No. 14732

Supreme Court of Illinois

Moritz

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vs.

Hoffman, et al

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STATE OF ILLINOIS,

SUPREME COURT,

THIRD GRAND DIVISION.

No. 259

J. W. Middleton & Co., Stationers, 196 La[illegible]

14732

SUPREME COURT OF ILLINOIS.

MICHAEL MORITZ,

vs.

FRANCIS A. HOFFMANN, ET AL.

Appeal from DuPage.

IN CHANCERY.

ABSTRACT.

Page 2 *To the Honorable Isaac G. Wilson, Judge of the Dupage Circuit Court,*

In Chancery sitting humbly complaining sheweth unto your Honor, your orator Michael Moritz of Chicago, Cook County, Illinois, who states that on or about the 22nd day of June A. D. 1861 at Chicago in the County of Cook aforesaid he commenced a suit in assumpsit by Summons against Francis A. Hoffmann, Otto Gelpcke and Alexander Siller in the Superior Court of Chicago, in the County of Cook and State of Illinois, for a large sum of money which the said defendants above named had for a long time been owing this complainant money; which had been deposited with them and refused to pay. Said Summons was in due form and under the seal of said Court, and made returnable at the then next July term of said Court; and said defendants each of them duly served, and appeared in said suit, and such proceedings were thereupon had in said Court and cause, that your orator by the judgment and determination of said Court recovered a judgment against said defendants, on the 26th day of November A. D 1861, in the November term A. D. 1861 of said Court for the sum of four thousand and one hundred dollars besides the costs of suit; and on the 2nd day of December 1861 two executions were duly issued out of said Court upon said judgment (accom-

panied by the fee bill) one directed to the Sheriff of Cook County, Illinois and the other to the Sheriff of Dupage County.

And your orator further shows unto your Honor, said execution
3 or (Fi. Fa.) so issued to the Sheriff of Cook County, has been returned by said Sheriff wholly unsatisfied, and which return is in words and figures following viz: I have made demand of the within named defendant, Francis A. Hoffmann for money or property with which to satisfy this execution. He said he had neither money or property with which to surrender in satisfaction of the same; and I have been unable to find any property in my county whereon to levy this writ.

Therefore return the same no part satisfied this 2nd day of March 1862; the other within named defendants not found in my County, Anthony C. Hessing by John A—deputy.

And your orator further shows unto your Honor, that as he is informed and believes, and so charges the fact to be, the said Sheriff of Dupage County by virtue of said execution so issued to him has levied upon the following Real Estate in the County of Dupage, Illinois, viz: Lots one, two, three, four, six and seven in F. A. Hoffmann's subdivision of part of (E½) East half of South East quarter
4 of section Thirty six in Township number Forty, North of Range Eleven East of the Third principal meridian, not included in said lots before described, which said Real Estate your orator alleges and charges is subject to levy and sale on said execution as the property of said defendants, or one, or more of them, and the said Real Estate and each piece and parcel thereof ought in justice and equity to be declared liable to the levy and lien of said execution and judgment and subject to be sold for the payment of said debt and judgment and costs upon said execution.

And your orator further shows that said Sheriff has duly caused to be made and filed for Record March 1st 1862 with, the Recorder of Dupage County, a certificate of levy of such lands pursuant to the Statutes in such case made and provided; and your orator begs leave to have said execution or Fi. Fa. considered part of this his Bill of Complaint and he will prove the same, and said jndgment and certi-
5 ficate of levy when and where this Honorable Court shall direct.

And your orator further shows unto your Honor that it appears by the records of Dupage County, that said Francis A. Hoffmann one of the defendants became the owner in fee, and your orator upon information and belief charges the fact so to be, that he by purchase
6 and warranty deed from one William Blume and wife became such owner in fee, on the fifth day of April A. D. 1855, and has ever since in truth and in fact remained such owner, and in possession thereof

of the lands and premises upon which said execution is levied as aforesaid and such deed from said Blume to said Hoffmann was duly recorded in the Recorders office of Dupage County, Illinois, June 15th 1856 in B. 18 of deeds page 84 &c.; which record and description your orator begs leave to refer, as he has not the said deed or the control thereof, and have the same considerd as part of this his Bill of Complaint, and since such deed and conveyance was made from said Blume and wife to said Francis A. Hoffmann, he the said Hoffmann has caused the said part of $E\frac{1}{2}$ of $SE\frac{1}{4}$ of section 36 Township 40 N. of R. 11 East of the third principal meridian, to be subdivided into several small lots, and caused such survey and subdivision to be platted or maped and recorded in Dupage County Recorders office as Francis A. Hoffmann's subdivision of, or as on record stated "Plat of the country seat of Francis A. Hoffmann", and to which plat and record, your orator also begs leave to refer and make part of this his Bill of Complaint, which was recorded October 20th 1858.

And your orator further shows unto your Honor, that the said sum of forty one hundred dollars for which he recovered his judgment as aforesaid, in Superior Court of Chicago, the same being a Court o record and of equal and like jurisdiction and practice as the Cook County Circuit Court was all and every Cent of it, honestly and fairly due from said defendants to this complainant. That said sum of forty one hundred dollars was the amount due from said defendants as Bankers, for amount of balance of deposits of money which said com-
7 plainant had from time to time deposited with them, except a small amount which had been allowed complainant as interest at the rate of 6 per cent per annum, on some of the deposits which had remained for a long time with defendants.

And this complainant further shows that such deposit account and indebtecness commenced, or rather your orator commenced to make his deposits in money, so far back as Jan'y 1855, when the business was done in the name of the said defendant Francis A. Hoffmann as the banker, and from that time monthly, and almost daily, down to May 18th 1861, he continued to make such deposits of money, and at no time from the time so commenced has it been but that a large amount has been due and owing from said defendants or one of them to your orator, and such money so deposited, and the balance there of for which said judgment was obtained, as aforesaid, was the slow and hard earnings and accumulation of your orator as a mechanic, he being a watchmaker and laborer at his trade, and having a small
8 store or shop in the city of Chicago, Cook County, Ill, in which his labor was done and business conducted.

And your orator further shows, that although the said business of banking was continued by said Hoffmann, the same as before after he took Gelpke and Siller as partners in his said banking business, yet said depositing was co ntinued to be done and such deposits permitted to remain by your orat or principally from the reputed wealth and honesty or said Francis A. Hoffmann, he then besides his apparent banking capital and business being reputed, to be the owner of valuable lots and tracts of land both in Cook and Dupage Counties, Ill. over which be exercised acts of ownership, and was permitted to the world to exercise such acts and claim the credit thereof, and of being such owner of valuable lots and tracts of land both in Cook and Dupage Counties, Ill.. over which he exercised acts of ownership and was permitted to the world to exercise such acts and claim the credit thereof, and of being such owner besides claiming to be the owner of lots and lands in other portions of this State and in the adjoining States of Wisconsin, Iowa, and Minnesota and Kansas, as your orator is now informed and believes—
8 either as sole owner, or as copartner of said Gelpcke and Siller, or joint owner with them.

And your orator further shows unto your Honor that as he is now informed and believes and so charges the fact to be, that from the time he so commenced to make his deposits, as aforesaid, with said Hoffma nn, and while your orator so continued to make them after both said Siller and Gelpcke, were taken as partners by said Hoffmann, the said Hoffman, was heavily and deeply, all the time in debt to other creditors besides your orator.

And your orator expressly charges; that the said Hoffmann was
6 heavily involved and liable to pay moneys, in various different monied obligations, and transactions, and in debts due or coming due to other creditors besides your orator on the 30th day of October A. D. 1858, the time of giving, or pretended giving, of a deed to Theodore Hoffmann, of the land above mentioned, in trust for the use of the wife of said Francis A. Hoffmann; said pretented deed being hereinafter more particularly mentioned and set forth.

And your orator further shows unto your Honor, that since said
7 judgment has been made, as aforesaid, he has tried and exhausted all legal means in Cook County, to recover the same, by issuing said execution; and has failed to discover, on his part, any property liable to execution, belonging to either of said defendants; as a short time prior to the obtaining your orators judgment, as aforesaid, the said defendants, as your orator is informed and believes, and as the same appears by the records in the Recorders office of Cook County, made a pretended assignment of all their property for the benefit of their creditors, and the Real

Estate in Cook County that your orator knew of, or believed to belong-
to them, or either of them, is included in said assignment, which said as-
7 signment was made to one Charles H. J. Miller, as assignee, in trust as aforesaid, and bears date August 26th 1861, and was filed for record in Cook County Aug. 17th 1861, and recorded in B, 218 of D. p. 141. And as your orator is informed and believes, said Charles J. Miller claims to have reduced to his possession all the property mentioned and set forth in said assignment, and all the property of said defendants liable to the judgment and execution as aforesaid, long before said judgment was obtained, and your orator avers and charges the truth to be, that said property so assigned to said Miller in trust as aforesaid, is entirely inadequate to pay the debts of said firm of Hoffmann and Gelpcke, by which name defts. did business, or even to pay any great, if any per centage of the debts of the class of the creditors in which your orator is named; and unless your Honor grants to your orator the aid of this Honorable Court, he will be wronged out of his just debt, and will be entirely remediless in the premises.

And your orator further shows unto your Honor, that the said land and premises above levied on which Blume and wife conveyed to said Francis A. Hoffman, is not mentioned in said assignment, or conveyed to said Charles H. J. Miller, assignee as aforesaid, but the same, or the larger part thereof, is still in the possession and under the control of said Francis A. Hoffman, and what is not controled and occupied by the said
8 Francis A. Hoffmann, your orator upon information and belief charges the fact to be the same is in the occupancy and possession, and under the control, of the said Alexander Siller the other of said defendants.

And your orator further shows unto your Honor, that said Hoffmann and said Alexander Siller, both pretend and claim, that they are not the owner or owners of any Real Estate in Dupage County; but on the contrary thereof, the said Francis A. Hoffmann pretends, that he has conveyed the said lands levied upon to one Theodore Hoffmann, and upon the records of Dupage County are found the record of two pretented deeds of conveyance of said lands, so deeded to him by said Blume and wife, certified copies of which are hereto this Bill of Complaint annexed, and marked exhibit "A" and exhibit "B" and which your orator prays may be taken as part of his Bill of Complaint.

And your orator further shows unto your Honor, at the time of the date of said deed marked exhibit "A" was pretented to have been given, the said defendants Hoffmann, Gelpcke and Siller, or one of them was owing your orator the sum of Twelve hundred dollars on said deposit account, and when the deed marked exhibit "B", bearing date the 13th day of June A. D. 1859, was pretended to be given June 13th 1859, the defendants were owing your orator on the same deposit account, over the sum of Two thousand dollars.

And your orator further shows unto your Honor, that it also appears by the records in the Recorders office of Dupage County, that Francis A.
9 Hoffmann and wife by warranty deed dated February 3d A. D. 1860, recorded Feb. 8th 1860 in Book 24 of deeds page 234. Conveyed to one Bertha Siller Lots 3. 4. 5. and 6. in Hoffmann's Subdivision of part of E½ of SE¼ of section 36 Township forty North, of Range 10 East of the third principal Meridian, for the as therein expressed pretended consideration of Five hundred dollars.

And your orator further shows unto your Honor, that at the time the last mentioned conveyance was made said defendants, Hoffmann, Gelpcke and Siller, were owing this Complainant on said deposit account over the sum of Four thousand dollars.

And your orator upon information and belief charges, that the said Bertha Siller who is also made defendant herein is the wife of said Alexander Siller, and that such pretended conveyance was made to her, without any valuable consideration being paid and with the intent and for the purpose of cheating, delaying and defrauding, your orator and the other creditors of said firm of Hoffmann & Gelpcke, out of their just debts and demands against them.

And your orator further shows unto your Honor, that from the time said Francis A. Hoffmann received his deed, as aforesaid, from the said William Blume and wife, of said land in Dupage County, to wit; that land and premises levied on as aforesaid by the execution as aforesaid, the said Francis A. Hoffmann has from that time expended large amounts of money, in improving and adorning the same, and ever since the time the said pretended making of the deed to his said brother, Theodore Hoffmann of October 30th 1858, the said Francis A. Hoffmann, has ever since been in the possession thereof, and has laid out and expended large sums of money in building and putting costly improvements thereon. Money used for which purpose in justice and equity belonging to your orator, and other of the creditors of said firm; and your orator alleges and charges, that not only since that time has he built costly buildings on the particular lots which are mentioned in said deed of
10 October 30th 1858, but he and said Siller or said Siller alone has build other buildings, and made improvements on other lots of said subdivision of said E½ of SE¼ of sec. 36 Town 40 N. of R. 11 E. of 3 P. M.; and your orator charges that the said money, so taken for this last purpose by said Hoffmann or Siller, like the money, taken and used by the said Hoffmann in improving the lots, which he has pretended to give to his wife from love and affection, was money taken from their business and depositors and creditors, and such lots and all of the same ought in justice, to be decreed liable for the payment of your orators just judgment.

And your orator further shows, that as he is informed and believes, and he has no doubt that the fact is so that the said Cynthia Hoffmann, never was the owner of property, in her own right, so as to justly on that ground

make any claim to the land and premises in said deed of Oct. 30th 1858 and June 13th 1859, mentioned and described.

And your orator expressly charges, that both of said deeds are void and fraudulent as against your orator, the same are the fraudulent gifts of Francis A. Hoffmann, and were made with the intent to place such lots and lands in Dupage County beyond the reach of your orator and his other creditors. And your orator also expressly charges that said Theodore Hoffmann, the pretended trustee, has never been in possession of the premises, but that the same has ever been and is now in the possession and control of said Francis A. Hoffmann.

And your orator further shows unto your Honor, that said deed of Feb. 3d 1860, was fraudulently made by said Francis A. Hoffmann to the said Bertha Siller, wife of said Alexander Siller, at his instance and request and for his use and benefit, with the intent to place said lots therein
11 mentioned beyond the reach and liability of paying his Siller's just debts, or the debts of said copartnership; and that the whole consideration thereof, if any was paid, your orator says was fictious. Certainly the amount was but nominal, and the same was paid by said Alexander Siller, and she said Bertha Siller, well knew for what purpose said deed was made in her name, and well knew that she in her own right had not any just claim to the same, and well knew at the time said conveyance was made and placed upon record that both said Hoffmann and her husband were hopelessly insolvent, and unable to pay all of their just debts, by thousands of dollars, and that the same was but a contrivance to wrong and injure your orator, and other creditors, and place the same beyond their reach.

And your orator further shows unto your Honor, that upon information and belief, he charges that the said Theodore Hoffmann has never had delivered to him the two deeds aforesaid, made to him as Grantee and Trustee, and that the said deeds have ever been in the possession and under the control of the said Francis A. Hoffmann.

And your orator further shows unto your Honor that he is informed
12 and believes, the said Francis A. Hoffmann and his wife Cynthia Hoffmann, and the said Alexander Siller and his wife Bertha Siller, claim and insist that the said lands and premises, are not liable for the debts of the firm of Hoffmann & Gelpcke, nor liable to be sold therefore, and that they have good and lawful right to sell and dispose of the same, and that the said lots are the property of said Cynthia Hoffmann and Bertha Siller, to be sold and disposed as they choose and direct, and that said Theodore Hoffmann, stands ready and willing to do as said Cynthia Hoffmann shall direct about making conveyance; and that your orator fears, and has reason to fear, that they will make some disposition or other, sell or pretend to sell the same, or some part thereof, or encumber the same, as they so threaten to do unless this Honorable Court, interfer by injunction and restrain them therefrom all which &c.

Answers under oath waived.

13 Prayer. That the Court decree said lots, and lands, levied upon subject to sale, free from said pretended deeds of Oct. 30th 1858, June 13th 1859, Feb. 3d 1860, that each of said deeds are fraudulent. That neither Cynthia Hoffmann, Bertha Siller, or Theodore Hoffmann, have any interest &c. in said land levied on: and that the same is subject to your orators judgment; and for sale of the same as sgainst all of the defendants.

Also for injunction against the sale of the E½ of SE¼ sec. 36 T. 40 &c. and for other relief.

14 Also for Summons.

~~11~~ 14 Jurat.

"Exhibit A." This Indenture made this ~~thirteenth~~ 30th day of October A. D., One thousand eight hundred and fifty eight, Between, Francis A. Hoffmann of the County of Dupage and State of Illinois of the first part, and Theodore Hoffmann of Niles Cook County, and State of Illinois, of the second part, Witnesseth; that the said party of the first part, for and in consideration of his love to his wife Cynthia Hoffmann, has granted, sold and bargained, and by these presents do grant, bargain, and sell unto the said party of the second part, his heirs and assigns forever, all that certain pieces of land, known as Lots No one, (1) No. two, (2) and No. seven, (7) of F. A. Hoffmann's subdivision of part of East half of South East quarter of section Thirty six, (36) in Township Forty, [40] North of Range Eleven East of Third principal Meridian, containing 30 $\frac{23}{100}$ acres,
15 more or less, in the County of Dupage and State of Illinois.

To have and to hold the above described premises, with all the appurtenances, thereunto belonging unto the said party of the second part his heirs and assigns forever. In Trust nevertheless for the uses of Mrs. Cynthia Hoffmann of Chicago, County and State aforesaid, with power in said Theodore Hoffmann, his heirsand assigns, with the approbation or at the request of said Cynthia Hoffmann expressed in writing, to sell and dispose of the said premises or any part thereof, and the proceeds to invest in other Real Estate or otherwise she may direct, and the Estate so purchased if any to be held by the trustee for the same purpose and upon the same trusts, that are declared in and by this deed, of and concerning the property above mentioned. In the case of the decease of the party of the second part or resignation of the trust herein created he or his heirs or legal representatives, may be appointed by the said Cynthia Hoffmann to be trustee under this deed, and the said trustee shall hold the said Estate for the same purpose and upon the same trusts above set forth. In case of the decease of the said Cynthia Hoffmann before the alienation of the estate aforesaid then the estate shall be held for the benefit of her children, by the said F. A. Hoffmann or the survivor or survivors of them in case of the death of either, and to no one else except by special appointment of

the said Mrs. Hoffmann in writing duly executed. And the said party of the second part hereby covenant for himself and his legal representatives that the said Cynthia Hoffmann, shall be permitted to use or receive the income of said trust estate as she shall deem advisable.

Witness hand and seal of said grantor day and year first above.

Francis A. Hoffmann.

Recorded November 3th 1858.

