regard to the exact amount justly ^{due} us. We took the ^{property specified} ~~cord wood staves~~ in the written agreement read in ^{guidance by defendant} ~~in full satisfaction of~~ our debt against Moody & Twining for the rents claimed. We thought we had a lien on the Staves for the back payments for rents. The Staves were sold to Kattelman before we gave notice to Moody & Twining that we considered their Lease forfeited, and most of the Staves were removed to Sulphur Springs before we gave the notice of forfeiture. The amount of Property, mill-fixtures, cord wood &c, left by Moody & Twining for us, at the mill, under said agreement and settlement, did not amount to much. We sold ^{them} ~~at~~ and only received one hundred and fifteen dollars for them. The mill on the premises was my individual property, and the Stave Factory erected by Moody & Twining was attached to the mill, ~~and~~ by the same power. After making the compromise with Moody & Twining, we sold 60 cords of wood & 20 cords of ^{logs on the premises} ~~stave-timber~~ for \$113, & the sale was made according to the terms of the Lease. Moody & Twining owed me ^{about} \$2000, for the rent of my land for the use of the timber, I made a Lease to them individually for my land, & they were to pay me \$3.50 per acre, I also ~~had~~ an interest of $\frac{2}{9}$ of the Land described in this suit, - When the written

Compromise was made between Moody & Twining & Plaintiffs, it was expressly understood by the parties that it was not intended to interfere with our claim against Kattelman for the ~~staves~~, but that we would take the property specified in the written agreement & litigate our claim to the staves with Kattelman.

The above and foregoing being all the evidence adduced by the parties, ~~the Defendants~~ ~~with their~~ ~~asked~~ the Court to declare the law of the case as follows, to wit, (here copy the declarations of law asked by defendants, ~~1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 8~~

The Court then gave Judgment for Plaintiffs for nine hundred & forty two dollars & fifty cents, overruling the motion to dissolve the injunction, and making the same perpetual, and ordering that Plaintiff's lien be enforced, and that said sum be paid out of the proceeds of the sales of said Staves and heading, which Judgment is as follows, (here Copy the Judgment,) To which decision & Judgment of the Court the Defendants ^{Kattlemann} then there objected & excepted, The Defendants ^{Kattlemann} then filed a motion for a New trial in words & figures as follows, (here Copy motion for new trial) but the Court overruled the motion for a New trial and to which decision of the Court ^{in overruling the motion for a new trial,} the Defendants then there objected & excepted, and here in open Court tender this ^{this} Bill of exceptions, and pray that the same may be signed, sealed and made a part of the record in said Cause, which is accordingly done,

James H. Weil
Judge 15th Circuit

6003
6503

James Dungen Jr,
M^{rs} Mary & Fanning
of County Kilkenny
Guineas

Paul
of Exeption

James Burgess Jr. et al } Injunction.
by
Henry Kottelmann et al }

Be it remembered that Michael W. Green as principal and

as securities acknowledge themselves indebted to the State of Missouri in the sum of Two thousand five hundred dollars, for the payment of which they bind themselves their heirs, executors & administrators firmly by these presents.

The condition of the above bond is such that whereas the said Michael W. Green was on the 17th day of November 1864, appointed by the Jefferson Circuit Court a receiver in this cause. And whereas said Court at the same time ordered the Sheriff of ~~said~~ ^{the} County of Jefferson to pay over to said Green the sum of Nine hundred and forty two ⁵⁰/₁₀₀ dollars money arising from the sale of slaves and heading enjoined in this cause.

Now if the said Green shall faithfully perform his duty as such receiver: pay over and account ^{for} the said sum of Nine hundred and forty two ⁵⁰/₁₀₀ dollars or any other property or money that may come into his hand as such receiver at such times and in such manner as the

said Circuit Court may direct then this
Bond shall be void, otherwise, it shall
remain in full force.

Witness our hands & seals this 26th day
of November 1866.

W. W. Greene
John C. Fallon.
James Burgep.
Real
Real
Real

Approved December
20th AD 1866.

Samuel A. R. py
Clerk

State of Missouri }
County of Jefferson } ss.

W. W. Green being sworn states
that he will faithfully and impartially discharge
the duties of Receiver in the Case of James
Burgess Jr. et al vs Henry Watterson
et al. to the best of his ability.

Sworn to & subscribed
before me Nov 26th 1866. } W. W. Green

H. M. Parlier
Justice of the Peace,

Approved Dec. 20th 1866.

