

May 1867

Kattelman, Henry

vs

O'Fallon, John

Ejection

1,329 acres in various locations;

\$3,000 damages; depositions

State of Missouri }
 County of Jefferson }^{is} In the
 Henry Kettelmann, plaintiff }
 vs }
 John O'Fallon, defendant }^{is} the
 15th Judicial Circuit
 May term 1867.

Henry Kettelmann, plaintiff
 states, that on the fourteenth day of December AD 1866, he was
 lawfully entitled to the possession of the following described
 lots or parcels of ground, situated in the county of Jefferson, in the
 state of Missouri, to wit: 1) The West half of the North East quarter of
 Section 24, township 42, Range 5, containing 80 acres; ^{also} 2) the North
 East quarter of the North East quarter of Section 24, township
 42, Range 5, containing 40 acres more or less; also 3) the whole
 of survey 1982 in township 42 Range 6, containing 640
 acres more or less. also ^{that} 4) Part of survey 893, ^{which is,} in township 42
 Range 6, containing 222 ³⁷/₁₀₀ acres, more or less. also 5th
 the South West fractional quarter of Section 30 in township 42
 Range 6, containing 9 ⁵⁰/₁₀₀ acres, more or less; 6th the South West
 fractional quarter of the South East fractional quarter, and
 the North East fractional quarter of Section 29, township 42,
 Range 6, containing 24 ³/₁₀₀ acres, more or less; also 7th
 the South East fractional quarter of Section 19, township 42,
 Range 6, containing 125 acres, more or less; also 8th the North
 East fractional quarter of Section 36, township 42, Range
 5, containing 70 acres, more or less; and being so entitled to
 the possession thereof, that the defendant, John O'Fallon,
 afterwards, on the fifteenth day of December, AD 1866, entered
 into said premises, and now unlawfully withheld from the
 plaintiff the possession thereof, to his damage in the sum

of three thousand dollars. Plaintiff further states, that the monthly value of the rents and profits of said premises is one hundred and fifty dollars, Wherefore plaintiff prays for judgment ^{against defendant,} for the recovery of the premises above described, and three thousand dollar damages for the unlawful withholding of the same from plaintiff, and 150 dollars for the monthly rents and profits from the rendition of judgment until the possession of said premises is delivered to plaintiff and for his costs of suit.

By Louis Gottschall & Henry
F. Ahlvers atty for plff.

Jefferson Davis Esq

Wm Kattelman

vs:

John O'Fallon.

Petition

in

Equity

Filed Nov 20th 1867
Elias J. Honey Clerk

To the Clerk
of the Court

\$ 3.00 paid by J. O'F.

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 *John D. Tallent*

if he be found in your County, that
he do 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 *Sixth* Monday after the
fourth Monday of *March* next, then and there to answer unto
Henry Rattleman

upon *his* original petition, a copy whereof is herunto annexed and
accompanies this writ, and have you then there this writ.

Witness, ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof herunto affixed, at office in Hillsboro, this
Twentieth day of *March* A.D. 1867

Elias F. Honey
Clerk Circuit Court.

no 5-

409. 496. 513. 560. 567. 590. 633

2607
JEFFERSON CIRCUIT COURT.

May Term, 1867

Henry A. Johnson

vs. } Edmund

John O. Fallon

John Williams Sheriff
for serving writ \$1.00

Filed April 3rd 1867
Blas P. Hovey clerk

I Executed this Writ in the County of Jefferson and State of Missouri on John O. Fallon on the 2nd Day of April 1867 by delivering to him the said John O. Fallon a true copy of the Within Writ and Petition as furnished to me by the Clerk

John Williams Sheriff

Henry Kallertman Plaintiff } In the Jefferson
 Against } Circuit Court.
 John O'Hallow Defendant }

Now at this day comes John O'Hallow
 the above named defendant and for answer
 to the petition of the Plaintiff denies that
 Plaintiff was on the 14th day of December
 1866 or on any other day either prior thereto
 or since, entitled to the possession of the
 lands described in said petition or any part
 thereof or that he now at the commencement
 of this suit unlawfully withholds the possession
 of said lands from Plaintiff. Deft-
 avers that he is the owner of all of
 the land described in said petition, except
 the S E $\frac{1}{4}$ Sec. 29 T. 42, R. 6. E. which
 he does not own. Defendant denies
 that Plaintiff has been damaged in the
 sum of three thousand dollars or
 any other sum by reason of any dissing
 in done by defendant of the lands described
 in said petition.

Green & Thomas
 Atty for Deft.