"Exhibit B." This Indenture made this Thirteenth day of June A. D. 1859, Between Frederick William Hoffmann and Louisa Hoffmann his
17 wife, and Francis A. Hoffmann of the County of Dupage and State of Illinois, party of the first part, and Theodore Hoffmann of the County of Cook and State of Illinoisof the second part, Wittnesseth that the said party of the first part for and in consideration of the sum of One dollar, to them paid and also in consideration of their love to Mrs. Cynthia Hoffmann wife of the said Francis A. Hoffmann, have quit claimed, granted and sold and by these presents do quit claim, grant and sell unto the said party of the second part his heirs and assigns forever, all those certain pieces of land known as Lots No. one, [1] No. two, [2] and No. seven [7] of F. A. Hoffmann's subdivion of a part of the East half of the South East quarter of section Thirty six [36] Township Forty [40] North of Range Eleven [11] East of the third P. M. as surveyed and subdivided by H. Brooks, Co, Surveyor as well appear from a plat of said subdivision filed in the Recorders office of Dupage County, State aforesaid. To have and to hold the above described premises with all the appurtenances thereunto belonging unto the said party of the second part his heirs and assigns forever. In trust nevertheless for the use of Mrs. Cynthia Hoffmann with power in the said Theodore Hoffmann, his heirs and assigns with the ap-
18 probation and at the request expressed in writing and duly acknowledged of the said Cynthia Hoffmann, to sell and dispose of the said premises or any part thereof, and the proceeds to invest in other Real Estate or otherwise as she may direct and the estate so purchased if any to be held by the trustee for the same purposes and upon the same trusts that are declared in and by this deed of and concerning the property above mentioned. In case of the decease of the said party of the second part or resignation of the trust herein created, he or his heirs or legal representatives shall convey the whole of said trust estate to such person as may be appointed by the said Cynthia Hoffmann to be trustee under this deed, and the said Trustee shall hold the said estate for the same purposes and upon the same trusts above seth forth. In case of the decease of the said Cynthia Hoffmann before the alienation of the estate aforesaid, then the estate shall be held for the benefit of her children by the said F. A. Hoffmann or the survivor or survivors of them, in case of the death of either and to no one else except by special appointment of the said Cynthia Hoffmann in writing duly executed.

Witness hand and seal of the said grantors day and year first above written.

For W. Hoffmann. [SEAL.]
Francis A. Hoffmann. [SEAL.]
Louise Joppmann. [SEAL.]

19 Acknowledgment.

20 Deed recorded June 15th 1859.

21, 22, 23 & 25 Summons, injunctions and service.

Answers of Francis A. Hoffmann and Cynthia Hoffmann.

28 They admit the judgment against Hoffmann, Gelpcke and Siller November term 1861 for $4100, and costs; and executions thereon to Cook and Dupage Counties, returned unsatisfied from Cook County and levy
29 made in Dupage County as alleged; but deny that said Real Estate is subject to levy and sale on said execution, or that the same is in equity liable or is subject to the payment of said judgment and costs. That they have no knowledge of the filing of any certificate of levy of said lands. Hoffmann admits he became the owner by purchase, of the land described in said Bill April 5th 1855; but denies that he is or has been, the owner of said land, or in possession thereof except as hereinafter set forth.
30 They admit the subdivision into lots, and the recording of the map. Cynthia Hoffmann says, that she and her children have ever since that, occupied said premises as Homestead, claims the same as such,—has never released her homestead right. Defendants admit said judgment is unpaid and is fairly due. That the same was for a balance due from the defendants Hoffmann, Gelpke and Siller. They admit the balance due complainant on their books, on which judgment was rendered was made up of deposits of money at different times, and a small portion was for interest thereon. Defendants admit complainant opened an account, while
31 Hoffmann, was a banker, alone in January 1855. That Gelpcke and Siller were afterwards admitted partners. That the bussiness was carried on, under name of Hoffmann & Gelpcke, successors to F. A. Hoffmann; but deny any part of said deposit account, upon which judgment was rendered commenced in January 1855, or for several years subsequent, but insist said balance upon which judgment was rendered, arose from deposits
32 in 1860 and 1861. They deny that Hoffmann, or Hoffmann and Gelpcke, owned any considerable amount of land in Cook and Dupage Counties, or that they claimed any lands of considerable value in Wisconsin, Iowa, Minnesota, or Kansas. Admit that in bussiness they took, and some members of the firm held, titles to lots and lands, in some of the above States, as collateral security for loans and debts owing said banking firm, some of which became forfeited, and bought in by or for the use of the firm; but that they were disposed of and the proceeds paid into said

33 bank. And admit that there where times when the amount of such Real Estate was large, but insist that it was not purchased to be held, except for individual use, and deny that the same were of considerable value or the same strengthened the credit of the firm.

F. A. and C. Hoffmann admit that F. A. Hoffmann, when said deposit commenced, and said firms always thereafter were owing considerable sums of money to their depositors, but deny they were deeply in debt, or heavily involved, or that any large sums other than to depositors, where owing at the time of the execution of the deeds referred to.

34 They admit the assignment to Charles H. J. Miller, for benefit of creditors; that the property so assigned is inadequate at present, to pay all the debts, or a full per centage of the class in which complainant is named.

And they admit the premises described in said Bill, conveyed to F. A. Hoffmann, was not mentioned in said assignment nor conveyed to said Miller, assignee, because the defendants, had no interest in or right to convey the same. They deny that said Hoffmann or Siller have been or are in posession of said premises, except as hereinafter stated. Hoff-
35 mann insists that he has conveyed a part of said premises to Theodore Hoffmann, by the deeds "Exhibit A. and B." and subsequently to Siller, Lots 3. 5. and 6, as charged in said Bill. They admit that at the ~~date of~~ date of said conveyances from Francis to Theodore Hoffmann, the firm of Hoffmann & Gelpcke, owed complainant a considerable sum but deny that at the date of conveyance "exhibit A" in said Bill, the balance due said complainant was $1200.00. or that ~~And~~ at date of conveyance from F. A. Hoffmann, to Siller, the balance due complainant was over $4000.00 or any where near that sum. And deny that said sums on deposit at the time of said conveyances, formed any portion of the amount due complainant when judgment was rendered.

36 They deny that the conveyance to Bertha Siller, wife of Alexander was voluntary and without consideration or for the purpose of cheating, said complainant, and aver that said conveyance was to discharge a valid obligation, owing from F. A. Hoffmann, and deny that since the execution of the deeds referred to in said Bill, F. A. Hoffmann or A. Siller, have expended any considerable money upon said premises, Hoffmann denies spending the firm's money thereon, but if any was used it was his own private funds.

37 And insists said conveyances by him to Theodore Hoffmann, was under the following circumstances, that in October 1858, he was obliged to visit Europe, on the firms business leaving his family, and failing to insure his life determined to make a small settlement for the benefit of his family. And settled thirty acres of the premises bought of William Blume, upon which he had resided, upon his wife and family, and conveyed the same October 1858 to Theodore Hoffmann as trustee, at the re-

quest of Cynthia Hoffmann, his wife; that Theodore Hoffmann, accepted the trust, and took possession of the premises upon which Cynthia Hoffmann has resided,

39 F. A. Hoffmann says he cannot estimate the amount expended for improvements, that nearly all such expenditures were prior to the conveyance to Theodore Hoffmann marked "Exhibit A." and that all such expenditures does not exceed from $2500.00 to $4000.00, and the whole premises including improvements more than $4000.00. That in October 1858, the firm of Hoffmann and Gelpcke was wealthy and prosperous. And worth a surplus over and above its liabilities of $130,000.00. And that F. A. Hoffmann owed no considerable liabilities, and was worth aside from his interest in said firm $20,000.00 and that such improvements were made
40 of his individual funds, and not from the assets of the bank, and that said property was set aside for the benefit of his family. Hoffmann says, that at that time said banking firm, was doing a profitable business at the date af the deed they were solvent and worth the sum they had at the date of the first mentioned conveyance, and continued to increase in wealth, and met with no loss till 1861; that the suspension of Hoffmann & Gelpcke, was caused by losses by sudden depreciation of Southern stocks, and bonds, in April and May 1861, and the revolution in the financial market about that time. That in additiou, in the spring of 1861
41 they sustained a loss at one time of $65,000.00 by the failure of a banking firm, in N. Y. That their losses were unforeseen and could not be foreseen by human agency, at the time of the conveyances to Theodore Hoff-
42 mann or Bertha Siller. And that such losses were not the result of mismanagement. F. A. Hoffmann further says that complainant was daily drawing out his funds, and making fresh deposits, that his accounts varied at times very much in amount, and that since the conveyance to Theodore Hoffmann the balance due complainant has been much less then it was at the date of said conveyance, at one time less than $800, that the amount due at time of the failure, has been deposited since April 1860; that the account has been balanced and carried to a new account; that complainat has no right in law, or equity, to have any part of
43 the same treated as due at the time of execution of said deeds. The facts concerning the deeds to Bertha Siller, were as follows; in 1858, said Bertha had control of the five children of these defendants. And for a much longer period gave them instruction in music, and was so employed by F. A. Hoffmann without any fixed sum for said services; but with the agreement that she was to be well paid; that F. A. Hoffmann cannot estimate the value of such services, because her care and attention was such
44 that her services were of much greater value to him, than a stranger's would have been, and believes them worth $1000, and by way of settlement he conveyed February 3d 1860 to said Bertha in her own right, a piece of land suitable for a residence by a warranty deed, 10 acres of
45 land off the 40 acres purchased of Blume in 1855 worth at that time $500.

46 They deny the deeds to Theodore Hoffmann were not delivered to said Theodore, and aver that the same were delivered at the times they were executed; they admit said deeds were placed in the safe of said Hoffmann & Gelpcke, for safekeeping. They allege the deed to Bertha Siller was delivered at the time of its execution, and is in her possession now. They deny that said deeds were made with intend to wrong or injure complainant, or other creditors, and deny that the debts, owing by said firm then, are owing by them now; or that they were insolvent at the time of the execution of said deeds, and aver that the same were made out of the private assets of F. A. Hoffmann, when he was prosperous, prior to the failure of said banking house, occasioned by losses subsequent to said conveyances. That the conveyance to Bertha Siller was on good consideration, to discharge a legal obligation in her favor, against F. A. Hoffmann, and by her accepted in satisfaction of said claim. They admit she has made improvements thereon not exceeding $2000. They deny the charges of fraud and confederation.

48 **Joint and separate answer of Alexander Siller and Bertha Siller.**

49 They admit the recovery of the judgment as alleged, the issues of execution to Cook and Dupage Counties, and the levy in Dupage County of the Real Estate in said Bill mentioned; but deny the same was subject to levy under said execution, or that the same was or is the property of the defendants to said execution. And deny that the same ought to be declared subject to said lien, or liable for any of the debts of the defendants in said execution. They admit that Hoffmann purchased the premises from Blume, but deny that he has ever since owned it They admit that
50 he was owner for some time after the purchese and subdivided it. They admit the judgment is unpaid and due complainant. They admit the opening of the account with F. A. Hoffmann in 1855 and the admission of Gelpcke and Siller as partners of Hoffmann; but deny any portion of the amount for which judgment was obtained was deposited in January 1855, or for several years thereafter. Deny that Hoffmann & Gelpcke, were seized of any considerable lands in Cook and Dupage Counties, or any lands except as collaterals in the States of Wisconsin, Iowa, Minnesota or Kansas.

51 They admit the indebtedness of said House; but deny any heavy monied obligations, other than was due to depositors. They admit the assignment by Hoffmann & Gelpke to C. H. J. Miller, and the said premises are not included in said assignment. They admit that F. A. Hoffmann conveyed a portion of the premises to Theodore Hoffmann trust.

52 They admit the deed to Bertha Siller. They say that the deed to Theodore Hoffmann was to make a family settlement by Francis A. upon his family; but are ignorant of the circumstances. They deny that the

deed to Bertha Siller was on fictious or inadequate consideration. They allege that the same was "Bona Fide" and in settlement of her claim against F. A. Hoffmann, for instructing his five children, and was so accepted by her; that this agreement was made in the winter of 1858 and 1859; and immediately thereafter these defendants made the improvements thereon; to carry out said agreement, F. A. Hoffmann and wife February 1860, gave Bertha Siller a warranty deed for 10 acres of land,
54 part of the 40 acres purchased from Blume in 1855; that said 10 acres did not exceed $400. Deny expending any great amount of money &c:

55 They know nothing of the custody of said deeds of trusts; but the deed to Bertha is, and has been in her possession. Alexander Siller says he became a partner with Hoffmann & Gelpcke April 1st 1858; and had previously been bookkeeper and teller, with them; that complainant before and after had money on deposit with them; but denies that any portion of the deposit account, on which judgment was rendered, was due or
56 owing to complainant at the time he became a partner; but that the same had been deposited previous to April 1860. A. Siller further says that said firm was prosperous and wealthy up to January 1861; and when the conveyance to Theodore was made, F. A. Hoffmann was worth above his liabilities and bad debts, $130000; and at the date of the conveyance to Bertha Siller said firm was worth much more than that. That the losses which occasioned their failure occured in the Spring of 1861; and were caused by decline in Southern stocks, together with the failure of their New York correspondent, by whom they lost $75000, and more than all by the revolution in the financial market, and without fault on the part of
57 the defendants. These defendants deny that said deeds were fraudulent, or made to hinder or defraud complainant or any creditors, of said firm. Bertha Siller says she has occupied said premises as a homestead; that she has a family, and claims said premises as a homestead, that she has not released or waived her homestead right. They deny all fraud and confederation.

57 Stipulation that answer of Francis A. Hoffmann stand as answer for Theodore Hoffmann and Otto Gelpcke defendants.

58 Replications to answers.

Complainant's proof.

15 Deed of F. A. Hoffmann to Theodore Hoffmann annexed to Bill of Complaint in trust for wife.

17 Deed of Frederick W. and wife and Francis A. Hoffmannn to Theodore Hoffmann, in trust for Hoffmann's wife.

Deposition of Augustus Otto.

Says in answer to interrogotory: My name is Augustus F. Otto, 59
59 years of age. I am a jeweller. I reside in Chicago, and know all the parties to this suit. Hoffmann and wife and Siller and wife live at or near

Cottage Hill, Dupage County, Illinois; Theodore Hoffmann lives in Niles, Cook County, and Gelpcke in the city of Chicago. Francis Hoffmann and wife and Siller and wife lived in Dupage County, for several years. In 1859 I was there on the farm. I deposited money with said Hoffmann and Hoffmann & Gelpcke. I do not remember exactly the time I commenced, but it was as long as 1855. Always had deposits there; never overdrew my account; continued to deposit until the firm closed business in 1861 in the spring.

60 I had sometimes $7000, or $8000 on deposit. I had some thousands of dollars there all the time from 1858 to the time the firm closed business. When the firm closed business they owed me some $300 or $400 which is secured on McIlroy's building. They secured me just before they made the assignment. I know they owed me in October 1858, cannot tell how much. My book was balanced once or twice a year and at my request.

Deposition of Jacob Friedman.

My age is 43 years, reside at Chicago, know all the parties to this suit. We were (that is E. Frankenthal & Co. our firm) depositors with
61 Hoffmann & Gelpcke, from the Spring 1857 to the close at their business; in the summer of 1861. We always had a balance there. In the spring of 1858, we had from $1200 to $1500, and from October 1st 1858, we had a balance of $1718.76 to our credit. I think there is between $600 and $700 due us yet. On the 21st July 1859 the balance due us was $8,466.36 I believe Hoffmann and wife and Siller and wife, resided near Cottage Hill, Dupage County, Ill., during the time aforesaid. I cannot say how long before, the deposit of July 21st 1859 was drawn out; but I think we might have drawn that amount from 2 to 4 months. I cannot say how long before the failure exactly but perhaps 2 or 3 months, the amount of the business of the firm and daily deposits during this time, I should judge,
62 from $75,000 to $100,000 per year; when we got outside drafts on New York, we did not deposit them with Hoffmann & Gelpcke. All currency and drafts on Chicago we deposited with Hoffmann & Gelpcke. I think about $\frac{2}{3}$ of our whole business receipts were deposited wit them. I think we always had a balance due us, —to my knowledge and belief. There was one balance of $570 in April 1861. We drew out on the 23d and 16th of April 1861 $3150, leaving $570 due us. I think that was the smallest balance owed us.

Deposition of Charles Ohm.

My age is 28 years. I reside in Chicago; know all the parties to this suit. I kept the depositors account for Hoffmann & Gelpcke. The first part of the time, I kept the accounts from M to Z of the depositors; after that I kept it from A to L until January 1858 or 1859, when I had charge of the whole of the deposit accounts of Hoffmann & Gelpcke. Hoffmann

63 and wife and Siller and wife, resided part of the time near Cottage Hill, Dupage County, Ill. Complainant was during that time a depositor with the defendants; the firm gave a pass book to each depositor, containing the amounts of deposits and when made, and balances were struck and the checks withdrawn whenever depositors wanted.

The balance which remained was carried forward, I know the deposit books of said defendants. Hoffmann & Gelpke were the successors of Francis A. Hoffmann. I came there when the firm was Hoffmann & Gelpke.

The bookkeepers of Hoffmann & Gelpcke were Augustus Dubrock, myself and one Haneman. Herrmann Luning was bookkeeper of Francis
65 A. Hoffmann.—I know the handwriting of all of them.

(The books marked exhibit "A" and exhibit "B" are here shown to the witness.)

I have seen them before; they are the pass books of Michael Moritz containing the account of the deposit of said complainant with Francis A. Hoffmann and Hoffmann and Gelpcke. I cannot say as to their correctness except as to the account which I have kept.—The first time I balanced the books was 1st Sept. 1859 and I balanced the account three times, Sept. 8th 1860 and June 11th 1861.—In the book marked exhibit "A", I made the entries from Oct. 21st 1857 to Sept. 1st 1859. I mean the entries of the checks drawn out.—The first entries were made by Mr. Luning from the beginning up to March 11th 1856 from that date to Oct. 21st 1857 to Sept. 1st 1859. I mean the entries were made by Mr Luning from the beginning up to March 11th 1856 from that date to October 16th 1857; part are made by Luning and part by Haneman. I do know of my own knowledge of complainant being a depositor there; first according to the bank books the deposits were received by Alexander Siller, the entries are in his hand writing; the next receiving teller was Charles Mumford and the 3th was the former bookkeeper Dubrock; —the entries are in their handwriting; all the entries are in their hand writing except a few entries are in the hand writing of the paying teller.

("These pass-books by stipulation filed are annexed to the record cause.)

In Oct. 1858 Mumford was the receiving teller and the entries are in his handwriting except a few entries are made by deft. Siller; the paying teller's name was Henry Frank; the entries of the checks drawn are in my handwriting; from my knowledge as bookkeeper the books in question are a true and correct statement of the account of the complainant with the firm of Hoffmann & Gelpcke from October 1858 to the close of the account in 1861. I struck the last balance on said book and it is the same on the books of Hoffmann & Gelpcke.

The bank book was usually written up and the balance struck at the

request of the depositors; the kind of funds deposited by Moritz the books show correctly. Book exhibit "A" and"B".

Charles Ohm.