Gas Burgess D.C. } In the Supreme Court Mo.
vs } October Term 1867.
Henry Kattelman P.E. } Brought to 2nd District Court

Opinion of the Court — —

This was an action brought by the plaintiffs against the defendants Twining, Moody & Kattelman in the Court below for rent for certain land in Jefferson County. The land was leased by plaintiffs to Twining & Moody at a certain specific rate for the purpose of cutting cord wood, staves, heading &c - The lease contained a provision by which the lessees agreed that the lessors should have a lien upon all the timber, staves, cord wood &c to secure the payment of the rent as it accrued, and the performance of all the covenants and conditions of the lease - And in case default should be made in the payment of the rent by the lessees or in the performance of either of the covenants, then the lessors should have the right to forfeit the lease and to take immediate possession of the timber, staves and cord wood and sell the same at public sale to satisfy the rent remaining due. Twining and Moody sold a quantity of the staves they had cut on the land to Kattelman who took the same into possession and removed them from the premises - After which the plaintiffs gave notice to the defendants and proceeded to forfeit the lease and took possession of all

the stores, wood and timber remaining in the hands of Swinney and Moody and also made application for and obtained an injunction against Kattelmann restraining him from using or disposing of the stores which he had purchased.

At the hearing of the cause, a motion was made to dissolve the injunction, which was overruled and the Court made the same perpetual and then rendered judgment against all the defendants, Kattelmann alone exceptive and appealable - - - This judgment was affirmed in the Second District Court and the cause is brought here for revision - - - Passing over the irregularity of the proceeding and the judgment, there are two points in the decision of which must control the case. The first is the action of the Court in refusing to dissolve the injunction - - - The petition alleges the necessity of all the parties but Kattelmann and makes no such argument as to him, and states further that by reason of the acts of all the defendants the plaintiffs were in great danger of losing their lien on the stores and timber, which would cause irreparable damage to them.

No proof was offered for the purpose of showing that Kattelmann was not entirely solvent and capable of satisfying every judgment which might be obtained against him. Where

a party has a remedy at law, he cannot come into equity, unless from circumstances not within ~~his~~ control, he could not avail himself of his legal remedy - An injunction will not be granted where the injury is susceptible of perfect pecuniary compensation and for which a party can obtain adequate satisfaction in the ordinary course of law - "That full compensation can be had at law" is the great rule for withholding the strong arm of the Chancellor

Janney vs Dixon 20 Mo. 79 - Wallace vs McCay 6 Ind. 300 - Russey vs Wright 31 Penn. st 396 Rice on Injunctions 15) - The party must be insolvent so that ~~an~~ action at law would be unavailing as the injury so irreparable in its nature that the plaintiff would be remediless without the interposition of the injunction process. Here there is not even a pretence or a suggestion that Kattelman was insolvent and if he took or obtained property to which plaintiffs were entitled, their remedy was perfect and complete at law by resorting to their action of trespass or replevin - The Court therefore erred in not dissolving the injunction. The next question regards the lien which was reserved by the lessee on the cordwood, staves timber and mill fixtures - And here the contract must be interpreted by taking in consideration the intention of the

part as shown by the terms of the writing with
reference to the subject-matter and the business
to be carried on. The lease was for three hun-
dred and twenty acres of land or a certain pole
per acre - - the first payment was to be made
on the execution of the Contract and the balance
in quarterly payments every three months.
The Contract contemplated the cutting of large
amounts of wood, staves and timber, to be used
in merchandise and such it was not the
understanding of either party, that all the timber
and staves got out by the lessee during the
whole period of three months, should be tied up
and they prohibited from using or selling the
same until the rent became due and was
paid. The articles were to be used for trade, not
only to enable the parties to make a profit -
but also to pay the rent. - - The lease taken
in its whole scope and bearing cannot be dis-
tinguished from a lease reserved in a lease by a
landlord with a condition of re-entry. The tenant
is not restrained or precluded from disposing
of the goods or crops on the premises, till a
re-entry for condition broken and then it is
attached to whosoever may be left or found
on the premises in the tenant's possession.
This ~~can~~ can in no wise be considered in the
nature of a specific Chattel mortgage, which

Comes within the provisions of our Registration act,
but by its terms, it plainly appears that the tim-
ber which was to be taken from the land was to
be manufactured into staves, heading &c and
used and sold as articles of merchandise.
We think that the Court, misconceive the
law in perpetuating the injunction and also
in holding that the lease operates as a lien
on the staves sold by Kattelman before the
Title (in office of for future was declared and accordingly its
Clerk Dist Court) judgment is reversed and the Cause remanded