Henry Watkinson

27

John Otterton

Answer,

Filed Oct 2 1860
C. J. Downey
Per C. J. Downey Sept

State of Missouri } In the
 County of Jefferson } Jefferson Circuit Ct.
 Henry Kattelman, plaintiff
 vs: }
 John O'Fallon, defendant

The plaintiff from his
 reply states that he denies that said defendant is the
 owner of the land claimed by him in his answer or
 of any part thereof.

Plaintiff reaffirms his statements in the petition and
 prays for the relief therein claimed.

H. T. Shivers, &
 Louis Gottschall
 Attys for plff.

Henry Ashmun

me.

John O'Fallon

Representation
of
people.

Richd Ochsman,
Eliza & Mary Orr,

COUNTY OF JEFFERSON.

The State of Missouri,

To

Wm. McCallister & C. F. 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 *eleventh* day of *December* 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 *Henry Waltemann* is

Plaintiff, and

John C. Dallas 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 *17th* day of *October*. A. D. 1867.

Elias F. Honey Clerk.

SUBPENA.

TO

Jefferson Circuit Court

Nov. TERM, 1867

Kattelman
vs
Fallow

For Defendant

R. W. McMullin x

+ C. C. Fletcher x

John Williams
Sheriff \$1.00

I Execute the Within in Jefferson County
me on the 4th day of September 1867
By executing the same to R. W.
McMullin and C. C. Fletcher

John Williams
Sheriff

COUNTY OF JEFFERSON.

The State of Missouri,

To *Wm. W. Green James Hughes Henry*
Smith & A. H. H. H.

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 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

Henry H. H. H.

Plaintiff, and

John O. H. H.

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 *29th* day
of *October*, A. D. 1867.

Elias F. Honey (Seal)

By Ed. H. H.

SUBPENA.

TO

Jefferson Circuit Court

Nov. TERM, 1867.

Kattelman

v.
O'Sullivan

For Plaintiff

M. W. Green

James Dinger

Henry Stahl

C. O. Fletcher

John Williams
Scripfee \$1.00

Richard Whaling
Mr. Stance

I certify the within in Jefferson County
Mo on the 8th day of October 1867
by reading the same to E. E. Johnson
& James Dinger
John Williams
Henry Stahl
O'Sullivan

COUNTY OF JEFFERSON.

The State of Missouri,

To Henry Fine & John Richard Whiting
vs
Wm. Hovee,

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 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

Henry Wallchewer is

Plaintiff, and John Cartledge is

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 7th day of November A. D. 1867.

Elias F. Honey
Clerk.

SUBPŒNA.

TO

Jefferson Circuit Court

Nov. TERM, 1867

Kuttelmaier

vs
W. S. Fallon

For Plff

Henry Fine

A. Johnson

R. Whaling

J. M. Stouse

John Williams \$2.50
Sheriff fee

I served the within in Jefferson County Mo on
the 8th day of October 1867 by directing
the same to Richard Whiting & Wm Stoude
John Williams
Sheriff

COUNTY OF JEFFERSON.

The State of Missouri
To, *John A. Caldwell*

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

Henry A. Attkins is
Plaintiff, and
John Caldwell is

Defendant, on the part of *Caldwell* 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 *11th* day of *Nov* A. D. 186*7*.

Elias F. Honey Clerk.
By A. J. Davis *clerk*

SUBPŒNA.

TO

Jefferson Circuit Court

Nov. . . . TERM, 1867

Kattiman

vs

John O. Fallon

For Deft

Wm S. Poach

E. C. Sanderson

John Williams
Sheriff fee \$1.00

I Greenlee the Within in Jefferson County
Miss on the 11th day of October 1867 by
Heating the same to Wm S Poach and
E. C. Sanderson

John Williams
Sherriff

State of Missouri
County of Jefferson } 2011

Henry Kottlerman Plff }
against }
John O'Hollan Jr Deft }
} in Cl.
} Nov 1867

Now at this day comes the deft
by his attys and objects to the suffi-
ciency of the affidavit in said cause
been a continuance thereon
for the following reasons to
wit 1st The affidavit does not
show that all the jurors of the court
has been impaneled to obtain
the witnesses desired
2nd The affidavit does not state
that the ~~affidavit~~ witnesses
are not absent by the consent
or procurement of the plaintiff
in said affidavit
3rd The affidavit does not state
that there are no other wit-
nesses within the reach or power
of the court for this term or that
none are now in court by whom
the same facts can be proven
Thomas, Green & Smith
for deft.

