

Jefferson County Circuit Court
Case Files-Civil

Folder 1 of 2

Box 18 Folder 38

November 1866

Pouer, James C, adm.

McCollock, James

vs.

Newcomb, Carmine A.

Replevin

One mare named "Nettle Top", \$50
damages; defendant claimed he bought
mare from McCollock's slave Aaron

James C. Paine Administrator
of the estate of James McCallach,
deceased. Plaintiff

against
~~Charles~~ ^{Marjorie} A. Newcomb Defendant.

In the Circuit Court of
Jefferson County Missouri.

Plaintiff states, that on the day of
1864, the defendant wrongfully and without
leave took the following property of the
said James McCallach, and has not returned
the same, that is to say one grey mare
called "Nettle Top", aged about seven years
of the value of one hundred and twenty
five dollars.

Plaintiff further states that since the
day and year aforesaid the said James
McCallach has departed this life and
the above named plaintiff has been
duly appointed Administrator of
his estate,

Plaintiff therefore asks judgment
for one hundred and twenty five ~~dollars~~
the value of said mare and for fifty
dollars damages which plaintiff has
sustained by the taking aforesaid.

J. P. Phipps att
for Plaintiff

James C. Pomeroy the above named plaintiff
makes oath and says that the above named
petition and the matters therein as stated
by him are true. James C. Pomeroy
Sworn to and Subscribed at James, McCallen
before me, this
1st day of Oct 1866.
James H. Kipp Jr Clerk

William Vincent Smith
Nov. Term 1866

James L. Pearce & Son
vs
Harrison
~~James L. Pearce & Son~~
vs. S. W. W. W. W.

Attorney for recovery of
a money note

Filed Oct 1st 1866
Samuel A. W. W. W.

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

Carmin, ~~Charles A~~ Newcomb

if he be found in your County, that he
do and appear before the Hon. Judge of our Circuit Court, on the first
of the next term thereof, to be begun and held at the town of Hillsboro, within
and for the County of Jefferson, on the ^{first} ~~second~~ Monday after the fourth
Monday of November next, then and there to answer unto

James C. Power Administrator
of the Estate of James McColloch

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

S. A. Reppy

Witness, ELIAS F. HONEY, Clerk of our said Circuit

Court, with the seal thereof hereunto affixed, at office

in Hillsboro, this ^{1st} ~~1st~~

day of October A. D. 1866

Samuel A. Reppy

Clerk Circuit Court.

execute The within, writ at the County of
Jefferson State of Missouri on the 13 day of Sept, 1866
by delivering to C. A. Newcomb the within ^{defendant} a
copy of this writ and annotated petition as furnish to me
by the Clerk

C. E. Fletcher
Sheriff

NO 2803-
TO JEFFERSON CIRCUIT COURT

November Term, 1866

James C. Power
Administrator of the
Estate of James McColloch

vs
C. A. Newcomb

OCT 13

Fletcher Sheriff 100

James C. Power Admr.
James McCulloch, De'd
vs
C. A. Newcomb

In the Circuit-
Court Jefferson
County Missouri

Defendant for answer to Plaintiff's petition
in this behalf filed. Denies that he did
on the day of 1864 or at any other
time take a gray mare called "Wattle top" the
property of James McCulloch of the value
of one hundred and Twenty five Dollars or
of any other value

Defendant utterly denies that he
at any time took or had any animal or
other property of said McCulloch of any kind
or value whatever, and therefore avers
that Plaintiff is not entitled to recover
judgment against him for any sum
whatever by way of Damage or otherwise
for the taking or detention of such property
and prays judgment for his costs.

Jos. J. Williams
Atty. for Defendant

Genl E. Porter, Major,
Genl McCollister

by
Genl H. Newcomb

Deputy's answer

dated March 3rd 1867
Genl J. H. Honey, Clerk

James C. Power Admr. { In the Circuit
 of James McCulloch { Court Jefferson County-
 us { Missouri
 C. A. Newcomb } May Term 1867

Now at this day comes the Defendant and on his oath says that he can not safely go to Trial at this Term of the Court for the want of ^a material witness, to wit, Samuel Melone that he has used due diligence to procure the attendance of said witness to be used on the Trial of said Cause at this Term of the Court by having a Subpoena issued for him in due time which Subpoena has not been served Defendant avers that said witness is not absent from the Court at this Term through Collusion or by Consent of Defendant and that Defendant believes that if an adjournment of said Cause be granted him till the next Term of this Court that he will be able to obtain the attendance of said witness to be used on the Trial of said Cause,

Defendant expects to prove by said Samuel Melone that said James McCulloch did not own the mare which is the subject of this suit in the year 1864 or at any time, he ^{will be able} ~~expects~~ to prove by said witness that said James McCulloch expressly stated to said witness shortly before his death that he never owned said mare or had any interest in her, that said

Property was the property of said Newcomb
owned by him in virtue of a purchase from
the true owner thereof in the Spring of
1863

and further the Affiant sayeth not
Sworne to and
Subscribed before { C. A. Newcomb
me May 6th 1867
H. J. Robertson
County Clerk Justice

Power & Burry
Wellsport

17

Newcomb

affidavit for a
continuance

Filed May 6th 1867
Wm. J. Henry clk.

James C. Power Admr.
of James McCulloch, pff.
vs
C. A. Newcomb, Dft.

In the Circuit Court of
Jefferson County Missouri

For amended answer to plaintiffs petition
Defendant Denies that he did in the
year 1864 or at any other time take
a gray mare called "rattle top" the prop-
erty of James McCulloch of the value
of one hundred and twenty five Dollars
or of any other value and Denies that the
plaintiff is entitled to recover damage in
the sum of Fifty Dollars from Defendant
for the taking or taking and detention of
said mare or for any sum whatever

For further answer Defendant says that
in the year 1863^{or} ¹⁸⁶⁴ he bought a gray
mare which he believes and states to be
the same mentioned by plaintiff in his
petition from a negro man named Aaron
that said Aaron had been a slave of
said McCulloch and was at the time of
the purchase by Defendant of said mare
by the forms of ^{the} Laws of Missouri a slave of
said McCulloch but that the Law estab-
lishing Slavery in the State of Missouri was
not and had not for a long time before
said transaction been in force that said
Aaron was in point of fact a free man

that said McCulloch did not and had not for a long time before said sale exercised any acts of ownership over said Aaron but allowed said Aaron to live to himself & work & acquire and dispose of property, and transact business for himself in all respects as a free man that at the time Defendant bought said mare as aforesaid said Aaron ^{and had been} was ^{for a long time} living away from the home of said McCulloch & doing business for himself as a free man as aforesaid & was in the exclusive possession of said mare & exercising acts of ownership over her & representing her as his own absolute property with the full knowledge and consent of said McCulloch who never at any time set up any claim to said mare but at all times acknowledged said mare to be the property of said Aaron, that Defendant bought said mare from said Aaron while said Aaron was in the exclusive possession of the same as his own property as aforesaid and paid for the same in good faith believing that said Aaron was the owner thereof & had the right to sell the same.

That before he bought said mare he made due inquiry as to the ownership of said mare and was informed by divers persons including said James McCulloch that said mare was the property of said Aaron and that said Aaron had the right to sell and dispose of the same.