66 CHARLES STOSE. (deposition) I am a merchant, reside at Chicago. I know Hoffmann, Gelpcke, Siller and Moritz.—I was a depositor with defendants. I commenced depositing im July 1858. I deposited currency wtih them, my account ended when they failed in the Spring of 1861.—The amount is difficult to tell which they owed me Oct. 13th 1858. I think about $1000. I did not become indebted to them after that time, they owed me up to the time I settled with them. I settled July 5th 1861 when they owed me $4801.58.

Cross examination.

I drew one from time to time. I had been in depositing an amount equal to the amount due me at the time of settlement from six months to a year. I should think—my last balance was made January 5th 1860 at my request. I had drawn out of this fund $1000 long prior to July 1860.

Re-examination.

There was due me on settlement of my deposit account Jan. 5th 1860 $4602.47. I kept making deposits from October 1858 to next more than I drew out.

Charles Stose.

68 AUGUSTUS BECK. That Hoffmann & Gelpcke was indebted to him in October 1858 in the sum of $1000,—continued indebted on deposit until June 1861 they settled and then owed him $500 and he took 60 Cents on the dollar as payment of his said debt and deposit account—said account varied from $200 to $2000 to $3000.—Deposits a par were from $50,0000 to $70000, per year.

71 D. STRUCKMAN, (a German) Said I am 43 years old. I am a carpenter.—I reside in Dupage County—dont know Moritz—knows all the defendants—I lived in Dupage County since 1844—I see Hoffmann then once in 1858 and where at his house in Cottage Hill about 2 miles from Cottage Hill, he lives on Section 36 in the town of Addison, Range 11. James Wickmann lives West of him; Siller and wife now live at Cottage Hill; they have lived out there and some time, lived in Chicago for the last 6 or 8 years I mean Hoffmann and family. Siller and wife lives there for about 5 years I believe to the time of Hoffmann and Sillers residence on the property in question a man by the name of Blume owned it. I do
72 know when the buildings were built on the premises occupied by Hoffmann so of the premises occupied by Siller.—The first building was built 1856 (Blume had a shanty on it before; the next was built in 1857 and an other wood and dry house in 1859 and 1860. Siller built in 1858—the premises which Siller used to belong to Blume, it is all on the 40 acre

tract—I built the buildings myself for F. Hoffmann on the premises in question—I built the dwelling house and a barn in 1856; the dwelling house comes to $1800 mason work and all. The barn costs $400—I build a second dwelling house adjoining the above dwelling in 1857. I think that was $1300 complete. I built a wood and a dog house afterwards in the winter of 1859 and 1860 the contract and price paid was $418.

Siller's building, house and barn was built in 1858. I built it, the house in my judgment is worth $1200, the barn between $300 and $400 and was built the same year—the premises on which Hoffmann built his buildings, if a man has notion to live there is worth about $4000 the value of the property is more as I can tell. I believe at the time the house then was not much shruberry then—Hoffmann I consider in the Spring 1862 worth $4000—Siller's worth $15 to 1600. I have known Francis A. Hoffmann since 1844, from 1844 to 1852 he was a minister of Lutheran church.—I dont know whether he was upon a salary.—From 1844 to 1855 he was practicing law—speculating in real estate, selling exchange and passage tickets, and investing money on foreign account.

74 (THE PARTIES ADMITTED THAT HE, HOFFMANN WAS AT THIS TIME without means beyond his family support) the shrubberry and improvements on this place was made 1856.

Cross-examination.

The prices agreed to be paid me—the last payment, a part of it was in Town orders which not been paid yet—Hoffmann's building are stand-
75 ing yet—but Siller's house—but Siller's house is burnt down last spring about two months ago.—I speak of the cash value of the premises farmers dont like that kind of property; it is what is called fancy property—improved land in that vicinity of that quality is worth from $25 to $30 an acre.

Re-examination.

Hoffmann had two horses and cows then—the last time I was there was in May 1862. I was in the kitchen and parlor—there was tables,
78 chairs, lounge and common furniture like a farm house.

D. Struckman.

RUDOLPH SCHLOESSER—I am acting agent of the Illinois Insurance Company at Chicago. Know parties to this suit—am brother-in law to Francis A. Hoffmann.—I do know of insurance being had on the Siller property in this company (objected to)—there was $1000 insured on the household furniture, beds and clothing by Alexander Siller—loss if any to be paid to Gustavus Pfeil. Mortgage of date Jan. 17th 1862. There was
78 an insurance in same company in the name of Bertha Siller of $1700 on house and $300 on barn—these policies renewed in 1863.—Mr. Siller paid the premiums—I know the house and furniture was burnt. I think checks

were paid for the loss to amount $2700; $1000 in the furniture and $1700 on the house; the checks were delivered to Mr. and Mrs. Siller I believe. I think they were both delivered to Mrs. Bertha Siller, Alexander Siller not present. I think Mr. Siller built the house—I dont know of my own knowledge who furnished the means to build the house.

R. Schloesser.

80 to 93 Record of judgment in the Superior Court on which the execution issued.

The declaration in this cause was upon the said deposit account. Specified in said pass books—the special of the bill of particulars is a
86 correct copy of the deposit account commencing Sept. 1st 1859 to which time a balance had been struck.

(The judgment in this cause was for the exact amount found due on said last pass book exhibit "B" with interest thereon of $100.

93 Judgment for Moritz $4100 besides costs.

94 Certificate of the levy of the execution thereon on the said lots one, two, three, four, five, six and seven in F. A. Hoffmann's subdivision of part of SE¼ of Sec. 36 7 40 N. R. 11—also the remainder of said E½ of SE¼ of said Sec. 36.

Dated March 1st 1862.

Defendants evidence.

LOUIS STAVE says, he is 40 years of age. I reside in Chicago. Know parties to this suit. I am a real estate agent.—Has known Francis A. Hoffmann and wife for 11 or 12 years; in 1857 they resided in Dupage
95 County on their farm; they have resided there for the last 5 years—the premises is a little north of East of Cottage Hill about 2 miles therefrom is a farm of about 30 acres, with large sized house and barn &c.—I think the farm is worth from $40 to $50 per acre with the improvements—the whole is worth say $1000; Siller and wife have lived for the last 4 or 5 years on 10 acres north and adjoining Mr. Hoffmann,s; it may be east I am not positive—Sillers house was built about four years ago—the house was burned down some months ago—I consider the value of the 10 acres prior to the destruction of the house worth about $800 to $900—now worth about $150. I have visited Hoffmann there several times; the house was furnished plainer than many of his acquaintances, very plain—except his library and piano—he turned the piano out to a creditor soon after he failed.

Cross-examination.

I dont remember the last time I was at Hoffmann's. I think about 2
97 years ago; to build the house and barn I think it cost some $2500. Hoffmann put on shrubery and fences on this place; it was in good order and

very handsome around the house—I know of a great many 30 acres in Dupage County in as good stute of improvement as this.

98 WHOSE?—Thomas B. Bryan's place, B. F. Carver's place—Hoffmann's place is not improved at all as a farm place—I dont remember whether the fences are for farm fences or for a nice place—only remember it was nothing extra—I cannot state of the shrubery if it was very valuable it was very pretty: I cannot state as to its cost; when I say $40 or $50 per acre I mean as a real estate agent it would not bring more than that—I have sold several farms in the neighborhood—they were not in a good state of cultivation as this—I sold a farm to Thomas B. Bryan of about 200 acres a few miles east of Hoffmann's for $3000—I sold a farm to Dubrock from $10 to $12 per acre several miles west of it. I dont remember the names of othres—there were two houses and fences on the
99 farm I sold to Bryan—I dont know if the land I sold to Bryan was in Cook County or not; it was on both sides of the O Plain River—the land I sold to Dubrock was several miles west of Hoffmann near the Railroad, and south of it—I dont remember what station it was near I sold to Dubrock 6 or 7 years ago—to Bryan 8 or 9 years ago.

Question—was not this farm of Hoffmann fitted out as a gentleman's residence.

Answer—No mistake a gentleman could live there—cannot tell the
100 year I was there—I heard Siller's house was burnt and went down and asked him—I heard the house was turned out to creditors in the circle of my acquaintances it was a matter of general talk—I expect the house was worth $600— I dont know the value of the library; it was large and handsome some 500 or 600 volumns. I dont know where B. F. Carver's place is exactly; it is in Lyons.

Louis Stave.

Decree at November Term 1863.

"This cause having HERETOFORE been brought on to be heard upon
102 the Bill, answer, replications and proofs filed and taken therein, and upon argument &c.

Ordered—"that injunction be dissolved &c." "and that Bill of Complaint be dismissed out of Court as to all defendants;" "that Complainant pay all costs ot Court."

Appeal prayed and allowed.

103 Bond &c.

Certifiate of Record.

GARRISON & BLANCHARD.

Attys. for Appellant.

Assignment of Errors.

1st The decree should have been in favor of complainant and his bill of complaint ought not to have been dismissed.

2d The Court erred in not granting the relief prayed—at least a part thereof.

3d The Court erred in not decreeing two conveyances to Theodore Hoffmann mentioned and set forth in said bill of complaint frandulent and void as against the judgment and execution of appellant he being a creditor at the time the same was made and also the conveyance to Bertha Siller.

4th The Court erred in not decreeing said execution and judgment was a lien upon all the lands levied upon—espedially the land sought to be conveyed to Theodore Hoffmann.

5th Erred in not decreeing the lands deeded by F. A. Hoffmann and wife to Siller's wife, was subject to said judgment and execution—and especially in not decreeing the house and barn put thereon by Siller was subject to said execution.

6th The complainant was entitled to some relief in the premises and the Court granted none.

GARRISON & BLANCHARD.

Attys. for Appellant.

259

Supreme Court

Michael Mosey

vs

F. A. Hoffman

Abstract

Filed May 11. 1864.
L. Leland
Clk

Messrs. McAllister, Jewett and Jackson for appellees in reply.

Printed by BEACH & BARNARD, 14 South Clark St.

SUPREME COURT OF ILLINOIS.

THIRD GRAND DIVISION,
APRIL TERM, A. D. 1864.

MICHAEL MORITZ, Appellant,
v.
FRANCIS A. HOFFMAN, ET AL., Appellees,

POINTS AND AUTHORITIES FOR APPELLEES.

This is a bill filed by Moritz, a judgment creditor of the late firm of Hoffman & Gelpcke, for the purpose of subjecting forty acres of land in DuPage county to the payment of said judgment, on the ground that the conveyances of the same, made by Hoffman and wife, some years since, are fraudulent under the statute against fraudulent conveyances, and therefore void as against a *bona fide* judgment creditor under the statute 13th Elizabeth, ch. 5.

The abstract of complainant has omitted the substance of the bank pass books, offered in evidence, and we, therefore, respectfully call the attention of the court to them, as attached to the record, the originals having by stipulation been sent up to this court.

Before stating our authorities, we wish to deny the statement of complainant (p. 2 of his argument), that "by the proofs, together with the "admission in the answers, every material allegation in the bill is fully

" proved, and that it stands for hearing as if upon general demurrer to " the bill," &c.

The bill alleges that Hoffman made the conveyance to a trustee for his wife, to protect the property in question from the complainant; that at the time of such conveyance, he (Hoffman) was deeply involved, and that it was done to defraud complainant out of his just dues, &c. Every one of these allegations is denied in the answers, and we submit that not one of them has been proved.

The evidence shows that Hoffman was a banker in the city of Chicago in the year 1855; that during that year complainant opened a deposit account with him; that shortly after that time, Hoffman purchased the premises in question; that he subsequently associated the defendants, Gelpcke & Siller, with him as partners, and that the business was then conducted under the name of Hoffman & Gelpcke; that in October, 1858, the settlement of thirty acres was made on Mrs. Hoffman, the deed for the same being immediately recorded; that the premises are worth not over $4,000, and by one witness estimated at only $1,000; that Hoffman & Gelpcke continued in business until June, 1861, when they failed; that at the time of the settlement in October, 1858, they owed complainant, on his deposit account, about $1,200; that his account was constantly changing, being drawn out and replenished almost daily, and the amount to his credit fluctuating; that at one time after the settlement, the amount due him was reduced to about $800, and that the whole amount due him now was deposited since April, 1860.

The depositions of four depositors of Hoffman & Gelpcke proved that in October, 1858, the firm owed each of them money as depositors, but they each admit that the amounts due them, respectively, had been drawn out and paid.

This is a true statement of the case as shown by the record, and upon these facts the appelles respectfully submit the following points.

"Exhibit 4"

[redacted]

[redacted]

Vicki L Wood

Sum 22.58
on
Deposite 506.49
35
541.49

Jan 25. 1859.

1141
Feb. 3. 530

132594
85
1410.94

Feb. 23. Balance 619 58

Dr Francis A. Hoffmann in
1855

March 19	To Cash			25 00.
April 13	" "			30 00.
" 20	" "			40 00
" 28	" "		9 35.	55 00
May 1	" "			82 00
" 9	" "		E. 11 9. 15	70 00
" 15	" "			81 00
" 18	" "		E. 21 9. 27½	50 00
June 7	" "			88 50
" 12	" "		6 8	64 00
" 18	" "		-5.	73 00
" 21	" "			85 00
" 26	" "		66.	15 00
" 30	" "		E. 18	40 00
July 6	" "		-35	50 00
" 11	" "			55 00
" 13	" "			70 00
" 17	" "			60 00
Aug 8	" "			50 00
				70 00
				1153 50

Cash

a/c with Michael Moritz Cr.

Febry 1	By	Check	25 00
March 15	"	"	10 00
Apr. 10	"	"	60 00
May 2	"	"	25 00
16	"	"	50 00
23	"	"	113 03
June 2	"	"	212 00
July 3	"	"	50 00
Aug. 9	"	"	16 00
22	"	"	42 00
Sept. 4	"	"	13 00
Oct 1	"	"	40 18
2	"	"	10 00
10	"	"	465 00
30	"	"	60 00
Nov 6	"	"	58 25
14	"	"	100 00
13	"	"	50 00
1856 June 2	"	"	60 37
15	"	"	618 00
		Carried	2027 83

Port, over		11 53.50
Aug 15	3 by	40 00
16	" "	40 00
20	" "	45 00
Sept 3	" "	85 00
6	" "	20 00
10	" "	35 00
17	" "	15 00
24	" "	35 00
Oct 5	" "	40 00
9	" "	50 00
12	" " E.S	90 00
13	" " 140	40 00
15	" "	15 00
20	" "	40 00
29	" " 225	83 00
Nov 3	" "	50 00
10	" "	40 00
17	" "	75 00
24	" "	66 00
Dec 6	" " 6	55 00
15	" " 13	51 00
22	" " 8	50 00
26	" "	80 00
	Cd fd	2393 50

1856.	Brot. over	20	27 83.
Jan. 19	By do		23 59
28	"		172 53
Febry 4.	"		10 00
20	"		20 25.

24 blanks returned

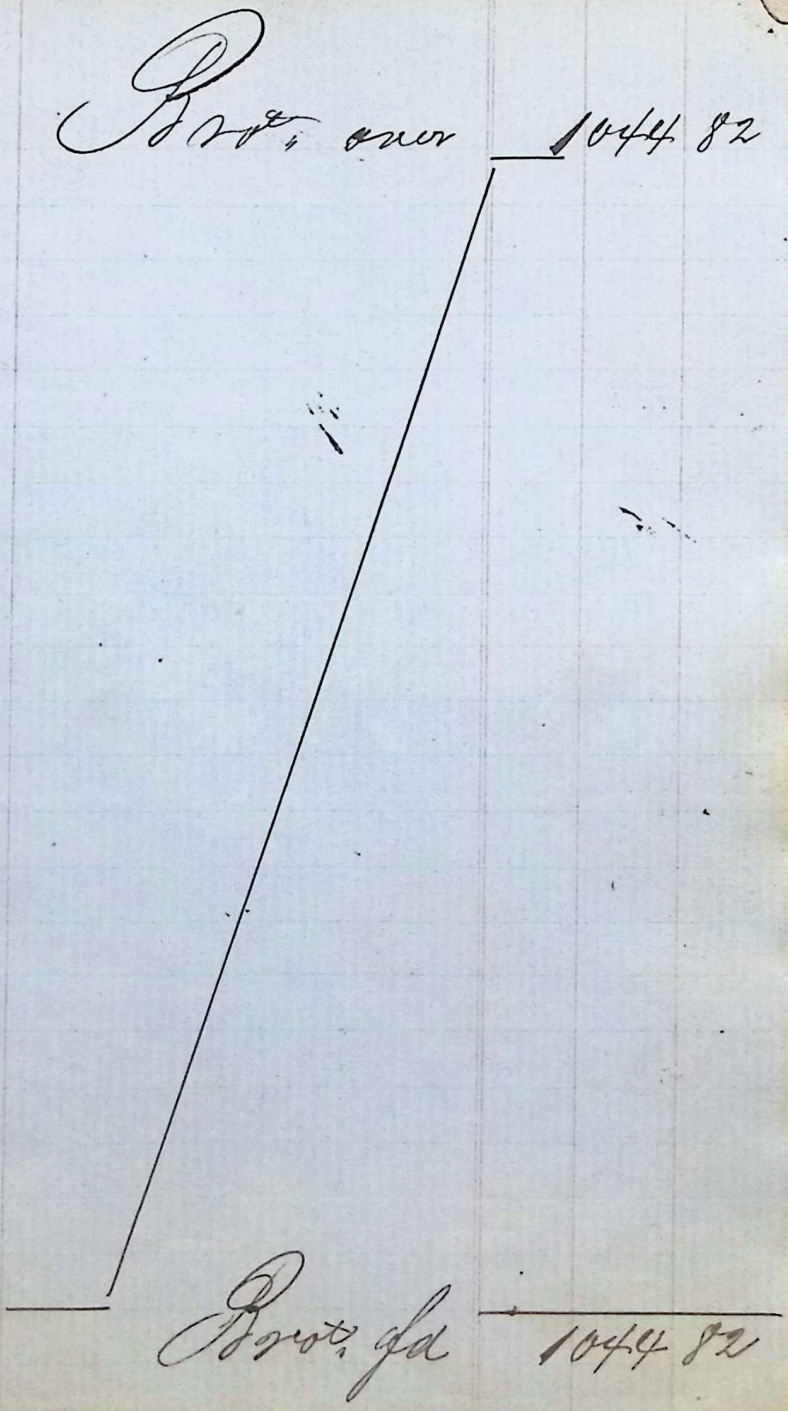
2254 20.