Nov. 27, 1867
L. Sargeant
Clerk

The other judges concur

Daniel Wagner

State of Missouri }
Second Judicial District }
Bes. J. Leonard Sargeant, Clerk of the
District Court within & for said District certify that
the above and foregoing is a true copy of the opinion
of the Supreme Court of Missouri in the above
matter as fully as the same remains on
file in my office -- In testimony whereof
I witness my hand & seal of said Court
here affixed at office in the City of
Cape Girardeau this 31st day of
July 1868. Leonard Sargeant Clerk

James Burgess & William Burgess }
 Eliza Burgess, Elizabeth Allen - John }
 O Fallon & Daniel Allen } D.C. }

} Court to Jefferson County
 } Circuit Court - -
 } (Of July Term 1867)

vs
 Wm. Brimley, Charles D. Moody, Henry }
 Kallstrom - Murray, J. G. Hamme }
 & William Stotze } P.E. }

July Term 1868

July 22, 1868 -

Now again comes this
 matter before the Court and it appearing that
 the mandate of the Supreme Court has been filed
 in this cause reversing the judgment of District Court
 for the Second District herein - It is therefore or-
 dered and adjudged by the Court that the judgment
 rendered herein by the said Jefferson Co. Circuit Court
 and the said District Court be reversed, annulled and
 of naught heed and esteemence and that the said
 plaintiffs in error, be restored to all things they have
 lost by reason of the said judgments - that the said cause
 be remanded to the said Circuit Court of Jef-
 ferson County for further proceedings to be had in
 accordance with the judgment and opinion of the
 Supreme Court herein filed and that the plaintiffs
 in error recover of the defendants in error their costs
 and charges in this behalf expended and have ex-
 ecution therefor.

Note of Messrs }
 Second Judicial District } ss - J. Leonard Sargeant,
 Clerk of the District Court within & for said District

Certify that the above & foregoing is a true and com-
plete copy of the order of the District Court in
the above matter as therein appears as fully
as the same appears from the records of my
office -- In testimony whereof witness my
hand & official seal of office in
Cape Girardeau this 31st day
of July A.D. 1864

Louise Sargeant Clerk

Bill of Costs

Amos Burgess, William Burgess }
 Eliza Burgess, Elizabeth Allen, John } In the Second District
 O'Fallon & David Allen Repts. } Court July Term 1868

Wm. T. Tamm, Charles D. Moody } Fee Bill against
 Henry Kalletman } Respondent, due in
 J. S. Kammuel & William Horner Appls. } Second District Court

(Fee Bill Certificate from Jeff. Co. Circuit Court)	\$24.20
Docket fee in District Court (Paid by Appls.)	10.00
Transcript to Sup. Court (paid by Appls.)	28.50
Copy of opinion Sup Court. Order of Dist. Ct & fee bill (copies)	3.50

State of Missouri }
 Second Judicial District } P. Leonard Targant, Clerk of the
 District Court within & for said District Certify
 that the above is a true copy in the aggregate
 from my fee book in the above entitled cause
 as fully as the same appears therefrom. - In
 testimony whereof witness my hand
 & seal of said Court here to affixed at
 office in the City of Cape Girardeau
 this 31st day of July A. D. 1868
 Leonard Targant Clerk

Due from Repts.

James Burgess & Co

10

West. Albany etc -

W. L. Aug 3 1868
D. H. May 10



COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To *James E. Johnston*

GREETING :

You are **Hereby Commanded**, That setting aside all manner of excuse and delay, You appear before our Circuit Court for the County afore-
said, ~~on the~~ *forthwith* 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 Burgess & et al are*

Plaintiff and *Henry Stettinman* is

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

WITNESS, *SA. R. M. J. J.* Clerk of our said Court,
~~THAS. R. M. J. J.~~
with the Seal thereof hereto affixed, at office, this
day of *Nov* A. D. 186*5*—

Sam. A. Rejely
Clerk.

SUBPOENA

TO JEFFERSON CIRCUIT COURT.

May Term, 1866

James Burges
vs
H. Kattelman

Sheriff bee

5.8

*Let Fletcher Shreve
By John Thompson Esq*

*I executed the within at the County
of Jefferson Missouri on the 15th day
of May 1866 on the 1st of Johnson
my clerk in hearing*