Defendant therefore then believed and now states that at the time he bought said mare from said Aaron that he was the owner of the same

But Defendant says that if in point of fact said McCollock owned said mare that the conduct of said McCollock in allowing said Aaron to possess and use the same as his own property and live away from home with the same and work and trade for himself and acquire and sell property as a free man and to sell said mare to Defendant and receive the pay for the same and convert the same to his own use and thereby deceive Defendant as to the ownership of said property in Equity and good conscience stops Plaintiff and all others claiming under said McCollock from setting up any claim against this Defendant for the value of said mare or for damages or otherwise, that Defendant was a bona fide purchaser of said property without notice of any claim of said McCollock upon the same that said Aaron has left this Country and is insolvent, Defendant says that McCollock lived a considerable time after Defendant bought said mare as aforesaid but that he never set up any claim to said property, or pretended to own the same, and Defendant avers that the claim now set up by Plaintiff is a fraudulent contrivance trumped up

COUNTY OF JEFFERSON.

The State of Missouri,

To

Shannon Jarrico, & Mrs. James McIntosh
vs

You are Hereby Comanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the *Eighth day of September* *as 1867* 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 *Jarrico & Jarrico* *claim* *as* *Intelleck* *is* *to* *be* *Shannon* *vs* *is*

Plaintiff, and

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

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *2nd* day of *October*. A. D. 186*7*.

Elias F. Honey Clerk.
By Edw. J. Jarrico

SUBPŒNA.

TO

Jefferson Circuit Court

Nov. TERM, 1867.

Power admr est James
McCulloch,

vs

Newcomb

For debt

Thornton Jarvis,

Mrs Aaron McCulloch (colored)

Sheriff's fee \$1.00

The undersigned Sheriff served the within subpoena
on the within named Thornton Jarvis and Aaron McCulloch
at the County of Jefferson & State of Mississippi
in due and lawful manner, by reading the same in their presence
and hearing on the 16th day of October 1867

By
John Williams Sheriff
J. M. Harrison Deputy

COUNTY OF JEFFERSON,

The State of Missouri,

To

James W. Kelly & Co. Attorneys

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

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 W. Kelly & Co. Defendants of Estate of James M. Cantelero*

vs. O. C. Warrick

Defendant on the part of

Defendant

and herein you are in no wise to fail.
WITNESS, ~~SAMUEL~~ *James W. Kelly*, Clerk of our said Court,

with the seal thereof hereto affixed, at office, this

²² day of *October*, A. D. 1867

James W. Kelly Clerk.

Raymond W. Warrick

SUBPENA.

TO
Jefferson Circuit Court

Nov Term, 1867

Power admr.
New comb.

Dear Deft
G. L. Fletcher
Josiah Kelley 25th

John Williams
Sheriff fee \$1.00

I executed the within subpoena
in the within named Josiah Kelley
by reaching the same in his presence
the 25 day of October 1867
John Williams Sheriff
G. M. Morris & Co

COUNTY OF JEFFERSON.

The State of Missouri,

To

John Hanson

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

John Hanson *claimant* of *lot 1a* *Matthew* is Plaintiff, and *John Hanson* is

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

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *22* day of *November* A. D. 1867.

Elias F. Honey (Terk.

SUBPŒNA.

TO

Jefferson Circuit Court

Nov. TERM, 1867.

Power
vs

Newcomber

Per Deft

Wm Johnson

John Williams
Sheriff fee 50

I certify the within in Jefferson County
Miss on the 9th day of September 1867
by bearing the same to Wm Johnson

John Williams
Sheriff

COUNTY OF JEFFERSON.

The State of Missouri,

To ~~Wm. M. Martin~~ *Wm. M. Martin* (relaxed), *Mathias Brinkley*,
Madison Abraham & Tabular Pritchett

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 *Eighth day of November* *1867* 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 C. Dineen *vs.* *Est of James M. Shults* *et al*
Plaintiff, and *Est of James M. Shults* *vs.*

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

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with
the seal thereof hereto affixed, at office, this *31st* day
of *October*, A. D. 1867.

Elias F. Honey Clerk.

By A. Dineen *Def't*

SUBPENA.

TO

Jefferson Circuit Court

Wm TERM, 1867

Power Adm.
vs
Newcomb

For Debt
Abraham Martin (old)
Mathias Drinley
Madison Graham
Zach Pritchett
John Williams Sheriff
fees ~~\$1.25~~
\$1.25

I received this within subpoenaed and to Pritchett on the 6th day of
March 1867 by reading the same in his presence, and I further
executed the same by reading it in the presence of Mr Graham
on 7th 1867. Weather and sickness the same not served
so the weather is finally he not being found in my custody

John Williams Sheriff
By M. H. Merrill Deputy

COUNTY OF JEFFERSON.

The State of Missouri,

To

James H. Keller Prop. Gen. Chas. B. B. B.

vs.

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 *eight day of November* before our Circuit Court for the County aforesaid, then and there to testify and the truth to say in certain matter of controversy now pending in our said Court, wherein *James C. Fowler* *vs.* *James H. Keller* *Michael* *vs.* *James C. Fowler* Plaintiff, and *James C. Fowler* is

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

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *21st* day of *October* A. D. 186*7*.

Elias F. Honey Clerk

By Ed. D. D. D.

SUBPÆNA.

TO
Jefferson Circuit Court

Nov. TERM, 1867

Power Admr.

vs

Newcomb

For Def

Josiah Kelley
John Williams
Sheriff fee \$2.50

Trial Friday 8th Nov. or
5th day of Court—
others agreed

I do hereby certify that the within subpoena was served on Josiah Kelley on the
day of November 1867 in Jefferson Circuit Court Missouri
by reading the same in his presence and hearing
Signed,
I do hereby certify that the within subpoena was served on Josiah Kelley on the
day of November 1867

Williams

Williams

Williams

COUNTY OF JEFFERSON.

The State of Missouri,

TO

John Grant, W. D. Jerry Jeff Smith
W. H. Moore

You are Hereby Comanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the Eighth day of December AS 1867 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 C. Davis adversely

vs James C. Davis vs James C. Davis
Plaintiff, and James C. Davis vs James C. Davis

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

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this 8th day of October A. D. 1867.

Elias F. Honey Clerk.

James C. Davis

SUBPŒNA.

TO

Jefferson Circuit Court

Nov. TERM, 1867

Power and authority
of McCulloch
vs
Newcombe

For Self

A Green X

C. D. Perry X

Jeff Frost

D. W. Morse X

John Williams, Sheriff

fee

\$2.00

I executed the within in Jefferson County Mo on
the 14th day of October 1867 by executing the
same to C. Green C. D. Perry and Jeff Frost
and D. W. Morse

John Williams
Sheriff

COUNTY OF JEFFERSON.

The State of Missouri,

To James Madam, Amanda Mitchell et al, Mrs Johnston
vs Jeff Brock,

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 Eighth day of Nov 1867 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

Adm'r Est James Mitchell et al is James E. Brown
Plaintiff, and vs J. B. Brown et al is

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

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this 5th day of October, A. D. 186 7

Elias Honey Clerk.

By Edw. J. Brown et al

SUBPŒNA.

TO

Jefferson Circuit Court

Nov. TERM, 1867.