	Brot over			2393 56
Jany 12	To Cy			8000
15	" "	610	95	6000
Feb 1	" "	15		4000
13	" "			5000
16	" "			7500
March 4	" "	17		7000
10	" "			5000
6	" Nan Hemenway			6887
				2887 37
1856	Gold Bal 82			
March 11	To Balance			633 17
	" Interest			31 08
	" 1/4 % on 220		E.	55.
15	" Cy	66	29	6050
17	" "	20		4500
20	" "	17		7000
24	" "	12	4	3400
Ap. 4	" "	7	10	5000
8	" "	5		4000
12	" "		10	6000
19	" "	12		4600
25	" "	9	15	1000
		Brot fwd		11203 0

		Brot. over		2254 20
	By	Balance		633 17.
				2887 37.
1856				
March 14	By	Check		147 92
18	"	"		240 72
April 2	"	"		50 00
May 3	"	"		50 00
10	"	"		25 00
28	"	"		193 00
June 3	"	"		47 00
14	"	"		25 00
23	"	"		47 00
July 8	"	"		80 12
15	"	"		15 00
25	"	"	110. 14 cts	124 06
			Brot fd	1044 82

13 Checks returned.

	Bro't over			1120 30
April 29	C & G		G.22	750 0
May 2	"	"	64 .26	500 0
" 5	"	"	.22 " 5	450 0
" 6	"	"	" 8 " 5	300 0
" 9	"	"	.19 .20	600 0
" 14	"	"	" 16 " 29	400 0
" 16	"	"	" 17	350 0
" 20	"	"	" 15 " 4	600 0
" 27	"	"	" 8 " 20 50	690 50
June 7	"	"	" 12 " 10 50	450 50
" 10	"	"		400 0
" 12	"	"		250 0
" 16	"	"	64	400 0
" 25	"	"	" 6 " 15	350 0
July 5	"	"	" 10 " 10 50	800 50
" 8	"	"	" 11 " 23	350 0
" 14	"	"	" 36 " 7 50	750 50
" 17	"	"	" 28	500 0
" 19	"	"	" 20 " 20	450 0
" 28	"	"	" 10 " 34 50	990 50
" 31	"	"	" 10 " 16 50	650 50
	Bro't fol			2264 30


Brot. over 1044 82
Brot. fd 1044 82

Report over 22647 30

Aug 5	Robey Cy.	50 00
9	" " 30	40 00
13	" " 4 & 20	40 00
15	" "	50 00
20	" " 4 " 20th	40 50
27	" " 5 " 21.	55 00
Sept 2	" " 19	50 00
6	" " 18 " 11.	45 00
10	" " 14 " 17	60 00
17	" "	30 00
20	" " 16.	70 00
24	" " 10 " 13	50 00
Oct 4	" " 9 " 11	70 00
7	" " 15.	40 00
13	" " 6 & 13	85 00
18	" " 14 & 17	45 00
25	" " 20.	50 00
31	" " 4 " 25th	70 50
Nov 10	" " 4 " 25th	66 50
" 14	" "	100 00
" 19	" " 6 19 21 25	75 25
	Pd	345605

1856	Brot. over			1044 82
Aug. 2	Bof	Chuck		50 00
	"	"		100000
16	"	"		3580
Sept. 2	"	"		5000
11	"	"		6720
20	"	"		4400
Oct. 3	"	"		5000
14	"	"		800
18	"	"		2060 00
27	"	"		1800
Nov. 3	"	"		5000
6	"	"		3650
7	"	"		2100
13	"	"		13100
17	"	"		22400
18	"	"		6657
28	"	"	Sorted	12500
Dec 6	"	"		5000
15	"	"	Sorted	23000
	"	"		3700
16	"	"		2500
		for 2		386959

1857	Sent for	3 115 h 115
March 28	Bobby	65.00 ✓
—	—	126 00 ✓
Dec 2	— Ely 11	60 00 ✓
5	—	45 00 ✓
13	— 13.	49 00 ✓
15.	" "	220.12 ✓
22	— — 8 11. 217	87 00 ✓
31	— —	49 00 ✓
Jan 7	— — 8 11 — 11	55 00 ✓
12	— — 10 pr 57	57 50 ✓
17	— — 5	45 00 ✓
22	— — 13 — 1	15 00 ✓
26.	" " 125. 4.5 —	47. — ✓
31	" 11	37 00 ✓
Feb 10	— — 10 2 —	47.00 ✓
23	— — 125 27 —	111 50 ✓
28	— — 6.	45 00 ✓
March 9	— — 8 12 —	79 50 ✓
14	— — 8	57 00 ✓
17	— —	95 00 ✓
25	— — 8 11	60 00 ✓
	pr	1192167

1857	Bank Fund			35769 57
Jan 3	Big Woods			17000
20	"	"		6000
Feb. 3	"	"		50000
5	"	"		17000
23	"	"		225000
26	"	"		15000
March 4	"	"		50000
16	"	"	45. 35.	80000
17	"	"		20000
27	"	"		40000
April 2	"	"	3/4 Gold	16-57
3	"	"		50000
May 2	"	"		150000
9	"	"		75000
	"	"	Gold	100000
11	"	"		9965
15	"	"		30000
June 2	"	"		50000
9	"	"		20000
22	"	"		20275
July 7	"	"		50000
			Fund	1020056

1857	Brot for[d]		4921 67
April 13	Salary Engr	50	84 50
22	" "		170 00
30	" "		50 00
May 4	" "		75 00
14	" "		160 00
19	" "		150 00
25	" "		75 00
30	" "		100 00
June 6	" "		90 00
14	" "		80 00
21	" "		75 00
July 3	" "		75 00
9	" "		160 00
18	" "		190 00
27	" "		200 00
Aug 7	" "		100 00
8	" "		50 00
15	" "		85
Sept 2			99
4		40	40
15			55
"			280
	Bro[t] for[d]		13 67 17

1857	Amt fwd		5 0 2 0 1 6
July 13	By Stock		1 5 0 0 0
22	"		1 9 0 0 0
Aug. 1	"		5 0 0 0
9	"		7 1 6 7
Sept. 3	"		5 0 0 0
15	"	Stock	2 5 0 0 0
Oct. 1	"		1 0 0 0 0 0
3	"		4 8 0 0
6	"		2 1 1 0 0
14	"		2 8 0 0
16	"		3 0 0

5th Chandler case settled out of court for

Fwd

1 8 8 7 2 3

1858

		forwarded	1795 33
March	5	Self	95 00
	8	"	60 —
	31	"	80
April	6	"	115
	19	"	75
May	4	"	60
	6	"	205 —
	8	"	75
	13	"	65 10
	18	"	36
June	3	"	160
	14	"	53
	22	"	75
July	6	"	64
	7	"	46
	14	"	9000
	22	"	145
Aug	4	"	84
	16	"	125
	19	"	55
	26	"	63
		Ord M.	3641 43

1838		Forwarded	1	129528
March	By	Check	1	25
15	"	"	1	50
27	"	"	1	100
April 12	"	"	1	16867
"	"	" 15 72 130	1	145 95
8	"	"	1	40
13	"	"	1	50
15	"	"	1	165
May 4	"	"	1	40
22	"	"	1	100
June 4	"	"	1	75
5	"	"	1	50
16	"	"	1	9324
19	"	"	1	50
Feb 16	"	"	1	30
20	"	"	1	40
Aug 4	"	"	1	90
6	"	"	1	15
18	"	"	1	10
28	"	"	1	75
Sept 1	"	Ck M.	1	60
				270794

1858				364	43
Sept 8				90	00
21				57	
27				75	
Oct 9				181	
14				65	
22				65	
28				90	
11				58	
20				70	
24			4339.43	10	
Dec 4			3264 44	130	
14			1774 57	95	
22				42	
Apr 27				400	00
Jany 4				355	
19				60	
25				90	
Feby 3				530	
8				40	
15				54	
March 1				90	
23				80	
		Cd		6007	43

1855		Forwarded		270794
Sept 8	S.	Check		40
9				10
10		100.50		150
18				21
30				100
Oct 2				40
30				30
Nov 3		31649	4	40
10				200
16				31
19				25
20		37.45		82
20				23
Dec 1				4686
6				10
11				24292
29				7451
1856 Jan				36
7				50
15				22
Feb 5				40
March		60.11	25	5105
				412151

1859.

	Forwarded	6007 43
May 6	"	85 —
11	"	214 —
23	"	45 —
May 6	"	180 —
16	"	58 —
21	"	60 —
30	"	80 —
June 4	"	60 —
9	"	85 —
22	"	60 —
29	"	130 —
July 2	"	143 —
7	"	80 —
21	"	135 —
28	"	49 —
Aug 6	"	96 —
22	"	80 —
31	"	50 —
		7702 43

Bal. a D.S. ck. pl. 44 II

1859		Forwarded		4121 51
March 31		Check		13 45
April 6	"	"		40
8	"	"		30
10	"	"		18
18	"	"		100
27	"	"		10
May 12	"	"		36 75
24	"	"		300
June	"	" 50. 40.		90
10	"	"		75
15	"	"		12
16	"	"		10
21	"	"		75
July 2	"	"		40
30	"	"		9
Aug 2	"	"		40
13	"	"		105
25	"	"		40
	"	Balance		2336 72
				7702 43

Mueller & Co Jewellers.
No 65 fourth st.
betw. Olive & Pine.

St Louis Mo

and but it in the Hand of Justice
M. Maritz

14
130
14

Aug. 6. 9. 2455.52
2551.52

M. M.

Exhibit 13"

BANKING HOUSE

OF

HOFFMANN & GELPCKE,

In Account with

Heinrich Heine

"

Cr. Hoffmann & Felicke

1859

Sept 1 To Balance 253672

" Interest 11278

6 " " 84—

19 " " 83—

24 " " 140—

28 " " 100—

Oct 4 " " 75—

18 " " 60—

Nov 8 " " 72—

19 " " 100—

Dec 9 " " 85—

13 " " 65—

23 " " 100—

Jan 9 " " 150—

17 " " 60—

26 " " 135—

Bal fd. 398450

			Mr. Mordecai
1859 Sept	6	Check	.125
	5		.30
	9		.5470
	20		.132
	24		.65
	29		.20
Oct	4	46.34	74
	12		.24.35
	13		.10
	14		.100
	15		.3825
Nov	7	100.35.20	155
	26		.30
Dec	14		.30
1860 Jan	14		.30
	17	300.29.52	32950
		Ck fd	124780

Cfrwarded	591450
August 26 "	4110
Sept 3 "	9000
	604450

1866

Sept 8 To Balance	378037
" Interest	16050
18 " dep.	5000
Oct 1 " "	8110
6 " "	13500
9 " "	9400
29 " "	6000
Nov 1 " "	7000
15 " "	7000
26 " "	5000
Dec 4 " "	9000

Cd fd. 463987

Forwarded	226413
B. Balance	378037
	604450

1866

Sept 8	B. Check	800
28	"	8100
Oct 4	"	213
6	"	26
8	"	13
15	"	25
20	"	150
Nov 3	" 30. 15	45
12	"	6715
19	"	55
Dec 10	"	60
	Bal'd	743 15

	Brought forward	463987
Dec 19	Mr C	60—
Jan 9	"	120—
21	"	50—
Feb 14	"	85—
26	"	72 80
Mch 2	"	85—
28	"	70—
Apr 6	"	70—
16	"	153—
23	"	75—
27	"	89—
May 4	"	60—
11	"	50—
18	"	175—
		585467

Bal c/d

1860	Forwarded	743 15
Dec 12	B. Check	25
61 Jan 2	"	25
Feb 5	"	25
March 4	"	25
16	"	150
April 3	"	50
22	" 128.25 50.	203
24	" 78.65 80	143 80
May 13	"	161
29	" Gold	15
	" Balance	428 72

25 Checks returned

5854 67

1861

June 11 To Balance 4258 72

" Interest 151 62

4410.34

~~$4440.34~~

Brought June 11. 61. 440.34

Balance " " ~~$4000~~ 4100 —

United States of America
State of Illinois
DuPage County } ss

Pleas before the Honorable Isaac G. Wilson, Judge of the Twenty Eighth Judicial circuit in the State of Illinois and Sole presiding Judge of the Circuit Court of said DuPage County in said Judicial Circuit at a Regular Term of said Court begun and holden at the Court House in said County on the Sixteenth day, it being the Third Monday of November in the year of our Lord One Thousand Eight Hundred and Sixty three and of the Independence of the United States the Eighty Eighth

Present the Honorable

Isaac G. Wilson, Judge of said Court
Charles J. Metzner, States attorney
James J. Hunt, Sheriff of said County

Attest. Wm. W. Whitney Clerk

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Be it remembered, That heretofore, to wit, on the fourteenth day of March in the year A.D. 1862, there was filed in the Office of the Clerk of the Circuit Court of DuPage County in the State aforesaid, one certain Bill of complaint in words and figures as follows, to wit,

To the Honorable Isaac G. Wilson. Judge of the DuPage County circuit court.

In Chancery Sitting

Humbly Complaining Sheweth unto your Honor. your orator Michael Moritz of Chicago Cook County Illinois. who states that on or about the 22d day of June A.D. 1861 at Chicago in the County of Cook aforesaid he commenced a suit in Assumsit by summons against Francis A Hoffmann Alls Gulpcke & Alexander Siller in the Superior Court of Chicago in the County of Cook and State of Illinois for a large sum of money which the said Defendants above named had for a long time been owing this complainant. money which had been deposited with them & they refused to pay. Said Summons was in due form & under the seal of said Court & made returnable at the then next duly term of said Court and said defendants each of them were duly served and appeared in said suit and such proceedings were thereupon had in said Court & Cause that your orator by the judgment and determination of said Court recovered a Judgment against said defendants on the 26th day of November A.D. 1861 in the November term A.D. 1861 of said Court for the sum of four thousand and one hundred dollars besides the costs of suit. and on the 2d day of December 1861 two. Executions were duly issued out of said Court upon said Judgment (accompanied by the Fee Bill). one directed to the Sheriff of Cook County Illinois and the other to. the Sheriff of DuPage County —

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And your orator further shows unto your Honor said Execution (or. Fi Fa) so issued to the Sheriff of Cook County has been returned by said Sheriff wholly unsatisfied and which return is in words and figures following. viz: "I have made demand of the within named de-

defendant Francis A Hoffmann for money or property with which to satisfy this Execution. He said he had neither money or property with which to ~~satisfy~~ surrender in satisfaction of the same and I have been unable to find any property in my County whereon to levy this writ. Therefore return the same no part satisfied this 2d day of March 1862. the other within named defendants not found in my County. Anthony C Hessing. by John A.—— deputy.

And your orator further shows unto your Honor that as he is informed & believes & so charges the fact to be the said Sheriff of DuPage County by virtue of said Execution so issued to him has levied upon the following Real Estate in the County of DuPage Illinois. viz;

Lots one two three four five six & seven in F. A. Hoffmann Subdivision of part of (E½) east half of South East quarter of section thirty six in Township Number forty North of Range Eleven east of the third principal Meridian. also the remainder of said East half of South East quarter of said section thirty six Township forty North Range Eleven East of the third principal meridian not included in said Lots before described which said Real Estate your orator alleges and charges is subject to levy and sale on said Execution as the property of said defendants. or one or more of them and the said Real Estate & each piece & parcel thereof ought in justice and equity to be declared liable to the levy and lien of said Execution and Judgment & subject to be sold for the payment of said debt & Judgment & costs upon said Execution

And your orator further shows that said Sheriff has duly caused to be made and filed for Record March 1th 1862 with the Recorder of DuPage County a certificate of Levy of said Lands pursuant to the Statute in

such case made and provided & your orator begs leave to have said Execution or Fi Fa's considered part of this his Bill of Complaint and he will prove the same and said Judgment & Certificate of Levy when and where this Honorable Court shall direct-

And your Orator further shows unto your Honor that it appears by the Records of DuPage County that said Francis A. Hoffmann one of said defendants became the owner in fee and your orator upon information and belief Charges the fact so to be that he by purchase and warranty Deed from one William Blum & wife became such owner in fee on the fifth day of April A.D. 1855 and has ever since in truth and in fact remained such owner & in possession thereof of the lands & premises upon which said Execution is levied as aforesaid and that such deed from said Blum to said Hoffmann was duly Recorded in the Recorders office of DuPage County Illinois June 15, 1855 in B 18 of Deeds page 84 &c which Record and description your orator begs leave to refer as he has not the said deed or the control thereof, and have the same considered as part of this his Bill of Complaint, and since such deed and conveyance was made from said Blum and wife to said Francis A Hoffmann. he the said Hoffmann has caused the said part of E½ of SE¼ of section 36 Township 40 N. of R 11 East of the third principal Meridian to be subdivided into several small lots and caused such survey and subdivision to be platted or maped and recorded in DuPage County Recorders office as Francis A Hoffmans Subdivision of or as on record stated. "Plat of the Country Seat of Francis A Hoffmann and to which plat and Record your orator also begs leave to refer & make part of this his Bill of Complaint which was Recorded October 20th 1853

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And your Orator further shows unto your Honor that the said sum of forty one hundred dollars for which he recovered his Judgment as aforesaid in Superior Court of Chicago the same being a Court of Record & of equal & like jurisdiction & practice as the Cook County Circuit Court was all and every cent of it honestly and fairly due from said defendants to this Complainant. That said sum of forty one hundred dollars was the amount due from said defendants as Bankers for the amount of balance of deposits of money which said Complainant had from time to time deposited with them except a small amount which had been allowed Complainant as interest at the rate of 6 per cent per annum on some of the deposits which had remained for a long time with defendants

And this Complainant further shows that such deposit account and indebtedness commenced or rather your orator commenced to make his deposits in money so far back as Jan. 1855 when the business was done in the name of the said defendant Francis A Hoffman as the Banker and from that time monthly & almost daily down to May 18, 1861 he continued to make such deposits of money, and at no time from the time so commenced has it been but that a large amount has been due and owing from said defendants or one of them to your orator & such money as deposited and the balance thereof for which said Judgment was obtained as aforesaid was the slow and hard earnings and accumulations of your Orator as a mechanic he being a Watch Maker and laborer at his trade and having a small store or shop in the City of Chicago Cook County Illinois in which his labor was done & business conducted.

And your Orator further shows unto your

Honor, that although the said business of Banking was continued by said Hoffmann the same as before, after he took Gelpcke & Siller as Partners in his said Banking business yet said depositing was continued to be done and such deposits permitted to remain by your orator principally from the reputed wealth and honesty of said Francis A Hoffmann, he then besides his ap parent Banking capital & business being reputed to be the owner of valuable lots & tracts of land both in Cook and DuPage Countys Illinois over which he exercised acts of ownership & was permitted, to the world to exercise such acts and claim the credit thereof & of being such owner besides claiming to be the owner of lots & lands in other portions of this State and in the adjoining States of Wisconsin Iowa & Minnesota & Kanzas as your orator is now informed and believes - either as sole owner or as co partner of said Gilpcke & Siller or joint owner with them

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And your orator further shows unto your Honor that as he is now informed and believes and so charges the fact to be that from the time he so commenced to make his deposits as aforesaid with said Hoffmann & while your orator so continued to make them after both said Siller & Gelpcke were taken as partners by said Hoffmann. the said Hoffmann was heavily & deeply in debt & the said Hoffmann Gelpcke & Siller were likewise heavily & deeply all the time in debt to other creditors besides your orator

And your orator expressly charges that the said Hoffmann was heavily involved and liable to pay moneys in various different monied obligations & transactions, and in debt due or coming due to other creditors besides your orator on the 20th day of October A D 1858 the time of giving or pretended giving of

a deed to Theodore Hoffmann of the land above mentioned in trust for the use of the wife of said Francis A. Hoffmann said pretended deed being hereinafter more particularly mentioned and set forth.