Henry Northman
per
John D. Hallenbach
speaking to
presents from
Carthage

Filed Nov 13th 1869
D. D. May 21st

Henry Kattemann } In the Jefferson
John O'Fallon } Circuit Court.

Henry Kattemann, Plaintiff,
being sworn, says, that he is not
ready for the trial of the above
entitled cause for the reason,
that four material witnesses
at, although duly subpoenaed,
are absent.

Subscribed and sworn to by Henry Kattemann

Plaintiff

5th day of March

1867

Henry F. Ahlers
Notary public,

Wadsworth

or

John C. Waller,

Filed Jan 18 1869
C. J. Honeywell

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach *Wm. Stouse & H. Whaling*
by *their*

them body, and, safely keep, so that you have *their* body before our Honorable
Circuit Court, *Dorchester*

then and there to answer a contempt by *them* committed, in not attending said
Court as a *Witnesses* 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 *Ninth*
day of *November* A. D. 1867

Elias F. Honey
CLERK.

TO THE CIRCUIT COURT OF

JEFFERSON COUNTY.

Wm

Term, 186

W. H. H. H.

W. H. H. H.

W. H. H. H.

W. H. H. H.

W. H. H. H.

W. H. H. H.

Henry Kattelman Haupt

Henry Kattelman Plaintiff }
vs } In the Jefferson
John O'Hellor, Defendant } Circuit Court.

In the Jefferson
Vacant Court.

To Henry Kattelman, the above name de-
pendent.

You are hereby notified that depositions of witnesses to be read in evidence on the trial of the above entitled cause on the part of the ~~defendant~~ will be taken at the office of John W. Dryden No 415 Chestnut Street St Louis Mo. on the 8th day of May 1868, between the hours of eight o'clock in ~~the~~ forenoon and 4th o'clock in the afternoon of that day; and if not completed on that day the taking thereof will be continued at the same place from day to day and between the same hours until completed.

Green & Hornay

Atty for Defendant:

I acknowledge
because of the
multitudinous
upon this, as
~~one of the other~~
pages of 1227B.
The 29th day of
January 1878,

Henry F. Johnson
& William G. Jones
by Henry F. Johnson

Deposition of Michael Keeber a witness produced sworn and examined before John W. Dryden, a Notary Public within and for said County and State on the Eighth day of May A.D. 1868 at the office of John W. Dryden No. 415 Chestnut Street in the City of St. Louis in said County & State between the hours of eight o'clock in the forenoon and six o'clock in the afternoon of said day, in a cause pending in the Jefferson Circuit Court in said State of Missouri wherein Henry Kattelmann plaintiff and John O. Fallon^{jr} defendant on the part of the said defendant,

Michael Keeber of lawful age being duly produced sworn and examined on part of the defendant deposes and saith.

My name is Michael Keeber. I live in the City of St

Louis at present. I know Mr John O'Fallon the defendant. I don't know Kattleman the Plff. Sometime ~~I~~ in the spring of 1867 I went down with Mr John O'Fallon Jr to DeSoto to pay the taxes or see the Sheriff of Jefferson County to pay him ^{the taxes on} Mr John O'Fallon Jr's land. ^{I do not know the Sheriff's name.} I mean the back taxes on the land in Jefferson County. I met the Sheriff in the DeSoto House and tendered him the money for the taxes, which he refused to take saying he had that day made a deed for said land to Henry Kattleman. ~~In talking over~~ (The ~~def~~ Plff's attorney Mr Wm C Jones objects to ~~the~~ testimony of witnesses as to his conversation with the Sheriff) In talking over the matter the Sheriff admitted that said land had never been offered at public sale. The reason why he had never offered them for sale was that Mr John O'Fallon had requested him not to sell them, that he would come and settle for them

I inquired about this particularly of the Sheriff, as the County Clerk of Jefferson County had informed me some time previous, [The plff's Attorney Mr Jones, here objected to the admission of testimony as to what County Clerk said as hearsay evidence & incompetent.] that John O'Fallon's lands had not been offered at public sale.

Ques: State whether he mentioned whether or no the Clerk of the County Court was his deputy?

(Question objected to by plff's counsel Mr Jones, on ground that it is to elicit hearsay evidence which is incompetent)

Ans. He must have been his deputy as I paid him the taxes on John O'Fallon's estate's lands at that time when this conversation took place

~~Ques~~ ~~State~~ State whether the name of ^{man you were talking to} the ~~Sheriff~~ was Fletcher or not?

~~Ans~~ (Question objected to as leading by plff's atty Mr Jones.)