Power adms est
McCulloch

vs

Newcombes

For debt,

Saml Malone

Cost Amanda McCulloch 14

Wm Johnston 14

Jeff Frost 14

John Williams 275
Sheriff fee \$75

Whereas the within subpoena in appearance
and mandata the McCulloch vs Newcombes
by on the 14th day of October 1867 by reading the same
in their presence and Samuel Malone
is not present in my court
John Williams Sheriff
By M. H. Morris & Co

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach *David W. Morse*

by his

body, and safely keep, so that you have *his* body before our Honorable
Circuit Court, *forthwith*

then and there to answer a contempt by *him* committed, in not attending said
Court as a *Witness* after being
duly Summoned to do so. Herein fail not, and have you then there this writ.

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, this *Fourth*
day of *November* A. D. 186 *7*

Elias F. Honey

CLERK.

Executed the Within &
 Right Bye Delivring the
 Baddy of the Within named
 D. M. Mores to this Court
 this 11 Day of Novber 1867
 Elisha Eames Deft

TO THE CIRCUIT COURT OF

JEFFERSON COUNTY.

Nov Term, 1867

State

David H. Eames
 Sheriff fees 100

I John Williams Sheriff of Jefferson Co mo do hereby
 certify Elisha Eames my Deputy to execute the within
 attachment. Nov. 9th 1867
 John Williams Sheriff

James C. Powers stand ^g of	}	In the Circuit
James M. Colloch		Court of Jefferson
vs		County for Term
C. H. Newcomb	}	1867,

Now comes the plaintiff herein and moves the court to strike out all of that part of defendants amended answer herein which begins with the words "For Further answer" and ending with the words "I had the right to sell the same" because the said answer constitutes no defence to plaintiffs right of action, and to strike out the following words in defendants 3^d allegation, "and was informed by divers persons" because the same is indefinite, vague, uncertain and is no defence to plaintiffs right of action - and to strike out all of said answer beginning with "But defendant says that if in point of fact" and ending with the word "death of M. Colloch" because the same constitutes no defence to plaintiffs, cause of action.

Powers Green & Peltan
for Plff.

J. C. Davis

E. J. Hancock

Proctor & Tuttle and
Parbury & Putnam

overrules

asked for 84849

E. J. Hancock

James C. Parnes Adm^r } In the Circuit
of James M. Colloch } Court of Jefferson
C. H. Newcomb } County Mo
Nov. Term 1867.

Now comes the plaintiff herein and moves
the Court to strike out all of that part of
defendants amended answer herein in
words and figures as follows.

For further answer defendant says that
in the year 1863 or 1864 he bought a
gray mare which he believes and states
to be the same mentioned by plaintiff
in his petition from a negro man named
Aaron, that said Aaron had been a
slave of said M. Colloch and was at the
time of the purchase by defendant of
said mare by the forms of the laws of Missouri
a slave of said M. Colloch but that the
law establishing slavery in the State
of Missouri was not and had
not for a long time before said transaction
been in force, that said Aaron was in
point of fact a free man, that said
M. Colloch did not and had not for a
long time before said sale exercised any
acts of ownership over said Aaron, but
allowed said Aaron to live to himself
and to work and acquire and dispose of

property and transact business for himself
in all respects as a free man, that at the
time defendant bought said mare as
aforesaid, said Aaron was and had been
living away for a long time from the
home of said McCalloch & doing business
for himself as a free man as aforesaid
and was in the exclusive possession
of said mare, exercising acts of owner-
ship over her, and representing her as
his own absolute property with the
full knowledge and consent of said
McCalloch who never at any time
set up any claim to said mare
but all times acknowledged said
mare to be the property of said Aaron
that defendant bought said mare
from said Aaron while said
Aaron was in ^{the exclusive} possession of the same
as his own property as aforesaid
and paid for the same in good faith
believing that said Aaron was the
owner thereof and had the right to
sell the same"

Because the said allegation constitutes
no defense to plaintiff's right of action.

And there are the following words
in ^{aforesaid} plaintiff's third allegation to wit
"and was informed by direct persons

that said mare was the property of
said Aaron, and that said Aaron
had the right to sell the same
because the same is indefinite
vague uncertain and constitutes
no defense to plaintiffs right of
action also to strike out
the last allegation in Defendants
answer in those words

"But defendant says that if in
point of fact said McCulloch
conceded said mare, that the conduct
of said McCulloch in allowing
said Aaron to possess and use the
same as his own property and live
away from home with the same
and work and trade for himself
and acquire and sell property as
a free man and sell said mare
to defendant and receive the pay for
the same and convert the same
to his own use and thereby decide
defendant as to the ownership of
said property in equity and good
conscience estate plaintiff and
all others claiming under said McCulloch
from setting up any claim against
this defendant for the value of this
mare or for damages or otherwise

that defendant was a Bona fide
purchaser of said property without
notice of any claim of said McCulloch
upon the same, that said Aaron
has left this County and is insol-
-vent. Defendant says that McCulloch
lived a considerable time after
defendant bought said man
as aforesaid but that he never set
up any claim to said property or
pretended to own the same and
defendant says that the claim
now set up by plaintiff is a fraud-
ulent contrivance trumped up
by plaintiff since the death of
McCulloch."

Because the same constitutes no
defense to plaintiff's cause of action.

Powers Green & Pickin
for the plaintiff

H. C. Powers
Plam of Sam
McCulloch
as
C. A. Norcross

Motion to strike
and parts of reply
Amendments answering

Filed Nov 13 1898
G. R. Seavey Clerk

James C. Powers Adm^r. }
James McCallach }
vs
C. A. Newcomb }

Now comes the plaintiff and moves
the Court to set aside the non
suit in this cause and grant
him a new trial because

1st. The Court refused to allow
plaintiff to file application
to defendants answer him.

2. The Court refused to permit plaintiff
to withdraw the submission from
the jury in this case.

3. The Court refused to permit
plaintiff to introduce testimony
to show that the property ~~along~~
in controversy belonged to
the plaintiff.

Powers Green & Phipps

for ~~plaintiff~~

James L. Parsons
Reverie

E. A. Newcomb

motion for new
trial ~

Dated Nov 13th 1864
A. J. Downey Clerk

James C. Power } Judge Circuit
et Mr. James McClellan } Court of Jefferson
C. A. Strickland } County Missouri

Be it remembered that
heretofore, To-wit- at the November
Term of the Circuit Court of Jefferson
County Missouri at the November Term
hereof for the year 1867 and on the 5th
day of said Term To-wit on the 8th
day of November 1867 the Plaintiff
filed a motion to strike out the certain
~~following~~ portions of the Defendants' in
said Cause which motion was in
words and figures as follows To-wit-
(here copy motion to strike out Defendants'
answer) which motion being seen by
the Court and fully understood was
by the Court overruled to which
action of the Court in overruling said
motion the Plaintiff then and there excepted
and afterwards To-wit- on the 11th
day of November 1867 said Cause
coming on to be heard a jury was
sworne to try said Cause and after
said jury was sworn the Defendant
prayed said Court to render judgment
in favor of Defendant and against the
Plaintiff upon the pleadings in said