And your orator further shows unto your Honor that since said Judgment has been made as aforesaid he has tried and exhausted all legal means in Cook County to recover the same by issuing said Execution and has failed to discover on his part any property liable to Execution belonging to either of said defendants as a short time prior to the obtaining your orators Judgment as aforesaid. the said defendants as your orator is informed & believes and as the same appears by the Records in the Recorders office of Cook County made a pretended assignment of all of their property for the benefit of their creditors and all the Real Estate in Cook County that your orator knew of or believed to belonged to them or either of them is included in said assignment which said assignment ~~which said~~ was made to one Charles H. J. Miller as assignee in trust as aforesaid & bears date August 26th 1861 & was filed for Record in Cook County Aug. 27. 1861 and Recorded in B 218 of D. Pr. 141 and as your orator is informed and believes said Charles H. J. Miller claims to have reduced to his possession all the property mentioned and set forth in said assignment and all of the property of said defendants liable to the Judgment & Execution as aforesaid long before said Judgment was obtained. and your orator avers and charges the truth to be that said property so assigned to said Miller in trust as ~~aforesaid~~ is entirely inadequate to pay the debts of said firm of Hoffmann & Helpeke by which name defts done bus-

iness. or even to pay any great if any percentage of the debts of the class of creditors in which your orator is named. and unless your Honor grants to your orator the aid of this Honorable Court he will be wronged out of his just debt and be entirely remediless in the premises.

And your orator further shows unto your Honor that the said land & premises above levied on & which Blum & wife conveyed said Francis A. Hoffmann is not mentioned in said assignment or conveyed to said Charles A. J. Miller assignee as aforesaid. but the same or the larger part thereof is still in the possession & under the control of said Francis A. Hoffmann & what is not controled and occupied by the said Francis A. Hoffmann your orator upon information and belief charges the fact to be the same in the occupancy & possession and under the control of the said Alexander Siller the other of said defendants

And your orator further shows unto your Honor that said Hoffmann & said Alexander Siller both pretend & claim that they are not the owners or owners of any Real Estate in DuPage County but on the contrary thereof the said Francis A. Hoffmann pretends that he has conveyed the said lands levied upon to one Theodore Hoffmann & upon the Records of DuPage County are found the Record of two pretended deeds of conveyance of the said land so deeded to him by said Blum & wife. certified copies of which are hereto this Bill of Complaint annexed and marked Exhibit "A" & Exhibit "B" and which orator prays may be taken as part of this his Bill of Complaint -

And your orator further shows unto your Honor at the time of the date of said deed marked "exhibit A" was pretended to have been given the said defendants

Hoffmann Gelpcke & Siller or one of them was owing your orator the sum of about twelve hundred dollars on said deposit account and when the deed marked "exhibit B" bearing date the 13th day of June A D 1859 was pretended to be given June 13th 1859 the said defendants were owing your orator on the same deposit account over the sum of two thousand dollars -

And your orator further shows unto your Honor that it also appears by the Records in the Recorder's office of DuPage County that Francis A. Hoffmann & wife by Warranty deed dated February 3d 1860. Recorded Feb 8th 1860 in Book 24 of Deeds page 234 conveyed to one Berthia Siller Lots 3. 4. 5 & 6. in Hoffmanns subdivision of part of E½ of SE¼ of section 36 Township Forty North of Range 10 East of the third principal Meridian for the as therein expressed pretended consideration of five hundred dollars -

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And your orator further shows unto your Honor that at the time the last mentioned conveyance was made said defendants Hoffmann Gelpcke & Siller were owing this complainant on said deposit account over the sum of four thousand dollars -

And your orator upon information and belief charges that the said Berthia Siller who is also made defendant herein is the wife of ~~Louis~~ Alexander Siller & that such pretended conveyance was made to her without any valuable consideration being paid & with the intent and for the purpose of cheating delaying and defrauding your orator & the other creditors of said firm of Hoffmann Gelpcke out of their just debts & demands against them

And your Orator further shows unto your Honor that from the time said Francis A. Hoffmann received his deed as aforesaid from the said William Blum & wife of said land in DuPage County, to wit; that land and premises lyeing on as aforesaid by the Execution

as aforesaid the said Francis A. Hoffmann has from that time expended large amounts of money in improving and adorning the same and ever since the time the said pretended making of the deed to his said brother Theodore Hoffmann of October 30th 1858 the said Francis A. Hoffmann has ever since been in the possession thereof and has laid out & expended large sums of money in Buildings & putting costly improvements thereon, money ~~which~~ used for which purpose, in justice and equity belonging to your orator & other of the creditors of said firm & your orator alleges and charges that not only since that time has he built costly buildings on the particular lots which are mentioned in said deed of October 30, 1858 but he and said Siller or said Siller alone has built other buildings & made improvements on other lots of said subdivision of said E½ of SE¼ of Sec 36 Town 40 N. of R 11 E of 3 P.M. and your orator charges that the said money so taken for this last purpose by said Hoffmann or Siller like the money taken & used by the said Hoffmann in improving the lots which he has pretended to give to his wife from love and affection was money taken from their business & depositors & creditors and such lots and all of the same ought in justice to be decreed liable for the payment of your orators just judgment. ~~Given~~

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And your orator further shows that as he is informed and believes and he has doubt that the fact is so that the said Cynthia Hoffmann never was the owner of property in her own right so as to justly on that ground make any claim to the land & premises in said deed of Oct 30. 1858 & June 13. 1859. mentioned & described and your orator expressly charges that both of said deeds are void & fraudulent as against your orator

the same are the fraudulent gifts of Francis A. Hoffmann and were made with the intent to place such lots & land in DuPage County beyond the reach of your orator this other creditors. And your orator also expressly charges that said Theodore Hoffmann the pretended trustee has never been in possession of the premises but that the same has ever been and is now in the possession and control of said Francis A. Hoffmann -

And your Orator further Shows unto your Honor that said deed of Feb. 3. 1860 was fraudulently made by said Francis A. Hoffmann to the said Berthia Siller wife of the said Alexander Siller at his instance and request and for his use & benefit, with the intent to place said lots therein mentioned beyond the reach and liability of paying his sillers just debts or the debts of said Copartnership and that the whole Consideration thereof if any was paid your orator says was fictitious certainly the amount is but nominal & the same was paid by said Alexander Siller and she said Berthia Siller well knew for what purpose said deed was made in her name & well knew that she in her own right had not any just claim to the same and well knew at the time such conveyance was made & placed upon Record that both said Hoffmann & her husband were hopelessly insolvent & unable to pay all of their just debts by thousands of dollars and that the same was but a contrivance to wrong and injure your orator & other creditors & place the same beyond their reach

And your orator further shows unto your Honor that upon information & belief he charges that the said Theodore Hoffmann has never had

delivered to him the said two deeds aforesaid made to him as Grantee & Trustee & that the said deeds have ever been in the possession & under the control of the said Francis A. Hoffmann

And your Orator further shows unto your Honor that he is informed and believes the said Francis A. Hoffmann & his wife Cynthia Hoffmann & the said Alexander Siller & wife Berthia Siller claim and insist that the said land & premises are not liable for the debts of the firm of Hoffmann & Helpcke nor liable to be sold therefor, and that they have good & lawful right to sell and dispose of the same & that the said lots are the property of said Cynthia Hoffmann & Berthia Siller to be sold and disposed of as they chose & direct & that said Theodore Hoffmann stands ready & willing to do as said Cynthia Hoffmann shall direct about making conveyance. and that your Orator fears and has reason to fear that they will make some disposition or other sell or pretended to sell the same or some part thereof or encumber the same as they so threaten to do unless this Honorable Court interfere by injunction & restrain them therefrom. All which dealings pretences and doings are contrary to equity and good Conscience and tend to the manifest wrong and injury of your Orator in the premises and inasmuch as your Orator can only have adequate relief in the premises in a Court of Equity where matters of this nature are properly Cognizable relievable. To the end therefore that the said Francis A. Hoffmann. Otto Helpcke. Alexander Siller. Cynthia Hoffmann. Berthia Siller &

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Theodore Hoffmann and their confederates when discovered may respectively full. true. direct. and perfect answers make to all and singular the matters aforesaid. their and each of their answers unan oath being hereby expressly waived

And May it please your Honor to consider the facts aforesaid and order and decree that said lots lands & premises so levied upon as aforesaid is subject to sale upon said Execution free from all clouds by reason of said pretended records or deeds of date Oct 30. 1858. June 13th 1859 & Feb 3. 1860. Order and decree that each of said deeds is fraudulent and void and of no effect as against your orators said execution & debt & judgment Order & decree that neither Cynthia Hoffmann Berthia Siller & Theodore Hoffmann have any
13 interest. right. title or claim in or to any part or portion of said land so levied on by reason of such pretended conveyances & that the same & every lot thereof is subject to the payment of your orators just debt & judgment and ought to sold for such purpose & decree such sale as against all of said defendants, Also enjoin and restrain said Francis A. Hoffmann Cynthia Hoffmann Alexander Siller Berthia Siller & Theodore Hoffmann and each of them from in any way or manner disposing of any lot. part. piece or portion of the East 1/2 of SE¼ of Section 36 in Township forty North of Range 11 East of the 3d Principal Meridian in the mean time & until the further order of this Court—

Or order & decree to your orator such other & further relief as may just and proper in the premises and agreeable to equity & good conscience

also grant to your orator a writ of Injunction against the last above named persons and as above prayed. Please also to grant your Writ of Summons issuing out of and under the Seal of this Honorable Court directed to said Francis A. Hoffmann & Cynthia Hoffmann. Alexander Sillen & Bertha Sillen Otto Gelpcke and Theodore Hoffmann as defendants. returnable to a certain day to be named therein the next regular term of this Court when this cause can be heard to answer &c. And your orator will ever pray &c.

Michael Moritz

A. Garrison
Solicitor & of Counsel

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State of Illinois }
Cook County } ss Michael Moritz the complainant in the foregoing bill of Complaint and whose name is subscribed to the said above bill of Complaint being duly sworn says that he has heard read the above bill of Complaint and knows the contents thereof that the same is true of his own knowledge except what is therein set forth on information and belief. and as to those matters he believes it to be true

Subscribed & sworn to before me this 11th day of March A.D. 1862

Michael Moritz

Peter N. Witt
Notary Public

Seal

Let an Injunction issue according to the prayer of the within and foregoing Bill of Complaint

Dated 13th March 1862

E. S. Daniels Master in Chancery for said Cook County

"Exhibit A" This Indenture made this thirtieth day of October A.D. One thousand Eight Hundred and fifty Eight Between Francis A. Hoffmann of the County of DuPage and State of Illinois of the first part and Theodore Hoffmann of Niles, Cook County and State of Illinois of the second part. Witnesseth, that the said party of the first part for and in consideration of his love to his wife Cynthia Hoffmann has granted sold and bargained, and by these presents do grant bargain and sell unto the said party of the second part his heirs and assigns forever. all that certain piece of land known as — Lots No. One (1) No. Two (2) and No. Seven (7) of F. A. Hoffmann's subdivision of Part of East half of South East quarter of Section thirty six (36) in Township Forty (40) North of Range Eleven East of third principal Meridian containing 20 22/100 acres more or less. In the County of DuPage and State of Illinois—

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To have and to hold the above described premises with all the appurtenances thereunto belonging unto the said party of the second part his heirs and assigns forever. In trust nevertheless for the uses of Mrs Cynthia Hoffmann of Chicago County and State aforesaid with power in the said Theodore Hoffmann, his heirs and assigns with the approbation or at the request of the said Cynthia Hoffmann expressed in writing to sell and dispose of the said premises or any part thereof and the proceeds to invest in other Real Estate, or otherwise she may direct and the estate so purchased if any to be held by the trustee for the same purposes, and upon

(*)

the same trusts above set forth. In case of the decease of the said Cynthia Hoffmann before the alienation of the Estate aforesaid. then the Estate shall be held for the benefit of her children. by the said F. A. Hoffmann or the survivor or survivors of them in case of the death of either, and to no one else except by special appointment of the said Mrs. Hoffmann in writing duly executed.

And the said party of the second part hereby covenants for himself and his legal representatives that the said Cynthia Hoffmann shall be permitted to use or to receive the income of said trust estate as she shall deem advisable

Witness hand and seal of said Grantor day and year first above written

Francis A. Hoffmann [Seal]

State of Illinois } ss
Cook County }

I. Alexander Seller a Notary Public in and for the City of Chicago in the County of Cook in the State aforesaid do hereby certify that Francis A. Hoffmann who is personally known to be the same person whose name is subscribed to the annexed deed appeared before me this day in person and acknowledged that he signed sealed and delivered the said instrument of writing as his free act and deed for the uses and purposes therein expressed.

Given under my hand and Notarial Seal this thirteenth day of October A.D. 1858

[Seal]

Alexander Seller
Notary Public

(*) The same trusts that are declared in and by this deed of and concerning the property above mentioned. In case of the decease of the party of the second part or resignation of the Trust herein created he or his heirs or legal representatives may be appointed by the said Cynthia Hoffman to be Trustee under this deed and the said Trustee shall hold the said estate for the same purposes and upon the same trusts above set forth.

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No 12.878 Recorded November 3d 1858

State of Illinois } ss
DuPage County }

I, Wm. W. Whitney, Clerk of the Circuit Court and Ex-Officio Recorder in and for said County, do hereby certify that the above and foregoing is a Correct Copy of a certain Deed of Trust Made by Francis A. Hoffmann to Theodore Hoffmann dated thirteenth day of October A.D. 1858 and Recorded the third of November A.D. 1858 in Book 22 of Deeds at Pages 363 & 364 as appears from the Records now in my office.

Witness my hand & Seal of said Court this 24th Feby 1862

(Seal)

Wm. W. Whitney
Clerk

"Exhibit B" This Indenture Made this thirteenth day of June A.D. 1859 Between Frederick William Hoffmann and Louisa Hoffmann his wife and Francis A. Hoffmann of the County of DuPage and State of Illinois, party of the first part and Theodore Hoffmann of the County of Cook & State of Illinois of the second part. Witnesseth that the said party of the first part for and in consideration of the sum of One Dollar to them paid and also in consideration of their love to Mrs. Cynthia Hoffmann wife of the said Francis A. Hoffmann, have quit claimed granted and sold and by these presents do quit claim, grant and sell unto the said party of the second part his heirs and assigns forever all those certain pieces of land known as Lots No One (1) No. Two (2) and No Seven (7) of F. A. Hoffmann's subdivision of a

part of the East half of the South East quarter of Section thirty six (36) Township Forty (40) North of Range Eleven (11) east of the third P.M. as surveyed and subdivided by A. Brooks County Surveyor as will appear from a plat of said subdivision filed in the Recorders Office of DuPage County State aforesaid

To have and to hold the above described premises with all the appurtenances thereunto belonging unto the said party of the second part his heirs and asigns forever.

In Trust nevertheless for the use of Mrs. Leyntha Hoffmann with power in the said Theodore Hoffmann his heirs and assigns with the approbation and at the request expressed in ~~the~~ writing and duly acknowledged of the said Leyntha Hoffmann. to sell and dispose of the said premises or any part thereof. and the proceeds to invest in other real estate or otherwise as she may direct and the estate so purchased if any to be held by the Trustee for the same purposes and upon the same trusts that are declared in and by this deed of and concerning the property above mentioned. In case of the decease of the ~~said~~ party of the second part or resignation of the trust herein created. he or ~~his~~ heirs or legal representatives shall convey the whole of said trust estate to such person as may be appointed by the said Leyntha Hoffmann to be trustee under this deed. and the said Trustee shall hold the said estate for the same purposes and upon the same trusts above set forth. In case of the decease of the said Leyntha Hoffmann before the alienation of the estate aforesaid. then the estate shall be held for the benefit of her children by the said T. H.

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Hoffmann or the survivor or survivors of them in case of the death of either and to no one else except by special appointment of the said Cynthia Hoffmann in writing duly executed.

Witness hand and seal of the said Grantors day and year first above written

F. W. Hoffmann (Seal)
Louisa Hoffmann (Seal)
Francis A Hoffmann (Seal)

State of Illinois } ss
Cook County } I Alexander Siller a Notary Public in and for the City of Chicago in the County of Cook and State aforesaid. do hereby Certify that F W Hoffmann. Louise Hoffmann. and Francis A Hoffmann. personally known to me ~~as~~ to be the same persons whose names are subscribed to the annexed instrument of writing appeared before me this day in person and acknowledged that they signed sealed and delivered the said instrument of writing as their free and voluntary act for the uses and purposes therein set forth -

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And the said Louise Hoffmann wife of the said F. W. Hoffmann having been by me examined separate and apart and each of the hearing of her said husband and the contents and meaning of the said instrument of writing having been by me made known and fully explained to her acknowledged that she had freely and voluntarily executed the same. and relinquished her dower to the lands and tenements therein mentioned without compulsion of her said husband and that she does not wish to retract the same.

Given under my hand and Notarial

(Seal) Seal this Fourteenth day of June A.D. 1859

Alexander Siller

Notary Public

No. 634 Recorded June 16th 1859

State of Illinois }
DuPage County } ss. I Wm. M. Whitney Clerk of the Circuit Court, do hereby certify that the above and foregoing is a true copy of a certain deed of trust given by F.W. Hoffmann & wf and F. A. Hoffmann to Theodore Hoffmann. Dated 13th June 1859 and recorded 16th June 1859 in Book 24 D.R. 204 & 21 as appears from the Records now in my office -

Witness my hand and the Seal of said

20 (Seal) Court this 24th day of Feby 1862

Wm. M. Whitney

Clerk

And afterwards, to wit: on the said fourteenth day of March in the year A.D. 1862 there issued out of the Circuit Court of said DuPage County and under the Seal thereof, the Peoples Writ of Summons directed to the Sheriff of said County which writ is in words and figures following, to wit:

State of Illinois } ss
DuPage County } The People of the State of Illinois to the Sheriff of said County. Greeting;

We command you, that you Summon Francis A Hoffman Leynthia Hoffman, Alexander Siller, Bertha Siller, Otto Gelpeke and Theodore Hoffman if they shall be found in your County, personally to be and appear before the Circuit Court of said County, on the first day of the next term thereof, to be holden at the Court House in Naperville in said DuPage County, on the third Monday of November next to answer unto Michael Moritz in his certain Bill of complaint filed in the said Court on the Chancery Side thereof - And have you then and there this Writ with an endorsement thereon, in what manner you shall have executed the same.

Witness Wm W. Whitney Clerk of said Court and the Seal thereof, at Naperville this fourteenth day of March A D 1862.