Ans. He was introduced to me as Mr Fletcher Sheriff. I know by papers

and receipts that I have that the
Sheriff's name is Fletcher.
M. Keber

State of Missouri }
County of St Louis } ss I John W Dryden a
Notary Public in & for said county &
State do certify that on this the 8th day
of May A.D. 1868 between the hours of
8 o'clock in the forenoon and 6 o'clock
in the afternoon of said day at the
Office of John W Dryden No 415 Chest-
nut Street in the City of St Louis, in said
County & State before me came Micha-
el Keber who having been by me then &
there first duly sworn to testify the
whole truth of his knowledge touching
the matter in controversy in the cause
in this notice hereto annexed, mentioned,
&c, was then & there examined and
his examination by me then & there
reduced to writing and by him sub-
scribed in my presence, which said
examination so reduced to writing &
subscribed is the foregoing writing
next preceding this certificate.



In witness whereof
I have hereunto set my
hand and affixed my
notarial seal at St
Louis aforesaid on this
said 8th day of April
A.D. 1868.

John W. Dryden
Notary Public St Louis,
County Missouri)

Notary Fees & Expenses.

Writing deposition of 600 words @ 15¢ per 100 -	90
Certfch to deposition	50
Palat fees	\$1.40
Expense	05
1. U.S. Rev Stamp to Certfch -	15
Postage -	15
	\$1.60

In the Jefferson
Circuit Court.

Henry Hattelman
Plaintiff

vs

John A. Hallen
Defendant

Deposition of Michael
Keller, of Illinois

Notary's Fees & Expenses
\$1.60

Paid in full in the afovt.
John H. Dwyer,
Notary Public

Received for mail, prepaid
and dated May 15, 1868
Geo. B. Woodley Clerk

Katlehman
2
O'Hallor

The Defendant demurs to the evidence
offered by the Plaintiff in this Cause ~~to~~ for
the following reasons.

1. Because the Plaintiff ^{not} by his evidence
made out a prima facie case.

2. Because the 2d deed read in evidence
is void & conveys no title for the reason
^{the land recited therein} that it is not sufficiently described.

3. Because there is no evidence that the
requisitions of the Revenue Law, had been
complied before the execution of deed
offered in evidence.

Green, Williams & Thomas,
Attys for Defendant

Henry Hollister

2,

Mr O'Haller

dear Sir to the
credence of the
plaintiff.

Given May 22nd 1868,
C. J. O'Haller

Henry Kattlemann, pett., } In the Jefferson
against } County Circuit
John O'Fallon jur. defft. } Court.
May Term 1868.

Now on this day comes Henry F. Ahlers, one of the Attorneys of plaintiff, and for the purpose of appealing from the decision of the Court in the above entitled case, makes oath and says, that said appeal is not made for vexation or delay, but because the affiant believes, that the appellant Henry Kattlemann is aggrieved by the judgment or decision of the Court.

Subscribed to and subscribed before me
this 22^d day of May 1868
Elinor J. Hoarey Clerk
By O. J. Hoarey Deft.

Henry F. Ahlers

Henry Hallenman

vs.

John O'Fallon
Jus. Defend.

—
Affidavit for
Appearance

Filed May 22 1868
J. H. Stoner Clk.

Henry Kattelman
vs
John P. Fallon Jr }

Plaintiff comes & moves the Court to
set aside the ~~own~~ ^{own} Court voluntarily taken and
~~grant a new trial~~
Because the Court erred in ruling that on
the case as made by plaintiff he is not
entitled to recover.

Because the Court erred in ruling to sustain
the ~~own~~ ^{own} defendant to the evidence asked for
by the defendant at the conclusion of plaintiff's
case.

Because the ruling of the Court is against
the law evidence & weight of evidence.

Because under the law plaintiff made
out a prima facie case

Mauro & Ahrens
attys for pettff.

Henry Hallen

no,

John O'Fallon
you,

nothing to set
aside manuscript,

Dated May 22nd 1808
Elizabeth Henry Dr

Henry Kattelman, Plaintiff
vs
John O'Fallon, Defendant }

Be it remembered that on the trial of
the above ^{the matter in dispute being submitted to the Court without jury, requiring a finding} entitled Cause, the Plaintiff to sus-
tain the issues on his side offered to read
in evidence a deed dated December 12th 1866,
signed by Chas. C. Fletcher Collector of Jefferson
County Mo, recorded in the Recorder's
office of said County in Book W. p. 767, in
words and figures as follows (here copy deed)
to the reading of which Defendant at the
time objected for the following reasons -
1. Because Plaintiff had not shown that the
land described in said deed had been properly
assessed for the year therein named - or
that the former Collectors of Jefferson ^{County} had
proceeded to collect the taxes by selling personal
property as required by law, or that they had
regularly returned said land delinquent
at the time and in the manner required by
the Revenue laws of 1861 - or that said land
had been offered for sale at the Court house
door in said County at the time and in the
manner required by the laws of 1861 - or
that said land had ever been offered for
sale at the Court house of said County