Cause, ~~to wit~~ - which pleadings were
a petition of plaintiff which petition
is in words and figures as follows ~~to wit~~
(here copy plaintiffs petition) and an
amended answer of Defendant filed
September 23rd 1867 and which is
in words and figures as follows, ~~to wit~~
(here copy Defendants amended answer)
for the reason that no Replication
was filed by Plaintiff to said amended
answer which said judgment was asked
upon the ground & for the reason that said
amended answer contained a statement of ~~new~~ ^{new} matter which entitled Defendant to
judgment against the Plaintiff but the
Court overruled said motion of Defendant
for judgment to which action of the Court in
overruling said motion Defendant then
and there excepted, ~~whereupon Defendant then~~
~~and there excepted, whereupon Defendant then~~
~~and there excepted, whereupon Defendant then~~
~~and there excepted, whereupon Defendant then~~
~~and there excepted, whereupon Defendant then~~
the Plaintiff
the asked leave of Court to file
a Replication to said amended ~~answer~~
answer but the Court refused to permit
it - Plaintiff to file said Replication to
which action of the Court in refusing
to allow Plaintiff to file said Replicⁿ

- action the Plaintiff then and there
Excepted, the Plaintiff then asked leave
of the Court to allow Plaintiff to
withdraw said Cause from the Consideration
= eration of the Court and Jury but the
Court refused to allow Plaintiff to
withdraw the submission of said Cause
to which action of the Court the Plaintiff
then and there Excepted, the Plaintiff then
offered to prove that at the time the
Defendant ^{took possession of the mare mentioned} ~~in said petition and answer that~~
~~James McCollock was~~ James McCollock was
the owner of said property to the introduction
of which testimony Defendant objected
for the reason by him stated that Plaintiff
by failure to reply to Defendants amended
answer could not recover in said action
for the reason that by failure to reply to said
answer Plaintiff admitted that James McCollock
was not the owner of said mare in controversy
at the time she came into Defendants possession
which objection of Defendant to said evidence
offered by Plaintiff was by the Court sustained
= ed and the Court refused to permit the
Plaintiff to introduce such testimony to which
actions of the Court in excluding said evidence the
Plaintiff then and there Excepted, Plaintiff
thereupon asked leave of court to take a
non suit whereupon Defendant objected

To the Court allowing Plaintiff to take
a non suit - but the Court overruled said
objection of Defendant and allowed the
Plaintiff to take a non suit to which
action of the Court in allowing said
Plaintiff to take a non suit in said Cause
Defendant then and there Excepted and
here tenders his Bill of Exceptions which
he prays may be signed Sealed and made
a part of Record which is done

J. H. Vail, Judge



J. C. Gower & Son
of Woburn

C. A. Brewster

Bill of Exceptions

Filed Nov 14 1887
E. H. Mearns Clerk

James C. Powers Adm^r of James M. Colloch dec^d
 vs
 C. A. Newcomb

In the Circuit Court of Jeff. County Mo.
 Nov. 7. 1867.

Now comes the plaintiff herein and moves the Court to strike out the following allegation in ~~plaintiff's~~ ^{Defendant's} amended answer. & wit - "For further answer defendant says that in the year 1863 or 1864, he bought a gray mare, which he believes and states to be the same mentioned by plaintiff in his petition, from a negro man named Aaron; that said Aaron had been a slave of said McColloch, and was at the time of the purchase by defendant of said mare, by the forms of ^{the} laws of Missouri a slave of said McColloch, but that the law establishing Slavery in the State of Missouri, was not and had not been for a long time before said transaction in force; that said Aaron was in point of fact a free man, that said McColloch did not and had not for a long time before said sale exercised any acts of ownership over said Aaron, but allowed

said Aaron to live to himself and to
work and acquire and dispose of property
and transact business for himself in
all respects as a free man, that at
the time defendant bought said
Mare as aforesaid said Aaron was
and had been living away for a long
time from the home of said McCulloch &
doing business for himself as a free man
as aforesaid, and was in the exclusive
possession of said Mare, exercising acts
of ownership over her, and representing
her as his absolute property, with the
full knowledge and consent of said
McCulloch, who never, at any time set up
any claim to said Mare, but at all
times acknowledged said Mare to be
the property of said Aaron. That defen-
-dant bought said Mare from said Aaron
while said Aaron was in the exclusive
~~control~~ possession of the same as his own
property as aforesaid, and paid for the same
in good faith, believing that said Aaron
was the owner thereof and had the right
to sell the same" —

Because said Allegations constitutes no
defense to plaintiffs right of action and
because the same is argumentative and

inconsistent with ^{the} ~~defendants~~ first allegation
in ~~the~~ ^{defendants} answer — and contains irrele-
vant and redundant matters.

And to strike out the following words
in Defendants third allegation to wit
"And was informed by divers persons
that said More was the property of said
Harron and that said Harron had the
right to sell the same"

Because the same constitutes no defense
to plaintiffs petition, and the same is
uncertain and indefinite ~~in point~~

And plaintiff further moves the Court
to strike out the following allegation
in Defendants answer to wit.

"But defendant says, that if in point
of fact said McCulloch owned said
More, that the conduct of said
McCulloch in allowing said Harron
to possess and use the same as his
own property and live away from
home with the same and work
and trade for himself and
acquire and sell property as a free

man, and sell said mare to defendant
and receive the pay for the same and
convert the same to his own use, and
thence become defendant as ^{to} the owner-
ship of said property in equity and
good conscience stop plaintiff
and all others claiming under said
McColloch from setting up ^{any} said claim
against this defendant for the value
of this mare or for damages or
attorney; That defendant was a Bona
fide purchaser of said property without
notice of any claim of said McColloch
upon the same, that said Aaron
has left this country and is insolvent

Defendant says that McColloch
lived a considerable time after
defendant bought said mare as
foresaid, but that he never set up
up any claim to said property or
pretended to own the same. And
defendant avers that the claim now
set up by plaintiff is a fraudulent
contrivance trumped up by plaintiff
since the death of McColloch.

Because the same constitutes
no defence to plaintiff's right of
action and because the said

allegation is argumentative, and inconsistent with other portions of said answer and because the said plea is conditional or in the alternative, and because the said allegation is not responsive to plaintiffs petition, nor does the said plea set up new matter sufficient to constitute a defence to plaintiffs cause of action

Jones Green Thomas vs
Opinion for the Plffs.

James C. Jones
James C. Jones
McClure -

L. S. Jones

Prothon Notary
and Justice of the
Peace for the
County of Jones.

J. C. Jones 14 1889
J. C. Jones

County of Jefferson

The State of Missouri
To, C. D. Kippy, J. A. Whitehead
and S. A. Kippy

You are hereby Comman-
-ded that setting aside all manner
of excuse and delay you appear before
our Circuit Court for the County
aforesaid on the 13th day of
May 1868 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 C. Power, Admr. of James
McCollack is Plaintiff and

C. A. Newcomb is Defendant —
on the part of the Defendant, — and
You and each of You are Commanded
that you bring with you a certain
Letter dated; "Vineland March 9th 1868"
Addressed to "Editors Jefferson County Leader"
in which Letter these words are written

"I did write a letter to J. C. Tower and
State to him just what I could swear
to in the case between him and Newcomb
I said that the Negro Aaron told me that
he went to see Newcomb about the mare he
claimed and that Newcomb told him to
go and get the mare and he would pay
him for it, - and also that he would stand
between him and McCulloch, - of course
Mr. Tower has a right to put his own
construction upon it and call it stealing
if he chooses; if the mare belonged to
McCulloch then of course Aaron
stole the mare." which letter is
Signed "D. W. Morse"

and herein you are not to fail
Witness Elias F. Honey Clerk of
of said Court with the Seal thereof
here to affixed at office this 3rd
day of March A.D. 1868

Elias F. Honey Clerk
for the Court

Subpoena,
Quocumque

To
Jefferson Circuit Court,

May Term 1868,

McClintock by admr,

vs
J. H. Newcombe

For Debt,

S. A. Reppes
C. D. Reppes
James H. Whithead
John William
Sherriff fee \$1.50

I served the within in Jefferson County Mo
on the 2nd day of April 1868 on Chas Reppes
Samuel Reppes and James H. Whithead
by mailing the same to each of them

John William Sherriff

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach *Mathias Drinley*
by his

body, and safely keep, so that you have *his* body before our Honorable
Circuit Court, *St. Louis with*

then and there to answer a contempt by *him* committed, in not attending said
Court as a *witness* after being
duly Summoned to do so. Herein fail not, and have you then there this writ.