Seal

Wm W. Whitney Clerk

And on the 6th day of April 1863 said Summons was filed in the Office of the clerk of said court and on the back of the same appears an endorsement in words and figures following, to wit:

State of Illinois } ss
——— County }

I have duly served the within by reading the same to Francis A. Hoffman, Leynthia Hoffman and Berthia Siller, also by delivering a true copy thereof to each of them this 31st day of March A.D. 1862 the other named defendants not found in my

County —

T. S. Rogers Sheriff

And on the said fourteenth day of March in the year A.D. 1862 there issued out of said Circuit Court of DuPage County another Peoples writ of Summons under the seal of said Court and directed to the Sheriff of Cook County in said State which writ is in words and figures following, to wit;

State of Illinois } ss
DuPage County } The People of the State of Illinois to the Sheriff of Cook County, Greeting;

We command you, that you summons Francis A Hoffman, Cynthia Hoffman, Alexander Siller Bertha Siller Otto Helpeke and Theodore Hoffman if he shall be found in your County, personally to be and appear before the Circuit Court of said County, on the first day of the next term thereof, to be holden at the Court House in Naperville in said DuPage County, on the third Monday of November next to answer unto Michael Moritz in his certain bill of complaint filed in said Court on the Chancery side thereof.

And have you then and there this writ with an endorsement thereon, in what manner you shall have executed the same —

Witness Wm. M. Whitney Clerk of said Court, and the seal thereof, at Naperville this fourteenth day of March A.D. 1862

Seal

Wm. M. Whitney Clerk.

And on the 25th day of March in the

year last aforesaid there was filed in the Office of the Clerk of the Circuit Court of said DuPage County the said Writ of Summons last above described with an endorsement thereon in words and figures as follows, to wit;

State of Illinois } ss
County }

Served this Writ the within named defendants Theodore Hoffmann and Otto Selpeke by delivering a copy thereof to each of them this 27th day of October 1862. A. C. Hesing Sheriff, by Wm. Wayman Deputy.

And on the said fourteenth day of March in the year A.D. 1862 there was issued out of the Circuit Court of said DuPage County the People's Writ of Injunction in words and figures following, to wit;

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State of Illinois }
County of DuPage } ss

The People of the State of Illinois to Francis A. Hoffmann Cynthia Hoffmann. Alexander Siller Berthia Siller & Theodore Hoffmann. and to your attorneys. solicitors. agents and servants and to each and every of them. Greeting;

Whereas it hath been represented to the Honorable Isaac N. Wilson Judge of the DuPage County Circuit Court in the part of Michael Moritz Complainant in his certain bill of Complaint exhibited before said Judge. and filed in said Court against you the said Francis A. Hoffmann. Cynthia Hoffmann. Alexander Siller Berthia Siller. Otto Selpeke & Theodore Hoffmann

to be relieved, touching the matters and things therein complained of. In which said bill, it is stated, among other things, that you are combining and confederating with others to injure the complainant, touching the matters set forth in said bill, and that your acting and doings in the premises are contrary to equity and good conscience. And the said Judge, having under his hand endorsed upon said bill an order that a writ of Injunction issue out of said Court according to the prayer of said bill; We, therefore, in consideration thereof, and of the particular matters in said bill set forth, do strictly command you, the said Francis A. Hoffmann, Cynthia Hoffmann, Alexander Siller, Bertha Siller & Theodore Hoffmann and the persons before mentioned, and each and every of you, that you do absolutely desist and refrain from in any way or manner selling, conveying, incumbering or in any way or manner disposing of any lot, part, piece or portion of the east half of the South east quarter of Section Number Thirty Six Township forty North of Range Eleven East of the third principal meridian until this Honorable Court in Chancery Sitting shall make other order to the contrary, hereof fail not, under the penalty of what the law directs.

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To the Sheriff of said County to execute and return in due form of law.

Witness, Wm. M. Whitney, Clerk of our said Court, and the Seal thereof at Naperville, in said County this fourteenth day of March A.D. 1862

Wm. M. Whitney
Clerk

And on the 9th day of April in the year A.D.1862 said Writ of Injunction was returned into the office of the Clerk of the Circuit Court of said DuPage County with an endorsement thereon in words and figures following, to wit;

Served this Writ on the within named Francis A. Hoffmann, Cynthia Hoffmann and Berthia Siller by delivering a copy thereof to each of them this 31st day of March 1862. The other named defendants not found in my County.

T. S. Rogers, Sheriff

And also, on the said fourteenth day of March in the year A.D.1862 there issued another Peoples Writ of Injunction out of said Circuit Court of DuPage County which Writ is in words and figures following, to wit;

25 State of Illinois } ss
County of DuPage }

The People of the State of Illinois;

To Francis A. Hoffmann Cynthia Hoffmann, Alexander Siller, Berthia Siller & Theodore Hoffmann and to your attorneys, solicitors agents and servants, and to each and every of them, Greeting;

Whereas it hath been represented to the Honorable Isaac G. Wilson, Judge of the DuPage County Circuit Court on the part of Michael Moritz, Complainant in his certain bill of complaint, exhibited before said Judge, and filed in said Court, against you, the said Francis A. Hoffmann, Cynthia Hoffmann, Alexander Siller, Berthia Siller, Otto Helpeke & Theodore Hoffmann to be relieved, touching the matters and things therein complained of. In which said bill

it is stated, among other things, that you are combining and confederating with others to injure the complainant touching the matters set forth in said bill, and that your actings and doings in the premises are contrary to equity and good conscience. And the said Judge, having under his hand endorsed upon said bill an order that a Writ of Injunction issue out of said Court according to the prayer of said bill; We, therefore, in consideration thereof, and of the particular Matters in said bill set forth, do strictly command you, the said Francis A. Hoffmann Cynthia Hoffmann, Alexander Siller Bertha Siller & Theodore Hoffmann and the persons before mentioned, and each and every of you, that you do absolutely desist and refrain from in any way or manner selling conveying encumbering or in any way or manner disposing of any ~~lot~~ part, piece or portion of the East half of the South East quarter of Section number thirty six in Township forty North of Range Eleven East of the third principal Meridian until this Honorable Court in Chancery sitting shall make other order to the contrary. Hereof fail not under penalty of what the law directs.

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To the Sheriff of Cook County to execute and return in due form of law

Witness Wm. W. Whitney clerk of our said Court, and the seal thereof, at Naperville in said County, this fourteenth day of March A.D. 1862

(Seal)

Wm. W. Whitney clerk

And on the 25th day of March in the year 1862 said Writ of Injunction last aforesaid was filed in the Office of the

clerk of the Circuit Court of said DuPage County with an endorsement thereon in words and figures following, to wit;

Served this writ on the within named defendant Theodore Hoffmann by delivering copy thereof to him the 27th day of October 1862

A. C. Hesing Sheriff
By Wm Wayman Deputy

And on the 21st day of March in the year A.D. 1863 there was filed in the office of the Clerk of the Circuit Court of said DuPage County the answers of Francis A. Hoffmann and Cynthia Hoffmann to the foregoing bill of complaint which answers are in words and figures following to wit;

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Michael Moritz
vs
Francis A Hoffman
Cynthia Hoffmans
Alexander Siller
Berthea Siller
Otto Klepeke and
Theodore Hoffman

In the Circuit Court of DuPage County of the Term A.D. 1862

In Chancery

The joint and separate answers of Francis A. Hoffman and Cynthia Hoffmann two of the defendants to the bill of complaint of Michael Moritz Complainant

These defendants now and at all times hereafter saving and reserving unto themselves all benefit and advantage of exception which can or may be had and taken to the many and manifest errors uncertainties

and imperfections in the said complainants said bill of complaint contained for answer thereto or unto so much and such parts thereof as these defendants are advised is or are material or necessary for them to make answer unto answering. the said Francis A Hoffman of his own knowledge and the said Cynthia Hoffmann upon information and belief say that they admit that the said complainant commenced a suit in the superior Court of Chicago in an action of assumsit against this defendant Francis A. Hoffman and the other defendants Otto Gelfeld and Alexander Siller at or about the time mentioned in said bill of complaint. That said defendants were duly served with process and appeared, and that such proceedings were subsequently had thereon in said Court that the said complainant
28 recovered a Judgment against said defendants at the November term of said Court A.D. 1861 for the sum of Four thousand and one hundred dollars besides the costs of suit, and that afterwards and at about the time in said bill of complaint alledged writs of execution out of said Court upon said Judgment were duly issued one directed to the Sheriff of Cook County and the other to the Sheriff of DuPage County, that the Sheriff of Cook County subsequently returned the execution directed to him wholly unsatisfied which return is substantially in manner and form as stated in said bill of complaint; And these defendants upon information and belief only admit that the Sheriff of DuPage County aforesaid pretending to act by virtue of said execution to him directed has levied or pretended to levy upon the Real Estate

in said bill of Complaint set forth and described but these defendants expressly deny that the said Real Estate or any part thereof was or is subject to levy or sale on said execution as the property of the ~~said~~ defendants to the said Judgment and execution or either of them and they further deny that said Real Estate or any ~~any~~ part thereof ought in justice or equity to be declared liable to the levy or supposed or pretended lien of said execution or Judgment or to be sold for the payment of or that it is in any manner subject to the payment of said debt or of said Judgment and costs. And these defendants further answering say that they have no knowledge information or belief what ever except as derived from said bill of Complaint as to the making or filing by the Sheriff of DuPage County of any Certificate of Levy of said land

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And these defendants further answering admit that this defendant Francis A. Hoffman became the owner in fee by purchase and conveyance from one William Blume and wife of the premises described in said bill of Complaint on or about the fifth day of april A.D. 1855 and that the deed of Conveyance for said premises from said Blume and wife to this defendant F. A. Hoffman was duly recorded in the Recorder's Office of DuPage County Illinois in book No. 18 of deeds page 84 as by the said deed now in the possession of this defendant Francis A. Hoffmann and ready to be produced as this Honorable Court shall direct will more fully and at large appear. but this defendant Francis A. Hoffman expressly denies that he has ever since been or that for

many years past he has been the owner or seized of said premises or any part thereof or that he has been in truth or in fact in possession thereof except as hereinafter stated and set forth.

And these defendants further answering admit that after the purchase of said premises and at about the time stated in said complainants bill of complaint this defendant caused a part of the said premises to be subdivided into lots and a plat or map of said Subdivision to be made and recorded in the Recorders office of DuPage County aforesaid on or about the twentieth day of October A.D. 1888 entitled substantially as stated in said bill of complaint.

30 And this defendant Cynthia Hoffmann further sayth that she and her children have ever since that time occupied said premises as a home stead and that she is a mother and has a family and she therefore claims said premises as her homestead. and she insists that she has not in any manner released or waived her right of homestead therein and she further insists that she should not be dispossessed of the same.

And these defendants further answering admit that the judgment so recovered by the said complainant against these defendants Francis A Hoffman. Otto Helpeke and Alexander Siller as herein before stated is still unpaid and that the amount of said judgment is by the judgment of said Superior Court of Chicago still fairly due from these defendants against whom the same was recovered to the said complainant and these defendants

admit that the indebtedness which said action was brought to recover and upon which said Judgment was rendered was the balance due said Complainant as a depositer with the banking firm of Hoffman and Gelpeke which firm was composed at the time said balance was struck and when said account was accruing of this defendant Francis A. Hoffman and the defendants Otto Gelpeke and Alexander Diller.

And these defendants admit and state the fact to be that the ballance due said Complainant in the books of said firm and upon which said Judgment was rendered was chiefly made up of sundry deposits of money or of the currency circulating as money at the time such deposits were made at different times by said Complainant with said
31 banking firm and that a small portion of said ballance, to wit about three hundred and twelve Dollars was for interest which had been allowed said Complainant on his deposit account aforesaid.

And these defendants further answering admit that the said Complainant opened an account and commenced to make deposits with this defendant Francis A. Hoffman who was then engaged in banking solely and on his own account in the month of January A.D. 1805 and that subsequently and at different times the said defendants Otto Gelpeke and Alexander Diller were admitted as partners with this defendant Francis A. Hoffmann and that the business was then carried on under the name of Hoffman & Gelpeke and that said firm succeeded to the business of Francis A. Hoffmann but these defendants expressly deny that said account and indebtedness upon which the

aforesaid Judgment was obtained commenced, or that any part thereof was deposited in the months of January A.D. 1855 or for several years subsequent to that period but these defendants insist and charge that said ballance upon which the said Judgment was rendered arose from deposits made entirely during the year 1860 and 1861 - as herein after more particularly stated and set forth.

And these defendants further answering deny that the said firm of Hoffmann and Gelpcke were or that this defendant Francis A. Hoffmann was during the existence of such partnership the owner or seized of any considerable amount of lands or town lots either in Cook or DuPage counties or that they ever exercised or claimed the ownership of any such lands or that they or either of them ever owned or claimed or pretended to claim any lands which were of any considerable value in any of the States of Wisconsin Iowa Minnesota or Kansas but these defendants admit that in the course of their business they sometimes took and that some members of their firm for that purpose held the title to lots and lands in some of the above mentioned States as collateral security for loans from and debts owing to the said banking firms in the usual course of their business and that in some cases such securities became forfeited to and were foreclosed and brought in by or for the use and benefit of the firms but that such lands were always disposed of with the least possible delay and the proceeds received from their sale in all cases paid into and used by the said banking firms in their legitimate business and they admit that there were times when the amount in

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value of such Real Estate temporarily held by them was quite large owing to the fact that they could not always dispose of it on proper terms but they insist that no such Real Estate was ever purchased or held for the purpose of keeping or holding the same but only for the reasons herein stated or for the purpose of individual occupation as residences for themselves & families and these defendants expressly deny that the value of such lands ever held by them or either of them at any one time was of any considerable amount or that it could in any manner have tended to strengthen the credit or reputation of the said banking firm or of this defendant Francis A. Hoffmann.

33 And these defendants further answering the said Francis A Hoffmann of his own knowledge and the said Leynthia Hoffmann upon information and belief admit that at the time of the commencement of said deposit account by the said complainant with this defendant Francis A. Hoffmann and that subsequently after the firm of Hoffmann & Siepeke had been formed this defendant Hoffmann and afterwards the said banking firm were at all times owing considerable sums of money to their different depositors but they expressly deny that they were deeply in debt or that they at any such times were heavily involved in and liable to pay various monied obligations and transactions or that any large sums of money other than to depositors were owing by them or either of them at the time of the execution and recording of the deeds refered to in said bill of complaint or either of them.

And these defendants admit that owing to certain financial disasters as hereinafter more particularly set forth the said banking firm of Hoffman and Selpke being unable to meet its obligations was compelled to and did in fact make an assignment of all the property of said firm to Charles A. J. Miller as assignee in trust for the benefit of their creditors, which assignment was made and bears date on the twenty sixth day of August A.D. 1861 and is recorded in the Recorders Office of Cook County Illinois in book 218 page 141. And these defendants admit that the property so assigned to said Miller as aforesaid for reasons hereinafter more fully stated is inadequate at the present time to pay all the debts owing by said firm or to pay a full percentage of the class of creditors in which in said assignment this complainant is named. And the defendants 34 further admit that the premises described in said bill of Complaint and conveyed by said Blumm and wife to this defendant Francis A. Hoffmann was not nor was any part thereof mentioned in said assignment nor was it conveyed to said Charles A. J. Miller assignee as aforesaid for the reason as these defendants insist that the said firm had not nor had any of the members thereof any interest in or right to convey or assign the said premises or any part thereof. And these defendants expressly deny that this defendant Francis A Hoffmann or the defendant Alexander Siller have been or now are in possession of the said premises or any part thereof since the conveyances aforesaid except in the manner hereinafter set forth

and described. And this defendant Francis A. Hoffmann admits that he pretends and he insists that he has conveyed a part of the said premises to the defendant Theodore Hoffmann by the deeds copys of which are annexed to said bill of complaint marked exhibit "A." and "B." for the uses and purposes in said deeds mentioned and as hereinafter more particularly refered to and set forth and that he did subsequently convey to Bertha Siller one of the defendants hereto Lots 3. 4. 5. and 6 in the subdivision of said property as charged in said bill of complaint.

And these defendants admit that at the date of the said conveyances from this defendant Francis to the defendant Theodore Hoffmann, the said firm of Hoffman and Gelpcke was owing the said complainant on a deposit account a considerable sum of money that at the date of the conveyance marked exhibit "A" in said bill of complaint the ballance due said complainant was about twelve hunared dollars and that at the date of the conveyance marked exhibit "B" in said Bill the ballance due him was about the sum of two thousand dollars but these defendants expressly deny that at the date of the conveyance from this defendant Francis A. Hoffmann to the defendant Alexander Siller the ballance due said complainant was over the sum of four thousand dollars as charged in said bill of complaint or that it was any where near that amount and they further expressly deny that the said sums above refered to as having been on deposit at the time of said conveyances were or that either of them formed any portion of the amount due

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said complainant at the time of the rendering of said Judgment but they insist that said sum had long prior to the commencement of said suit been entirely withdrawn by and paid to said complainants.

And these defendants expressly deny that the conveyance to Bertha Siller whom they admit is the wife of ~~the~~ said defendant Alexander Siller was voluntary or made without any valuable consideration or that the same was made for the purpose of cheating or delaying in any manner the said complainant or any of the creditors of said firm of Hoffmann and Gelpcke out of any demands due them from said firm ~~or~~ from either of the defendants hereto. but they expressly charge and
36 so state the fact to be that said conveyance was to discharge a valid subsisting obligation then owing from this defendant Francis A Hoffmann and which is hereinafter more fully stated; and these defendants expressly deny that since the execution of the deeds of conveyance in said bill refered to this defendant Francis A Hoffmann or the defendant Alexander Siller have expended any considerable amount of money in or upon said premises. And this defendant Francis A Hoffmann further denies that any Money which he may have expended thereon was taken from the firm of Hoffman & Gelpcke but he insists that if any money ever was used thereon by him that it was his private funds which had never been in any manner connected with the assetts or business of said firm. except as his share of profits from time to time arising out of said business. And this defendant Francis A. Hoffmann further answering as to the facts

and circumstances connected with the said conveyances by him to Theodore Hoffmann as aforesaid insists and as states the fact to be that in the month of October A.D. 1858 he was obliged to visit Europe on business connected with the said firm of Hoffmann and Gelpeke of which firm he was at that time and always was the principal partner and leaving his family in this country that before starting he made several applications to the different life insurance companies doing business in the City of Chicago for the purpose of insuring his life for the benefit of his wife and children but that he was informed by all such insurance companies that they could not insure his life and gave him as a reason therefor that
37 he was subject to certain fits or cramps and that it was a rule with insurance companies not to insure the lives of persons subject to such complaints that this defendant thereupon and because he could not obtain any insurance upon his life determined to make a small settlement of some kind for the benefit of his family - that he was at that time the owner in fee of the premises described in said bill of complaint as having been conveyed to him by William Blume ~~for~~ which he had purchased in the year 1855 when Real Estate was very high and the prices as this defendant thinks very much inflated and for the whole of which (forty acres) he had paid the sum of fifteen hundred dollars and which together with what improvements had been placed thereupon was not in said Month of October A.D. 1858 worth over the sum of Five Thousand dollars, and that

this defendant for the purpose aforesaid there upon decided to settle and did in fact settle thirty acres of said premises and the portion upon which he had been residing upon his wife and family and that he did on the thirteenth day of October A.D.1858 execute and deliver to the said defendant Theodore Hoffmann as trustee who was made so at the special request of his wife this defendant Cynthia Hoffmann the deed of trust refered to in said bill of complaint as Exhibit "A" and the premises described therein which comprise thirty acres: that the said deed of trust was duly recorded on the third day of november in the same year 1858 in the records of DuPage County aforesaid that the deed refered
38 to in said bill of complaint as exhibit "B" was
executed and delivered on the thirteenth day of June A.D.1859 that it conveys the same premises described in the deed last above refered to and that it was given and executed by Frederick William Hoffmann and wife together with this defendant for the purpose of conveying to the said trustee an interest which the said Frederick William had in and to said premises and for the purpose of otherwise perfecting the title to the same in said trustee.