and for want of bidders had been forfeited to the State of Missouri at the time and in the manner required the Revenue laws of 1861 - or that said lands had ever been certified to the Register of lands at Jefferson City as lands that had been duly & legally forfeited to the State for the non-payment of the taxes thereon as required by law - or that said lands still remained unredeemed in 1864 - or that the Register of lands ever certified said lands to the Clerk of said County as lands that had been forfeited to the State prior to the year 1863 - or that the Clerk of ^{the} said County Court of said County ever made made out & delivered to the Collector of said County in the year 1864 an abstract of said lands & the taxes due thereon for the years named in said deed - or that said Collector ever proceeded to collect said taxes by the sale of personal property as required by the Statute in such case made and provided - or that said collector ever returned to said Clerk said lands as delinquent for the non-payment of the taxes thereon at the time or in the manner required by law - or that said Collector ever gave notice that he would apply for judgment against said lands for the taxes due

thereon at the July Term of said Court for 1864
for the length of time & in the manner
required by law - or that the County Court
of said County ever rendered judgment
against said land for the taxes due thereon
or that the Clerk of said Court ever issued a precept
to the Collector of said County as required by
law - or that said Collector gave the notice
that he would offer said land for sale on
the first Monday of October 1864 for the
time & in the manner required by law -
or that said Collector did offer said land
at public auction at the Court house door
on the first Monday of October 1864
as required by law - or that said land
were for the want of bidders legally &
duly forfeited & struck off to the State of
Missouri - or that said land were ever
duly recorded in the Sale book as required
by law, or that said land remained unre-
deemed on the first Monday of November
1865, or that the said Collector ever gave
notice that he would offer said land for
sale at the Court house door of said County
on the first Monday of November 1865
for the time or in the manner required by
law - or that said Collector did on the
1st Monday of November 1865 offer said

lands at public sale at the Court house door
in said County as required by law - or that
said lands were for the want of bidder on
the 1st Monday of November 1865 duly and
legally forfeited to the State of Missouri and
recorded at that time on the sale book - or
that said lands remained undelivered on
the 1st Monday of October 1866 - or that said
Collector gave the notice that he would offer
said lands for sale at public auction at
the Court house door in said County
on the first Monday of October 1866 for
the time & in the manner required by law -
or that said Collector did on the first
Monday of October 1866 offer said lands
for sale at public auction at the Court
house door of said County as required
by law - or that said lands were on the
1st Monday of October 1866, for the want
of bidder, duly & legally forfeited to the
State of Missouri and properly recorded
on the sale book as required by law.

2. Because there was no law in force in Novem-
ber 1865 or in October 1866 authorizing
the sale of those lands which had been forfeit-
ed to the State under previous statutes -
3. Because said deed is void upon its
face in showing that the lands described

in said ^{deed} were forfeited in 1864, 1865, & 1866 for the taxes of 1860, 1861, 1862 & 1863, when the laws required that all lands which were returned delinquent for any year or years prior to 1863 should be stricken off the delinquent list of 1863.

4. Because the deed does not show that the lands lie in Jefferson County Missouri or whether said lands are in ranges 5 & 6 East or in Ranges 5 & 6 West or whether said lands are in Township 42 N. or 42 S.

But the Court overruled said objections and allowed said deed to be read in evidence to which decision of the Court in allowing said deed to be read in evidence the defendant at the time objected & excepted.

The Plaintiff then offered some evidence in regard to rents and profits and that defendant was in possession of the lands sued for at the commencement of this suit & then closed his case.

Defendant then filed a demurrer to Plaintiff's evidence as follows (here copy the demurrer) which the Court sustained, whereupon Plaintiff took a non-suit with leave to move to set the same aside. Plaintiff then filed

his motion to set aside the said non-suit
for the reasons therein stated which motion
is in words and figures as follows (here
copy said motion) which motion the Court
overruled and to which decision of the
Court in overruling said motion to set
aside the non suit Plaintiff at the time
accepted and tendered this his bill of excep-
tions and prays that it may be signed
sealed in open Court & made a part of
the record herein which is accordingly
done -

J. H. Vail Judge (seal)

Kathleen
— — —
O'Hallen

Miss Dorothy
— — —

Wed June 3rd 1868
Edna Harvey etc