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, this *14th*
day of *May* A. D. 1868

Elias F. Honey
CLERK.
By C. D. Horine

TO THE CIRCUIT COURT OF

JEFFERSON COUNTY.

May Term, 1865

Mr Gullock
vs
Newcombe

Mathias Brinley
John Williams
Sheriff fee 50

I Return this attachment not served
the Within named Mathias Brinley
not found in my County this the 15th
Day of May 1868

John Williams Sheriff

COUNTY OF JEFFERSON.

The State of Missouri,

To

Samuel Webster Amundson & McCallister
vs
James C. Amundson

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 *13th day of May 1865,* at Hillsboro, then and there to testify and the truth to say in a certain

matter of controversy, now pending in our said Court, wherein

James C. Amundson is
Plaintiff, and *Samuel Webster Amundson & McCallister* is

Defendant, on the part of *Samuel Webster Amundson & McCallister* and herein you are in no wise to fail.

Witness, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereunto affixed, at office, this *9th* day of *April*. A. D. 186*5*.

Elias F. Honey Clerk
per C. A. McCallister

SUBPŒNA.

TO

Jefferson Circuit Court

May TERM, 1861

Perren Adams, McCulloch

vs
C. A. Newcombe

To the Deft,

Sam Malone
Amanda McCulloch, &

Wm Johnston &
Thornton Jamieson

Sheriff fee \$1.75

I herby see the within and Jefferson County the
on the 3rd day of May 1861 on and under
McCulloch vs Johnston and Thornton
Adams vs Malone, McCulloch vs Jamieson
My duty
John McClellens Sheriff

COUNTY OF JEFFERSON,

The State of Missouri,

To

Wm M Kay

YOU ARE HEREBY COMMANDED, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, ~~at the~~ *at* *Orionville*

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

McCluskey by administration is Plaintiff, and *W. H. Newcomb*

Defendant on the part of *Blanchiff*

and herein you are in no wise to fail.

WITNESS,

Edw. H. Kearney Clerk of our said Court,

with the seal thereof hereto affixed, at office, this

14th day of *May* A. D. 186 *8*

Edw. H. Kearney Clerk.

Wm M Kay

SUBPENA.

TO
Jefferson Circuit Court

May Term, 1868.

McCluckey to Adam

vs
Newcomber

Dea Pltff

Jm M Kay

John Williams
Shriff fee 50

I certify this in & caption on County Mo on the
14th Day of May 1868 on ~~Adam~~ Newcomber
by reaching the same to him

John Williams
Shriff

COUNTY OF JEFFERSON,

The State of Missouri,

To *Alfred Martin Mathias Brimley*
Jefferson Trust

YOU ARE HEREBY COMMANDED, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the *13 day of May* *1868* 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 *Est of James M. Callock is* *vs. Le Poverdour of* Plaintiff, and *Le. A. Newcombe is*

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

12th day of *May* A. D. 1868

Eliza J. Honey, Clerk.



COUNTY OF JEFFERSON.

The State of Missouri,

To

General H. O. Howell, Sheriff

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 10th day May 1865 at Hillsboro, then and there to testify and the truth to say in a certain

matter of controversy, now pending in our said Court, wherein

The City of Jackson County is

Plaintiff, and

C. A. Shaeffer is

Defendant, on the part of

and herein you are in no wise to fail.

Witness, ELIAS F. HONEY, Clerk of our said Court, with

the seal thereof hereto affixed, at office, this 9th day

of April A. D. 1865.

Elias F. Honey, Clerk.

Per C. A. Shaeffer, Def't

SUBPŒNA.

TO

Jefferson Circuit Court

May TERM, 1867.

James A. McElroy

vs
C. S. Newcomb

For Plaintiff

D. W. More +
Jeff. Frost

John Williams
Sheriff fee \$1.00

I do hereby certify that the within is a true and correct copy of the original as the same is on file in the office of the Clerk of the Court.

John Williams Sheriff

COUNTY OF JEFFERSON.

The State of Missouri,

To

Michael Galen & John Dietz

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 1868, 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

In Est of James McCulloch vs

Plaintiff, and

vs McCulloch is

Defendant, on the part of

Defendant

and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with

the seal thereof hereto affixed, at office, this . . . day

of . . . A.D. 1868.

Wm. A. D.

Elias F. Honey Clerk.

Per Ed. Stone

SUBPŒNA.

TO

Jefferson Circuit Court

May TERM, 1862

Power adv^d, McCulloch

A Newcombe

For Deft

Madison Graham, +

Zebulon Pritchett, +

Shoriff fee \$1.00

Wm. C. Rogers, Jr.

I herewith certify that within the Jefferson County the on the
20th day of April 1862 on Madison Graham
and Zebulon Pritchett by executing the
same to each of them

John Williams
Shoriff

The State of Missouri,

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 10 day of May 1868 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

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

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with

the seal thereof hereto affixed, at office, this . . . day

Wm. Lloyd Garrison . . . A. D. 1867 . .

Wm. J. Henry, Wash.
Per A. A. Stone Del.

SUBPÆNA.

TO

Jefferson Circuit Court

May TERM, 1864.

Joe O Power Adm^r
McCulloch
vs
O A Newcombe

For Debt

Mr Aaron McCulloch (debtor)
Josiah Kelly +
Aaron Martin
Mathias Buntap
John Williams
Sheriff fee \$2.00

I executed the within Subpœna in Jefferson County
Missouri on the above mentioned last and
first day of May and Martin & Mathias Buntap
by reading the same to each of them

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach *Wm Johnson*

by his

body, and safely keep, so that you have *his* body before our Honorable
Circuit Court, *At St. Louis*

then and there to answer a contempt by *him* committed, in not attending said
Court as a *witness* after being
duly Summoned to do so. *Herein fail not, and have you then there this writ.*

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,

with the seal thereof hereunto affixed, this *14th*

day of *May* A. D. 1868

Elias F. Honey

By *J. N. H. D.* CLERK.

TO THE CIRCUIT COURT OF

JEFFERSON COUNTY.