And these defendants further say that the said Theodore Hoffmann accepted the trust reposed in him by the conveyances aforesaid that he took possession of the said premises under the same and that this defendant Cynthia Hoffmann has ever since said conveyance resided thereon with the possession and under the authority of the said Theodore

Hoffmann and strictly in accordance with the terms of said deed of trust.

And this defendant Francis A. Hoffmann further answering sayth that he is wholly unable to estimate the actual amount that has been expended for improvements were made at different times and in small and various manners and that by far the greater part of the improvements now visible and of value on the same consisting of shade trees and ornamental shrubery was originally place thereon with but very little cost whatever and that it has attained its present improved state of appearance and cultivation more by time and the natural growth of the trees and shrubs placed thereon than by any great outlay of money that nearly all the actual expenditures in money by this defendant on said premises were made prior to the date of the conveyance to Theodore Hoffmann marked Exhibit "A" in said bile of complaint that the whole amount of money expended and laid out thereon does not exceed to the best of the defendants recollection and belief the sum of from twenty five hundred to four thousand dollars and that the whole of said premises including said improvements is not actually worth at this time more than from the last mentioned sum to four thousand dollars and these defendants further answering the said Francis A. Hoffmann of his own knowledge and the said Cynthia upon information and belief insist and so state the fact to be that at the time said first mentioned conveyance to Theodore Hoffmann trustee was made to wit in the month of October A.D. 1888 the said banking house

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of Hoffmann and Gelpcke was a wealthy and prosperous firm that its liabilities were almost entirely confined to the accounts due its depositors and that at that time after making a liberal allowance for bad debts it had and was worth a bona fide surplus over and above all its liabilities of at least One hundred and thirty thousand Dollars and that this defendant Francis A. Hoffmann of which firm he was the principal partner was at that time owing no liabilities of any considerable amount and that he was then actually worth in his own private right and aside from his interest in said firm about the sum of twenty thousand dollars and that whatever sums of money he had been expended on said premises was from the private and individual assetts of this defendant and not from the capital or assetts of the said firm of Hoffmann & Gelpcke that the said premises and the improvements thereon were not included in said estimate of the surplus of the firm but in the said twenty thousand Dollars the private property of this defendant and that said premises was then specially set aside from all his property either individually or as a partner for the sole benefit of his family.

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And this defendant Francis A Hoffmann further sayth that at that time the said banking firm was doing an excellent and profitable business which continued for some years thereafter that at the date of said second conveyance to Theodore Hoffmann and of the deed to Bertha Seiler as set forth in said bill of complaint they were likewise solvent and worth the sum they

had at the date of the first mentioned conveyance as above set forth and that said firm continued to increase in wealth and business and that they met with no serious loss up to about the first day of January A.D. 1861 at which time they were and this defendant Francis A. Hoffmann was able to pay all their and his debts and obligations. this defendant further sayth that the losses which occasioned the suspension of the said firm of Hoffmann and Kiefpeke were caused chiefly by the heavy and sudden depreciation of southern stocks and the bonds of the various Southern States which principally occurred in the months of April and May A.D. 1861 and of which stocks and bonds or currency based on the same the
44 said firm were at that time large holders together with the sudden and unforseen revolution in the financial market of this country at about the same time by which nearly all or a greater part of the circulating currency then in use in this state was rendered almost or entirely worthless. that in addition to said losses the said firm in the spring of 1861 sustained a loss of at one time of Sixty five thousand dollars ($65.000) by the sudden and to these defendants unexpected failure of a certain Banking firm in the City of New York who was at that time their New York correspondent. this defendant further sayth that these and whatever losses the said firm met with at that time and which may have contributed to their failure were entirely unlooked for by this defendant or by any member of said firm and as this defendant sincerely believes could not

have been possibly forseen by any human agency however skilled or experienced in financial matters at the time of the conveyances to said Theodore Hoffmann or to said Berthia Siller as stated in said bill of complaint and that such losses were not the result of any mismanagement or neglect on the part of any of the members of said firm or that could have been prevented by any reasonable diligence on their part but that they were solely due to the unforseen disasters above stated which swept over the country at that time and which ruined in common with said firm of Hoffmann and Gelpcke nearly every banking house in the northwest.

Eq 2 And the defendant Francis A Hoffmann further answering Sayth that although the said complainant opened a deposit account with him in the year 1855 which was afterwards transfered with the consent of and by agreement with said complainant to the said firm of Hoffmann and Gelpcke and although he at all times had a ballance on deposit amounting to several hunared dollars yet he was constantly and almost daily drawing out the same by checks and replenishing said account with fresh deposits that the said account varied at times very much in amount and that since the date of the conveyance and recording of the first deed to Theodore Hoffmann aforesaid the ballance due said complainant has at times been very much less than it was at the date of said conveyance that at one time in the month of December AD 1858 the ballance due said complainant from said firm was less than eight hunared dollars and that the amount actually

due him at the time of the failure of said firm had all been deposited since the month of April A.D.1860 and that the account with said Complainant had frequently and at the request and with the consent of said Complainant been ballanced and carried to a new account that such a ballance was last made on the eleventh day of June A.D. 1861— And these defendants insist that under the circumstances connected with the said account as above stated the complainant has no right in law or equity to have the same or any part there of treated as having been due and owing to him at the time of the execution and recording of either of the said deeds of conveyance to Theodore Hoffmann or Berthia Siller.

43 And these defendants further answering as to the circumstances and consideration of the conveyance and execution of the deed from this defendant Francis A. Hoffmann to the said defendant Berthia Siller referred to in said bill of complaint insist and so state the fact to be that during the year A.D.1858 and for the greater part of said year the said Berthia Siller had the whole and almost exclusive control charge and management of the five Children of these defendants and that for a much larger period she gave them lessons and instructions in music this defendant Francis A. Hoffmann further says that said employment and engagement of the said Berthia was at the special request of him the said Francis that no exact sum was fixed upon at the commencement of said services but the express understanding and agreement was that she was to be well paid for any such services and this de-

fendant further sayth that he is now wholly unable to state or to put an estimate on the exact value of said services for the reason that from the affection and regard which the said Berthia manifested towards the said children and from the care and attention which she gave to their welfare and education said services were of much greater value to this defendant than would have been the services of the same nature rendered by a stranger but this defendant believes so near as he can judge that the said services were of a value and that in fact they were a saving to him and his household of at least one thousand Dollars: this defendant further states that the question of compensation remained unsettled for some time after said services had terminated the said Berthia declining to fix any exact sum therefor but it was finally agreed that this defendant should by way of settlement for said services convey to the said Berthia in her own right free and clear from incumbrances and for her own separate use a piece of land suitable for a residence to which agreement this defendant assented and that the piece of land described in the deed refered to in said bill of complaint from this defendant to said Berthia was selected and accepted by her and that in accordance with such agreement & selection these defendants did on the third day of February A.D. 1860 execute and deliver to the said Berthia a warranty deed of ten acres of land and being ten acres off from the forty acres purchased of William Blume in the year A.D. 1855; that said selection was made of said ten acres in the year 1859 But that the conveyance was by some negligence not executed until the

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third day of February A.D. 1860 and that said deed was on the eighth day of February A.D. 1860 recorded in the Recorders office of DuPage County and these defendants further say that they cannot now state the exact value of said track of land at the date of said agreement and selection by said Berthia but to the best of their knowledge and belief they aver that it was not at that time worth more than the sum of five hundred dollars.

And these defendants further answering deny that the deeds to Theodore Hoffmann as aforesaid were not delivered to said Theodore as charged in said bill of complaint and they expressly aver and insist that the same and each of them were delivered at the times 45 ~~the times~~ the same were respectively executed. but they admit that they were placed by the said Theodore and by consent of these defendants in the safe or vault of the said Hoffmann and Gelpcke or of this defendant F. A. Hoffmann for safe keeping and because the said Theodore had no safe or other proper place for keeping valuable papers, and they further allege that the deed to Berthia Siller was delivered to her at the time of its execution and that so far as these defendants have any knowledge or belief they believe it to be in her possession at the present time.

And these defendants expressly deny that the said conveyances to Theodore Hoffmann trustee or to the defendant Berthia Siller were or that either of them was made with any intent to wrong or injure the said complainant or any other creditors of either of said defendants and they deny that any of the debts owing by this firm then are owing by them now or that they or either of them were insolvent at the

time of the execution of said deeds but on the contrary thereof they expressly reiterate and charge the fact to be that said conveyances to Theodore Hoffmann were made out of the private and special effects of this defendant Francis A Hoffmann at a time when he was in prosperous and easy circumstances many years prior to the failure of said banking house which was occasioned by loses caused and happening long subsequent to said conveyances and for the purposes hereinafter expressed, and further that the said conveyance to the defendant Berthia Siller was made upon a good and valuable consideration and for the purpose of discharging a then subsisting and valid legal obligation existing in favor of the said Berthia and against this defendant Francis A. Hoffmann and that the same was received and
46 accepted by the said Berthia in full satisfaction and discharge of said claim and these defendants admit that the said Berthia may have since said conveyance made some improvements on said premises and that she may have expended at different times a small sum or sums of money thereon but the exact amount thereof they are unable to state; they however aver and upon information and belief state the fact to be that the total amount so expended does not exceed the sum of two thousand dollars.

And these defendants deny all manner of fraud and unlawful combination and confederacy wherewith they are sought to be charged by the said complainants in their said bill of complaint without this that any other matter cause or thing in the said bill of complaint contained and not hereto well and sufficiently answered unto confessed and avoided traversed or denied is true to the knowledge or belief

of these defendants all of which matters and things these defendants are ready and willing to aver maintain and prove as this Honorable Court shall direct and they hereby pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully and injustly sustained.

McAllister Sewett & Jackson
Solicitors for Defendants
Francis A Hoffmann &
Cynthia Hoffmann

Francis A. Hoffmann
Cynthia Hoffmann

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State of Illinois
County of Cook
City of Chicago } ss

Francis A Hoffmann being first duly sworn on oath doth depose & say that he is one of the defendants named in the foregoing answer. This deponent further sayth that he has read the same and every part thereof and that he knows the contents thereof and that the same are true in substance and form as therein stated except as to those matters stated upon information and belief and that as to such matters he believes them to be true & further sayth not.

Subscribed to & sworn before me this 17th day of March A.D. 1863

Francis A Hoffmann

In Witness Whereof I have hereunto this 17th day of March 1863 set my hand and notarial seal

(Seal)

C M Hawley
Notary Public

And also on the said 21st day of March A.D. 1863 there was filed in the office of the Clerk of the Circuit Court of said DuPage County the answers of Alexander Siller and Berthia Siller to said bill of complaint of Michael Moritz which said answers are in words and figures following. to wit;

Michael Moritz
vs
Francis A Hoffmann
Cynthia Hoffmann
Alexander Siller
Berthia Siller
Otto Selpcke and
Theodore Hoffman

In the Circuit Court of DuPage County of the — term A.D. 1863

In Chancery

The joint and separate answers of Alexander Siller and Berthia Siller two of the defendants to the bill of complaint of Michael Moritz Complainant.

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These defendants now and at all times hereafter saving saving and reserving unto themselves all benefit and advantage of exception which can or may be had or taken to the many errors uncertainties and manifest imperfections in the said bill of complaint contained for answer thereto or unto so much and such parts thereof as they are advised are material or necessary for them to answer the said Alexander of his own knowledge and the said Berthia upon information and belief say, that they admit that complainant commenced a suit in the Superior Court of Chicago against the defendants Francis A. Hoffmann, Otto Selpcke and Alexander Siller at about the time mentioned in said bill, and that such proceedings were subsequently had there

on in said court that the complainants recovered a judgment thereon against said defendants for the sum and at about the time in said bill mentioned that writs of execution were afterwards issued on said judgments one directed to the Sheriff of Cook and one to the Sheriff of DuPage County that the sheriff of Cook County subsequently returned the execution directed to him wholly unsatisfied which return is substantially as set forth in said bill and these defendants upon information and belief admit that the sheriff of DuPage County pretended to levy said execution upon the real estate in said bill of complaint mentioned but these defendants expressly deny that said premises or any part thereof were at that time subject to levy by virtue of said execution or that it was at that time or that it has since been the property of the defendants to said execution and they further deny that the same or any part thereof ought in equity to be declared subject to said pretended lien or that for reasons hereinafter more fully set forth it should be held liable for any of the debts of the said defendants to said execution.

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And these defendants upon information and belief admit that the defendant Francis A Hoffman purchased said premises from William Blume & wife at about the time mentioned in said bill but they expressly deny that he has ever since been or that he now is the owner of the same they admit however that he was possessed thereof for some time after said purchase from Blume and that he caused the same to be subdivided into lots at about the time and substantially as charged in said bill of complaint.

These defendants further answering admit that the said Judgment is still unpaid and that the amount thereof is by the Judgment of said Superior Court still due to the complainant that the indebtedness for which said action was brought was the ballance due said complainant as a depositor with the banking firm of Hoffmann and Gelpcke which firm was composed of the defendants to said Judgment that the sum for which said judgment was rendered was made up of sundry deposits of the currency circulating at the time such deposits were respectively made and that about three hundred dollars of said ballance was for interest which had been allowed said complainant on said deposit account.

And these defendants further answering upon information and belief admit that said complainant opened a deposit account with said Francis A. Hoffman in the year A.D. 1855 and that subsequently and at different times the said Otto Gelpcke and this defendant Alexander Siller were admitted as partners of said Francis but these defendants expressly deny that any portion of the amount for which said Judgment was obtained was in fact deposited in the month of January A.D. 1855 or for several years thereafter and these defendants deny that said Firm of Hoffman and Gelpcke or any member thereof was ever seized of any considerable amount of lands or lots in Cook or DuPage Counties or that they ever exercised or claimed the ownership of any such lands or that they ever owned or held except as collateral security or as they were obliged to take by way of compromise and otherwise in the legitimate business any lands of any considerable value in any of

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the States of Wisconsin Iowa Minnesota or Kansas and these defendants further answering admit at the time of the commencement of said deposit account by the said complainant with said Francis A. Hoffmann and subsequently with said firm of Hoffmann & Siepcke that said banking house was at all times owing considerable sums of money to the different depositors of said house but they expressly deny that they were at any such times deeply involved or liable to meet any heavy monied obligations other than was due to such depositors as aforesaid.

And these defendants further answering admit that the said firm of Hoffmann and Siepcke by reason of certain financial disasters as hereinafter set forth were compelled to and that they did in fact execute an assignment of all the property of said firm to one G. A. J. Miller for the benefit of their creditors at about the time mentioned in said bill of complaint and that the property so assigned is for reasons hereafter stated in sufficient to pay all the debts of said firm that the premises described in said bill of complaint are not included in said assignment for the reason that the same was not the property of said firm or of any of the members thereof and these defendants expressly deny that either of the defendants Francis A. Hoffmann or Alexander Siller are now or have for many years been in possession of said premises or any part thereof except as hereinafter stated—

And these defendants upon information and belief admit that the said Francis A. Hoffmann pretends and that he in fact has conveyed a portion of said premises to Theodore Hoffmann trustee but

whether the exhibits attached to said bill of complaint purporting to be true and correct copys of said deeds are in fact such these defendants are unable to state as they have no knowledge information or belief thereon.

And these defendants further answering admit that on the third day of February A.D. 1860 the said defendant Francis A. Hoffmann and wife executed and delivered to this defendant Berthia Siller a Warrantee deed of the premises in said deed mentioned and ~~that~~ the same was on the eighth day of said month duly recorded in the Recorders Office of Du-Page County as by reference thereto will more fully and at large appear

And these defendants further answering as to the said deeds of Conveyance from the defendant Francis A. to Theodore Hoffmann say that the same were to the best of their knowledge and belief executed at the time the same respectively bear date and for the purpose of making a settlement by the said Francis A. upon ~~his~~ family but as to the particular object of said deeds or the circumstances connected with the execution of the same the defendants are entirely ignorant and therefore leave the same to be proved as the said Complainant may be advised is proper.

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And these defendants further answering expressly deny that the Conveyance from the ~~said~~ defendant Francis A. Hoffmann to this defendant Berthia Siller was made upon a fictious or nominal consideration or that such consideration was inadequate but on the contrary thereof they expressly charge and so state the fact to be that the consideration for such Conveyance was valuable and adequate and in

all respects bona fide and these defendants further state as to the consideration of said deed to this defendant Berthia Siller that during the year A.D. 1858 and 1859 and for the greater part of said year this defendant Berthia Siller was engaged in the family of the defendant Francis A. Hoffmann having the entire charge and management of his five children and that for a much longer period she gave them instructions in music and otherwise attended to their education; that during the greater part of the year 1859 the said children of Francis A. Hoffmann resided in the family of the defendant Berthia Siller and that she exercised the entire charge and supervision of their welfare. And this defendant Berthia Siller further sayth that she
6-3 was so employed at the special request of the said Francis A. Hoffmann and that no exact sum was fixed or agreed upon at the time said services commenced as compensation therefor but the express unaerstanding and arrangement was at that time that she was to be well paid therefor at the termination thereof. and this defendant Berthia Siller further sayth that she never attempted to fix an accurate value in money on said services preferring to leave the same with said defendant Francis A. Hoffmann and further that from the friendly relation existing between her and the said children and family of said Francis she felt some delicacy in estimating the value of said services but that it was finally agreed that by way of settlement for said services the said Francis A Hoffmann should convey to this defendant Berthia Siller in her own right and for her own separate use forever a piece of land suitable for a Residence to

which agreement she assented and that the piece of land described in the deed refered to in said bill of complaint from the said Francis A. Hoffmann and wife to this defendant Berthia was selected and accepted by her. That this agreement was made with the said Francis A. Hoffmann by this defendant Berthia in the winter of the year 1858-9 and immediatly thereafter these defendants made nearly all the improvements which has been made and expended nearly all the money which has been laid out on said premises by these defendants or either of them. And that to carry out said agreement the said Francis & wife afterwards on the third day of February A.D. 1860 executed and delivered to this defendant Berthia a Warranty Deed for ten acres of Land being a portion of the forty acres conveyed to said
5-4 Francis A. Hoffmann by William Blume in the year A.D. 1858 which deed was on the Eighth day of the same month duly recorded in the Recorder's Office of DuPage County and to which this defendant begs leave to refer and which was the same land selected by this defendant Berthia in the year 1858-9 before stated.