May Term, 1868

Indebted

to

Mustenbe

Johnson

John Williams
Sherriff fee

50

If Return this attachment not served
the Within named John Johnson not
being found in My County this the
15th Day of May 1868

John Williams, Sheriff

James C. Power
Attor of James McCollock

C. A. Newcomb

In the Circuit Court
of Jefferson County
Missouri

Now at this day comes the Defendant and saying to himself all rights which he has gained heretofore in this cause by reason of the failure of plaintiff to file Replication to Defendants answer filed September 5th 1867 says that it is not true that Defendant ever took a ~~gray mare~~ a gray mare called "nettle Top" the property of James McCollock and says that plaintiff is not entitled to recover any sum whatever from Defendant by way of damages for taking said mare

Defendant avers that in the Year 1864 he bought the mare sued for by plaintiff in this case from Aaron, a negro man who had been a slave of James McCollock and who continued to be such till slavery ceased to exist in

this portion of Missouri, Defendant
avers that for many years next-
before the sale of said mare by
said Aaron to Defendant - said
James McCulloch permitted said
Aaron to work a great portion
of his time for himself with the
knowledge and consent of said
McCulloch and to keep and
appropriate the money earned
by himself while so working
for his own use and benefit ~~and~~
~~and to dispose of such money~~
~~as said Aaron saw proper, that~~
said Aaron improved such
portions of his time as his said
master gave him in working and
earning money, with the knowledge and
consent of said James McCulloch,
that said Aaron kept such ~~portion~~
money as he earned while so
engaged in working for himself at
such time as his master gave
him to work for himself in his
own exclusive possession, and under
his control that with money so earned
by said Aaron by his labor at
such portions of his time as said

him

James McCulloch permitted ~~him~~ to appropriate to his own use & to work for himself with McCulloch's knowledge and consent said Aaron purchased the mare mentioned in plaintiffs petition and took her into his exclusive possession that shortly after the time said Aaron purchased said mare to wit about the year 1863 said James McCulloch wholly abandoned the possession and control of said Aaron, and said Aaron in consequence of the civil war then raging between the two sections of the United States and in consequence of said McCulloch ceasing to have and exercise any acts of ownership over said Aaron he became and was a free man, that he left the home of said McCulloch but resided in the same neighborhood within a few miles of said McCulloch, that when said Aaron left the home of said McCulloch he took said mare with him and for a long time continued to keep said mare in his exclusive possession while living away from McCulloch's home, and in all things transacting business for himself —

in all respects as a free man -
(which he then in fact was)
that said Aaron so having said
mare in his exclusive possession
and under his control held her
out to the world on all occasions
as his own absolute property and
so represented her to be on all
occasions, that ~~he~~ for a long time
before said Aaron sold said mare
to Defendant he had and kept her
in his own actual and exclusive
possession, holding her out to the
world and representing her to be his
own absolute property as she in truth
was and that said James McCollock
well knew such to be the case, but
did not attempt to prevent the same
or to get the possession of her from
said Aaron or assert any right
or title to said mare or pretend to
set up any claim to her, and that
said McCollock never at any time
had ~~interference~~ said mare in ~~to his~~
his possession or pretended
to claim her, or to prevent said
Aaron from taking her with him
when he went to live to himself as

Aforesaid, That under such
Circumstances said Defendant
bought said mare from Aaron
and received the possession
of her from him in good faith
believing at the time as he now
asserts the truth to be that
said Aaron was the owner
of said mare and had the
right to sell and dispose of
her ^{any objection to disposition of said mare by Aaron}
and that said Webbloop did not ~~raise or make~~
And prays Judgment for
his costs

Isa E. Leonard &
Jos. J. Williams
Attys for Defendant
Defendant

J. C. Power
Solicitor at
Law
James McElloch
Esq
C. H. Leitchcomb

Amended answer
of Defendant

Filed May 11 1868
Chas. H. Kamelet
Clerk

James C. Powers
Adm^r of James McCulloch

vs
C. A. Newcomb

In the Circuit
Court of Jefferson
County Mo

The plaintiff now comes and moves the Court to strike out that part of defendants third, amended, ~~and~~ ^{as} ~~amended~~ herein filed on the 11th day of May 1868. ~~which~~ which reads as follows
Ordit.

" Defendant avers that in the year 1864 he bought the mare sued for by plaintiff in this case from Aaron a negro man who had been a slave of James McCulloch and who continued to be such till slavery ceased to exist in this portion of Missouri

Defendant avers that for many years next before the sale of said mare by said Aaron to defendant said James McCulloch permitted said Aaron to work a great portion of his time for himself with the knowledge and consent of said McCulloch and to keep and appropriate the money earned by himself while so working for his own use and benefit and to dispose of such money as said Aaron saw proper. That said

Saron improved such portions of his time as his said master gave him in working and earning money with the knowledge and consent of said James McColloch, that said Saron kept such money as he earned while so engaged in working for himself at such time as his master gave him to work for himself in his own exclusive profession and under his control, that with money so earned by said Saron by his labor at such portions of his time as said James McColloch permitted him to appropriate to his own use & to work for himself with McColloch's knowledge and consent said Saron purchased the mare mentioned in plaintiffs petition and took her into his exclusive possession, that shortly after the time said Saron purchased said mare & that about the year 1863 said James McColloch wholly abandoned the profession and control of said Saron, and said Saron in consequence of the Civil War then raging between the two sections

of the United States, and in consequence
of said McCulloch ceasing to have
and exercise any acts of ownership over
said Aaron he became and was a
free man, that he left the home
of said McCulloch but resided in
the same neighborhood within a few
miles of said McCulloch, that when
said Aaron left the home of said
McCulloch he took said mare with
him and for a long time continued
to keep said mare in his exclusive
possession while living away from
McCulloch's home and in all things
transacting business for himself
in all respects as a free man which he
then in fact was. That said Aaron
so having said mare in his exclusive
possession and under his control held
her as his own out to world on all
occasions as his own absolute property
and so represented her to the world on all
occasions that for a long time
before said Aaron sold said mare
to defendant he had and kept her in
his own actual and exclusive possession
holding her out to the world and rep-
resenting her to be his own absolute
property as she in truth was. and

that said James McCallach well knew such
to be the case, but did not attempt to
prevent the same or to get the
possession of her from said Aaron
or assert any right or title to said
mare or pretend to set up any claim
to her and that said McCallach never
at any time had said mare in his
possession or pretended to claim
her or to prevent said Aaron from
taking her with him when he went
to live ~~with~~ to himself as aforesaid,
that under such circumstances said defendant
bought said mare from Aaron and
received the possession of her from him
in good faith believing at the time as he
now asserts the truth to be that said
Aaron was the owner of said mare
and had the right to sell and dispose
of her and that said McCallach did
not make any objection to disposition of
said mare by said Aaron" Because

1. The same does not constitute any
defense to plaintiff's cause of action.

2. The same is argumentative, mul-
tifarious, and inconsistent in the several
allegations contained therein.

Green Thomas & Piffkin for Plffs

James C. Power &
Sons, Jan. 10, 1885

E. A. Hare sends

letter to strike out
part of Sept. 1884
and to answer

Quila May 12, 1885
E. A. Hare

James C. Powers Plaintiff } In the Circuit
 of James McColloch } Court of Jeff
 vs } County Mo
 C. A. Newcomb }

Now comes the plaintiff herein
 and for application to defendants
 answer denies that said defendant
 bought the said ware of said Aaron as
 stated in said answer, denies that for
 many years next before the ^{alleged} sale of
 said ware by said Aaron James McColloch
 permitted said Aaron to work a great
 portion of his time for himself and
 to ship and appropriate the money
 alleged to be earned for his own use
 and benefit, and to dispose of such
 money as said Aaron might see
 proper. Plaintiff denies that said
 Aaron improved his time in working
 for himself, with the consent or know-
 ledge of said McColloch. Denies that
 said McColloch allowed him to keep
 said earnings as his own exclusive
 property or in his exclusive possession
 and under his control, denies that
 with his said earnings said Aaron
 bought the ware in controversy, &
 took her into his possession and control

and for further replication plaintiff denies that said Aaron left the home of McColloch with McCollochs knowledge or consent, denies that he took the mare with him when he left, But says that when Aaron left his home it was at a time during the war that said McColloch could do nothing to recover said Aaron as he went into the lines of the Federal Army and beyond the control of his master, all of which was well known to said defendant

and for further replication plaintiff says that at the time Aaron ran away from his master the mare was at the farm of said McColloch, and remained there for a long time thereafter and until she was stolen from her owner said McColloch

Plaintiff also denies that said McColloch ^{the proprietor and agent of} about the year 1863 abandoned said Aaron and further denies that said defendant bought & received said mare from said Aaron in good faith and without any knowledge of said McCollochs right to the same & therefore he avers that said defendants answer is not true and asks for judgment for said mare and damages as may be in his petition

Green & Perkins

per [signature]

J. E. - Powers
don't

"

E. J. Townsend

Repetition to rights
concerned answer filed
May 1st 1868.

Filed May 15th 1868,
E. J. Stoney

Circuit Court Jefferson County
James C. Forver

Administrator of the
Estate of James Mc Culloch
deceased Plaintiff }
Against } Affidavit for
C. A. Severcomb } Continuance
Defendant }

State of Missouri
County of Jefferson } S.S.

I, a Juror
being duly sworn says that he is one
of the Attorneys for the defendant in the
above entitled cause, and makes applica-
tion for a continuance therein on the ground
of the absence of material witnesses. And
the deponent further says that William
Johnston and Mathias Bruley are each
of them material and necessary witnesses
for the defendant herein in said cause, that
no other witnesses are in attendance or with-
in the reach of the process of this Court upon
whose testimony the party can safely rely
to prove the particular facts that the
absent witnesses are expected to prove
that the said deponent believes he can-
not safely go to trial without the testimony
of such absent witnesses. And the de-

deponent further says that said witnesses are not absent by the consent, connivance or procurement of the party applicant or the defendant therein or the Attorney of said defendant. And the deponent further says that a Subpoena was issued by the Clerk of this ^{Court} on the ninth day of April A.D. 1868 and given to the Sheriff of said County and that to Subpoena the said William Johnston and that said Subpoena was served by the Sheriff on said Johnston on the 3rd day of May A.D. 1868 as will appear by the said Sheriff's return thereon, and that a Subpoena was issued by the Clerk of this Court on the 12th day of May A.D. 1868 to serve on Mathias Brinley and that the same was served on said Brinley on the said 12th day of May A.D. 1868 as will appear by the Sheriff's return thereon. And the deponent further says that said witnesses as aforesaid not appearing an Attachment for their bodies was sued out of this Court on the 14th day of May A.D. 1868 as will appear by reference to said Attachments now on file with the Clerk of the said Court with the Sheriff's return on each of said Attachments for said witnesses showing that said witnesses could

not be found or either of them as will
more fully appear by the Sheriff return to
said Attachments, And the deponent further
says he believes ~~if~~ said cause is continued
until the next term of this Court ~~he believes~~
said witnesses can be procured.

And the deponent further says that he
makes this affidavit and application
for continuance for as the Attorney for
the defendant because he knows the facts
and circumstances stated therein and be-
cause the defendant is not present so as
to make the same in person

Subscribed and sworn to } Ira E. Leonard
before me this 15th day of }
May A.D. 1868, }

Elias J. Hooney Clerk

By Thomas D. C.

Dr. W. W. W. W. W.
Alphonso W. W.

James & J. W.
Admiral &
of James & W. W.
W. W. W.

W. H. W. W.
W. H. W. W.

W. H. W. W.
Application & W. W.
W. W. W.

W. H. W. W.
W. H. W. W.

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach L W Morse

by his

body, and safely keep, so that you have his body before our Honorable
Circuit Court, Northwith

then and there to answer a contempt by him committed, in not attending said
Court as a Witness after being
duly Summoned to do so. Herein fail not, and have you then there this writ.

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, this 18th
day of November A. D. 1868,

Elias F. Honey
By Thos. Honnedep CLERK.

TO THE CIRCUIT COURT OF

JEFFERSON COUNTY.

Term, 186

McCluck
vs
Newcombe

John Williams Sheriff
fee 1.00

I executed the within attachment on Jeff Co moon
the 19th day of november 1868 on D W morse by bringing
the his body into the court

John Williams Sheriff
By M W Horne Depy

COUNTY OF JEFFERSON,

The State of Missouri,

To L. A. Foster

YOU ARE HEREBY COMMANDED, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, ~~and~~ *James W. Wills*

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

is
Plaintiff, and *L. A. Foster* is *James L. Potters*

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

WITNESS, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office,

this *20* day of *November* A. D. 186*8*

Elias F. Honey Clerk.

SUBPOENA.

To Jefferson Circuit Court.

Not Term, 1868

Power
vs
Newcomb

for Deft
C L Foster

John Williams
Sheriff fee 50

Whereas the ~~Att~~ ^{Att} ~~Th~~ Th ~~is~~ ^{is} in & Shelton County
Mo on the 20th day of Oct at Shubert 1868
an C. L. Foster by executing the same to him
John Williams
Sheriff

COUNTY OF JEFFERSON.

The State of Missouri,

To

John M. Key

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

James Adams McCallister is

Plaintiff, and

Charles H. Hecombes is

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

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this *18* day of *Nov* A. D. 186*8*

Elias F. Honey Clerk.

John M. Key

SUBPOENA.

To Jefferson Circuit Court.

Nov Term, 1868

Power Adminr of
James McElrath Estate

vs

Ed A Newcomb

for debt

Wm McKay

John Williams Sheriff
Recd

I presented the within Subpoena in apt co m on the 18 day of
November 1868 in p^{re} the McElrath by reading the same
in his presence and hearing.

John Williams Sheriff
of the Jefferson Dept

COUNTY OF JEFFERSON.

The State of Missouri,

To *each* *celler*

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 of September* *1868*, 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 C. Peters* *administrator of James McCulloch, Dec. is* Plaintiff and *C. C. McCracken* is

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

day of _____ A. D. 186

Clark.

SUBPENA.

TO

Jefferson Circuit Court

Nov Term, 1868.

Powen
vs
Newcomb

for
Deft
George Kelley, called
Lives up to Wards the
Tunnell

John Williams
Sheriff fee 50

I executed this writ in Jefferson County
the 14 day of November A D 1868
by reading the same in the presence and
hearing of Jacob Wiley the within
named
the 50th
Joseph M. Ashburn
Saml of Wells Township

COUNTY OF JEFFERSON,

The State of Missouri,

To E. C. Fletcher & W. Fletcher

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 19th day of Nov

1868 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 J. C. Brown as

Admirer of the City of Lawrence the Defendant
Plaintiff, and he, and hereunto is

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

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this day of A. D. 186

E. F. Honey
Clerk.
By E. C. Fletcher & W. Fletcher

I executed the writ at the County
of Jefferson missouri, ^{and} ~~at~~ the 18th
day of November 1868 on T. C.
Hatcher and John W. Hatcher
By reading this writ to them
in hearing

John Williams Sheriff
by John Virgato

SUBPOENA.

To Jefferson Circuit Court.

Term, 186

McCluskey Esq

Newcomb

Attest
J. H. Lee

COUNTY OF JEFFERSON,

The State of Missouri,

To David W. Mendenhall

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 November 1868 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 John C. Cline is

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

WITNESS, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office,

this 30th day of Oct A. D. 1868

Elias F. Honey Clerk.

By John C. Cline

SUBPOENA.

To Jefferson Circuit Court.

Nov Term, 1868,

McCulloch

vs

Newcombe

For Petff

D. H. Morse

John Williams Sheriff fee 50

Presented the within subpoena to one on D. H. Morse on the 30th day of October 1868 by meeting the same to him in his presence and hearing.

John Williams Sheriff
Per J. H. Morris DeR.

COUNTY OF JEFFERSON.

The State of Missouri,

To Aaron Martin, Markie Rowley Mark Lyndham
v. J. A. Ritchett.

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 November 1868,
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

by Admon' Ritchett is
Plaintiff, and O. A. Shumaker is
Defendant.

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

WITNESS, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office,

this 15th day of October A. D. 1868,

Elias F. Honey, Clerk.

By O. M. Horney Deft.

SUBPOENA.

To Jefferson Circuit Court.

Nov

Term, 1868

McCulloch

vs

Newcombe

For Defs.

Arson Martin

Mathias Brindley

Mat. Abraham

Zeb. Pritchett

John Williams Sheriff fee \$2.00

I executed the within subpoena in Sept. 1868 on the 10th day of November
1868 in effect Martin & Mathias Brindley & Zeb. Pritchett by
sending the same in their presence and hearing

John Williams
By the Sheriff

COUNTY OF JEFFERSON.

The State of Missouri,

To Alfred Mactier & George Mc Gray.

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 November 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

by whom is C. A. Henscumber

Plaintiff, and

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

WITNESS, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office,

this 6th day of June A. D. 1868

Elias F. Honey Clerk.

By C. H. Henscumber Deft

SUBPOENA.

To Jefferson Circuit Court.

Nov Term, 1868

James McCulloch by Adm'r

vs
A Newcombe
for debt

Alfred Martin &
George M Fry

John Williams Sheriff fee \$1.00

Presented the within copy in Sept 20 on
Alfred Martin & George M Fry on the 10th day of November
1868 by reading the same in their presence and hearing

John Williams Sheriff
by M. H. H. H. H.

COUNTY OF JEFFERSON,

The State of Missouri,

TO *Mrs Johnson, Sherlone Jarvis, Mrs Aaron M. Claullock*
* *Josiah Kelley*

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 November 1868*, 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 M. Claullock*

by Administrator is
Plaintiff, and *he & others* is

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

WITNESS, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office,

this *13th* day of *October* A. D. 1868

Elias F. Honey Clerk.
By Eli Honey Sept 10

SUBPOENA.

To Jefferson Circuit Court.

Nov Term, 1868,

McCulloch

vs

Newcombe,

For Deft,

Mr Johnson

Thornton Davis &

Mrs Aaron McCulloch (colored)

Isaiah Kelley

John Williams Sheriff fee \$2.00

Executed the within Supra in Deft's face on the 10 day
of November 1868 in William Johnson Davis and
McCulloch by reading the same in their presence and
hearing

John Williams Sheriff
By M. W. Harris Deft

COUNTY OF JEFFERSON.

The State of Missouri,
To *Wm J Moore*

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 *J. Pence*

Plaintiff, and

Lea Newbould

Defendant, on the part of

Asplk

and herein you are in no wise to

fail.

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this

17

day of

May

A. D. 186*6*

E. M. May Clerk

Clerk.

Wm J Moore

SUBPOENA.

To Jefferson Circuit Court.

May

Term, 1889

Power Admin

Newcomb

Wm L. Wilcox

Fred Leuchtenmeyer
Sheriff's fee 50

I expected the witness supra in afternoon to ma
on William L. Wilcox by on the 18th day of May 1889
by meeting the same to him in his presence
and hearing.

Fred Leuchtenmeyer Sheriff
by the above Deputy

See vol 2

COUNTY OF JEFFERSON.

The State of Missouri,

To James A. Wilson, Amanda M. Cullock
and John M. Stacy,

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 Eleventh day of
May 1869 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 M. Cullock is Adverser

Plaintiff, and

C. A. Newcombe

Defendant, on the part of

Plaintiff

and herein you are in no wise to

fail.

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this

22 day of

March A. D. 1869

Clerk.

Wm. J. Honey

By J. H. Adams Secy

2805

SUBPOENA.

To Jefferson Circuit Court.

May Term, 1869
Jas. McCulloch by
Administrator

vs
C. A. Newberry
for Plff.

Jas. A. Wilson
Amanda McCulloch
& Wm. McKay

Served the within on the 27 day of March A. D. 1869, by reading
the same to the within named Jas. A. Wilson. Wm. H. Hays and
also by reading the same to the within named Amanda, Mrs.
Wallack on the 3rd day of May A. D. 1869 all at Jefferson County
Mo. in those presence and hearing

fees. \$ 2.00

Theed Lushbournes Sheriff
by Theed Culbreth Deputy

The State of Missouri,

COUNTY OF JEFFERSON,

To *H. S. Foster*

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

1869

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

Charles Frederick McCreedy is

C. H. Newland

Defendant, on the part of

Deputy

and herein you are in no wise to

fail.

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this

13 day of *April*

A. D. 1869

Elias F. Honey

Clerk.

By & Witnessed

SUBPOENA.

To Jefferson Circuit Court.

May

Term, 1869

Pomeroy

vs

Newcombe

or Deft

C L Johnston

Hoster

The within was served on the 15th of April A D 1869, at Jefferson Co Mo
by reading the same in the presence and hearing of C L Steadler
Jes St

Frederick Duncanson Sheriff
per

Deputy

COUNTY OF JEFFERSON.

The State of Missouri,

To

David H. Moore

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

1869 at Hillsboro, then and there to testify, and the truth to say in certain

matter of controversy, now pending in our said Court, wherein

By Administrator
Plaintiff, and Co. of New Bonds

vs

Defendant, on the part of

Plaintiff

and herein you are in no wise to

fail.

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this 20th day of June A. D. 1869

Elias F. Honey Clerk.

By David H. Moore

SUBPOENA.

To Jefferson Circuit Court.

May

Term, 1869

Power

Newcomb

for Plff

W Morse

Served the within on the fourth day of May by reading the same, within the day before
and hearing to the within named D W Morse at Jefferson Circuit Mo.

James Cunningham Clerk

COUNTY OF JEFFERSON.

The State of Missouri,

To Mrs. James McCutcheon (nee Kelly, Alfred Martin,

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

11th Day of

May 1869 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
Estate of James McCutcheon deceased

Plaintiff, and

vs. James McCutcheon

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

tail.

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this 12th day of April A. D. 1869

E. F. Honey Clerk.

Served the within at Jefferson County Mo by delivering the same in the presence
and hearing to the within named Mrs Brown at Callbrook on April 8th 1869. and it
was also served in like manner as above stated to Alfred Martin
on the 13th day of April 1869. The within named Josiah Kelly
can not be found in my County

Fees \$ 1.25

For Sheriff and fees
per Fred Vollmar
Deputy

SUBPOENA.

To Jefferson Circuit Court.

May Term, 1869
Power
is
Newcomer

Mrs Aaron McCulloch
Josiah Kelly
Alfred Martin
colored