These defendants further answering say that they cannot state the exact value of said ten acres at the time of said contract and agreement but that there were then some slight improvements thereon and that the whole was not worth to exceed the sum of five hundred dollars and they expressly and emphatically deny that these defendants or that either of them have at any time either before or since the said conveyance expended any considerable sum of money

thereon by way of adorning or improving the same best they insist and so state the fact to be that the improvements on said grounds of greatest value consist in the Shrubbery trees and plants which were mostly planted thereon several years past and all of which were set out at very little if any expense to these defendants or either of them and that their improvement and beauty which constitutes the principal inhancement to the value of the premises is the natural and necessary workings of time.

And these defendants further say that they have no knowledge information or belief as to the custody or possession of the said deeds of trust or either of them but they aver that the deed from the said Francis A. Hoffmann to this defendant Bertha has ever since its execution been and now is in her possession.

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And this defendant Alexander Siller further answering Sayth that he was admitted as a partner in the said firm of Hoffmann and Selpcke on the first day of april A.D. 1858 that for some years previous he had been connected with said firm as teller and book keeper that at the time of his admission as such partner the said complainant kept an account as depositor with said firm and that he ever since had more or less money or currency on deposit with them but this defendant expressly denies that any part or portion of the balance due said complainant at the time of the commencement of the suit aforesaid on which said judgment was obtained was due or owing to him at the time this defendant entered into said copartnership or for

some years thereafter but this defendant insists and so states the fact to be that the whole sum due said compeainant from said firm has been deposited with them since the first day of April A.D. 1860 and that his account has been frequently and at his special instance and request ballanced and carried to a new account.

This defendant Alexander Siller further answering sayth that from the time of his admission to said firm as a partner up to the first day of January A.D. 1861 the same continued prosperous and wealthy that at the time of the conveyance to Theodore A Hoffmann a aforesaid the said firm of which Francis A. Hoffmann was at all times the principal partner was worth over and above all its liabilities and bad debts at least the sum of one hunared and thirty thousand dollars that at the date of the conveyance to this defendant Berthia Siller said firm was worth and had a surplus of much more than that sum, this defendant further sayth that the losses which occasioned the suspension of said firm occurred principally in the spring and summer of the year A.D. 1861. and were cheifly caused by the unexpected and rapid decline in the value of Southern stocks and the bonds of the various Southern States in which stocks and bonds said firm was then largly interested together with the unexpected and sudden failure of their New York Correspondent by whom they lost nearly seventy five thousand Dollars and more than all by the sudden and awful revolution in the financial market which destroyed the value of nearly all the circulating currency in the State of Illinois and united together with these defendants many of the banking houses throughout the State. this defendant further sayth that said losses occurred without any negligence or default on the part of said banking

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firm or any members thereof that the said losses and the causes which led to them were wholly unlooked for and as this defendant believes could not have been foreseen at the time of the conveyances to Theodore Hoffmann or Berthia Siller as refered to in said bill of complaint and these defendants expressly deny that said deeds or either of them were fraudulent or made with a view to defraud delay or hinder the said complainant or any creditor of said firm from collecting their debts from said firm but they expressly reiterate that said conveyance to Theodore Hoffmann was made and recorded at the time and in the manner herein before mentioned. And that the conveyance to Berthia Siller was not voluntary or without consideration but they insist that the same was founded upon a good valuable and adequate consideration and to discharge a valid and legal indebtedness then existing against the said Francis A Hoffmann in favor of this defendant Berthia Siller and that the same was received and accepted by this defendant Berthia as payment for and in satisfaction of the said claim and for no other purpose whatever.

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And this defendant Berthia Siller further sayth that she and her children have always occupied said premises as a homestead and that she has a family and she therefore claims said premises as her homestead and she insists that she has not in any manner released or waived her right of homestead therein and she insists that she should not be deprived of the same.

And these defendants deny all fraud and unlawful combination and confederacy wherewith they are charged in the said bill of complaint without this that any matter cause or thing therein contained and not

herein and hereto well and sufficiently answered unto confessed or avoided traversed or denied is true to the knowledge or belief of these defendants all of which matters and things these defendants are ready and willing and hereby offer to aver maintain and prove as this Honorable Court shall direct and they humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully and unjustly sustained.

McAllister Dewett & Jackson
Solicitors for Defendants
Alexander Siller &
Bertha Siller

Bertha Siller
Alexander Siller

State of Illinois
County of Cook
City of Chicago
} ss Alexander Siller being first duly sworn on oath doth depose and say that he is one of the Defendants named in the foregoing answer this deponent further sayth that he has heard the foregoing answer read and knows the contents thereof that the same are true in substance and form as stated in said answer except as to those matters stated upon information and belief and as to such matters he believes them to be true & further sayth not

Subscribed to & sworn before me this 16th day of March A.D. 1863

Alexander Siller

And on the said Twenty first day of March, A.D. 1863, there was also, filed in the Office of the Clerk of the Circuit Court of said County of DuPage, a certain Stipulation in words and figures as follows, to wit;

DuPage County Circuit Court
Michael Moritz
vs
Francis A Hoffmann et al.

It is hereby stipulated that the answer of Defts Francis A Hoffmann & wife stand as the answer of Theodore Hoffmann & Otto Selpcke respectively

March 19, 1863

A Garrison
Solr for Complt
McAllister Lewis & Jackson
Solrs for Defts

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And on the said Twenty first day of March, A.D. 1863, there was also, filed in the Office of the Clerk of the Circuit Court of said DuPage County, a certain Replication, which is in words and figures as follows, to wit;

DuPage County Circuit Court
Michael Moritz
vs
Francis A Hoffmann et al.

The Replication of Michael Moritz Complainant to the several answers of Francis A Hoffmann & Cynthia his wife and Alexander Siller & Bertha his wife defendants

This Repliant saving to himself all and all man-

ner of advantage of exception to the manifold insufficiences of the said answers for Replication thereto saith that he will aver and prove his said bill to be true certain and sufficient to be answered unto and that the said answers of the said defendant is uncertain untrue and insufficient to be replied unto by this Repliant without this that any other matter or thing whatsoever in the said answers contained material or effectual in the Law to be replied unto confessed and avoided & traversed or denied is true. All which matters and things this Repliant is and will be ready to aver and prove as this Honorable Court shall direct and humbly prays as in and by his said Bill he has already prayed.

A. Garrison

Solr. for Compltt

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And afterwards. to wit: on the Sixteenth day of November in the year A.D. 1863. it being one of the days of the said November Term of said Court for said year. there was filed in said Court certain Depositions of Augustus F. Otto. Jacob Friedman. Charles Ohm. Charles Stose. and a certain Stipulation which depositions and Stipulation are respectively in words and figures following to wit:

Michael Moritz
vs
Francis A. Hoffmann
Cynthia Hoffmann
Alex. Siller
Bertha Siller
Otto Gelpcke &
Theodore Hoffmann

In DuPage Co. Cir Ct.

Depositions of Witnesses taken by and before Calvin D. Wolf a Justice of the Peace in and for the County of Cook and State of Illinois on the 19th day of March 1863, at the office of said Justice in the city of Chicago, to be used on the trial of a cause pending in the Circuit Court of DuPage County Illinois in which Michael Moritz is Complainant and Francis A. Hoffmann Cynthia Hoffmann, Alexander Siller, Bertha Siller, Otto Gelpcke & Theodore Hoffmann are defendants, taken on verbal notice in the presence of A. Garrison Compl Solr & A. Jackson Jr Defts Solr.

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The Witness Augustus F. Otto being duly sworn deposes and testifies as follows in answer to questions by Garrison Compl Solr.

Ques. 1st What is your name, age & occupation and residence, & do you know the parties to this suit?

Answer. My name is Augustus F. Otto. My age is 59 years. I am a Jeweller. I reside in Chicago, Ills. I know all the parties to this suit.

Ques. 2. State the places of residence of all the defendants.

Answer. Hoffmann & wife & Siller & wife live at or near Cottage Hill DuPage Co Ill. Theodore Hoffman lives in Niles Cook Co. & Gelpcke in the City of Chicago

Question 3d State how long Francis A Hoffmann & wife & Siller & wife have lived in DuPage Co.

Answer. For several years. in 1857 I was there on the farm.

Question 4. Was you at any time a depositor of Francis A. Hoffman or of the firm of Hoffman & Selpcke; if yea. State when such deposit account commenced. the amount & generally the character of such deposits. and the time when ended—

Answer. I deposited Money with said Hoffman & Hoffman & Selpcke at Chicago. I do not remember exactly the time I commenced - but it was as long ago as 1855. I always had deposits there. I never ever drew my account. I continued to deposit until the firm closed business in 1861 in the Spring. I had sometimes $7000. or $8000 on deposite. I had some thousands of dollars there all the time from 1858 to the time the firm closed business

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Question 5th State as near as you can. how much was due to you at the time of the closing of the business. and how much was due you in October 1858. as near as you can state?

Answer. When the firm closed business they owed me. some $300. or $400. which is secured on McElroys building. they secured me just before they made the assignment. I know they owed me in October 1858 & cannot tell how much.

X Questioned by Defts Solr.

Ques 1st About how often was your account closed & balanced. and at whose request was it balanced.

Answer. My Book was balanced once or twice a year. and at my request.

Augustus F. Allis.

The Witness Jacob Friedman being duly sworn deposes and testifies as follows viz. in answer to questions by Comp. Solr.

Question 1st State your age, residence & if you know the parties to this suit?

Answer. My age is 43 years. reside at Chicago. I know all the parties to this suit.

Question 2d. State if you was at any time a depositor with Francis A Hoffman or of the firm of Hoffman & Selpecke the defendants if yea. State when that deposit account commenced & the nature & character thereof How much was due you on the 1st of October 1858, and at the close of such account.

Obj. to

Answer. We were (that is 6 Frankenthal & Co our firm) depositors with Hoffman & Selpecke, from the Spring of 1857 to the close of their business in the summer of 1861. We always had a balance there. In the Spring of 1858 we had from $12000 to $15.000. On Oct. 1st 1858 we had a balance of $1649 44/100 on deposite. On the 13 Oct. 1858 we had a balance $1718 76/100 to our credit. I think there is between $600 & $700 due us yet. On the 21. July 1859. the balance due us was $8466 36/100

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Ques. 3d Where did Francis A. Hoffman & wife Alex Miller & wife reside during the time you deposited with them as aforesaid.

Answer. I believe they resided near Conays Hill DuPage Co. Ill.

Cross Ex. by Jackson for Defts.

X Ques 1st How long before the deposite of July 21st 1859 was drawn out.—

Answer. I cannot say, but I think we might have drawn that amount in from 2 to 4 months

X Ques 2. How long before the failure of Hoffman & Geepcke had the amount due at the time of the failure been deposited with them.

Answer. I cannot say exactly, but perhaps 2 or 3 months

Re Examination by Comp. Solr.

1st Ques. State about the amount of the business of your firm per year, and daily deposits during this time

Answer. I should judge from $75,000. to $100,000 per year. When we got outside drafts on New York we did not deposit them with Hoffman & Geepcke. All currency & Drafts on Chicago we deposited with Hoffman & Geepcke I think about 5/8 of our whole business receipts were deposited with them.

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Question 2. Was there any time to your knowledge from the time you commenced to deposit as aforesaid until the close when Hoffman & Geepcke closed the Banking business that you were indebted to them or were they indebted to you?

Answer. I think we always had a balance due us.- to my knowledge & belief- there was one balance of $570. in April 1861, we drew out on the 23d & 26th of April 1861 $3150. leaving $570 due us. I think that was the smallest balance they owed us.

Jacob Friedman

The witness Charles Ohm being duly sworn deposes and testifies as follows, in answer to questions by Garrison for Complainants-

Question 1st What is your age and residence

& do you know the parties to this suit—

Answer. My age is 28 years. I reside at Chicago & know all the parties to this suit—

Question 2d. State what was your business from 1856 to the Summer of 1861.

Answer. I kept the depositors accounts for Hoffman & Selpeke. The first part of the time I kept the accounts from M. to Z. of the depositors, after that I kept it from A. to L. until January 1858 or 1859 when I had charge of the whole of the deposit accounts of Hoffman & Selpeke—

Question 3d. State where Francis A. Hoffman & wife & Alex. Sellers & wife resided during this time—

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Answer. They resided part of the time in Chicago & part of the time near Cottage Hill DuPage Co. Ill.

Ques. 4 State whether the Complainant during this time was a depositor with the defendants, and did the firm of Hoffman & Selpeke give to the depositors a pass book or receipts of their deposits & when made? Do you know the deposit books or pass books of the defendants, & of F. A. Hoffmans

Answer. He was. the firm gave a pass book to each depositor, containing the amounts of deposits and when made, & whenever the depositors wanted the amounts were footed up and a balance struck and the checks were with drawn. The balance which remained not drawn was carried forward. I know the deposit books of said defendants.

Ques. 5. State was Hoffman & Selpeke the successors of Francis A. Hoffman in the banking business. and was or not the business and deposits of Francis A. Hoffman continued on in the name of the defendants the same as when

made with Hoffman alone.

Answer. Hoffman & Gelpcke were the successors of Francis A. Hoffman. I was not there when Hoffman was alone. I came there when the firm was Hoffman & Gelpcke. X

Ques 6. Who was the book keepers of Hoffman & Gelpcke besides yourself & who was the book keeper of Francis A. Hoffman & do you know their hand writing respectively

Answer. The Book keepers of Hoffman & Gelpcke. Augustus Duprock. Myself and one Hanenman & Herman Seuning was book keeper of Francis A. Hoffman. I know the hand writing of all of them.

Question 7. Look upon the books now shown you, marked Exhibits "A" & "B". State if you have seen them before what they are and do they contain a true and correct statement of the deposit account of the complainant with Francis A. Hoffman & Hoffman & Gelpcke.

Answer. The books marked exhibit "A" & exhibit "B" are here shown to the witness. I have seen them before. they are the pass books of Michael Moritz containing the accounts of deposits of said complainant with Francis A. Hoffman & Hoffman & Gelpcke. I cannot say as to their correctness except as to the accounts that I have kept that part is correct to the best of my knowledge. the first time I balanced the books was 1st Sept. 1859. & I balanced the account 3 times Sept 8. 1860. & June 11. 1861

Ques. 8. In the book marked "Exhibit A" did you make any entries. if yes. State what & in whose hand writing are the rest.

Answer. I did. I made the entries from Oct. 21.

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The original Pass Books referred to in the testimony of this Witness and marked exhibits "A." & "B." are herewith annexed to this Record, by Stipulation of Parties.

Wm. Whitney
Ex. Clerk

1857 to Sept. 1. 1859. I mean the entries of the checks drawn out. The first entries were made by Mr. Luening from the beginning up to March 11. 1856. from that date to Oct. 16. 1857. part are made by Luening & part by Hanewan.—

Question 9th During this time do you know of your own knowledge of the complainant being a depositor and what Clerk was the person to receive the money and make the entries on the passbook.

Answer. I do. first according to the Bank Books the deposits were received by Alex. Siller. the entries are in his hand writing. the next receiving teller was Charles Mumford. & the 3d was the former Book keeper Dubrock. the

65 entries are in their hand writing

Question 10 Are all the entries in the hand writing of those persons.

Answer. they are except a few entries are in the hand writing of the paying Teller

Question 11. On the 13th of October 1858 who was the paying Tellers & receiving Tellers of the Bank of Hoffman Geschicke & Lookabaugh the books & state in whose hand writing are the entries of that date.

Answer. In Oct. 1858. Mumford was the receiving Teller except a few entries are made by Asst Siller. the paying Tellers name was Henry Frank. the entries of the checks drawn are in my hand writing.

Question 12th State from your knowledge as a Book keeper whether the books in question are a true and correct statement of the account of the complainants with the firm of

Hoffman & Gelpcke from Oct. 1858 to the close of the account in 1861.

Answer. They are to my best knowledge - I struck the last balance on said book & it is the same on the Books of Hoffman & Gelpcke.

Cross Examination by the by Dickson for ~~for~~ Defts.

X Ques. 1st At whose request was the Bank Book usually written up and the balance struck -

Answer. The Depositors.

66 X - What kind of funds were deposited by Moritz -

Answer. The Books show correctly, Books Exhibit A. & B.

Chas Ahm

The witness Charles Stoce being duly sworn deposes and testifies as follows in answer to questions by Complainants Solicitor -

Ques. 1st. State your age, residence & occupation and if you know the parties to this suit -

Answer. I am 33 years of age. I reside at Chicago. I am a Merchant. I know Hoffman. Gelpcke. Siller & Moritz & do not know their wives -

Question 2d State if you was a depositor with defendants when it commenced. The

Character of such deposits & when ended.—

Answer. I was. I commenced depositing in July 1858. I deposited currency with them. My account ended when they failed in the spring of 1861

Question 3d State the amount as near as you can that was due you on the 13th Oct. 1858 and whether you ever became indebted to them & whether you owed them or they owed you at the close of the account?

Answer. The amount is difficult to tell. I think about $1000. I did not become indebted to them after that time. They owed me up to the time I settled with them. I settled July 5th 1861. when they owed me $4.801.58/100

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Cross Examination by Jackson for Defts

X Ques. 1. Did you draw out from time to time—

Answer. Yes.

X Ques 2nd How long had you been in depositing an amount equal to the amount due you at the time of settlement

Answer. From 6 months to a year I should think—

X Ques. 3d When was your last balance made prior to the final settlement—

Answer. January 5, 1860. It was balanced at my request.

X Ques. 4. You had drawn had you not $1000. which you had Oct. 13. 58 long prior

to July 1860.

Answer. I did.

Re Examination by Garrison for Complainants

Ques. How much was due you on settlement of your deposit account. January 5. 1860.

Answer. $4602 47/100

Ques by Same. In answer to cross interrogatory you say you had drawn out $1000. while doing so did you make any deposits. If yea. How much?

Answer. I kept on making deposits from Oct. 1858 to next settlement more than I drew out.

Chas. Stose

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It is hereby admitted that Augustus Beck will testify & this is to be considered as his testimony that Hoffman & Selpeke was indebted to him in October 1858 in the sum of $1000. & continued indebted on deposit until June 1861 they settled & then owed him $500 & he took 60 cents on a dollar as payment of his said debt & deposit account said account varied from $200 to $2000 or $3000. Deposits a year were from $50,000 to $70,000 per year.

A. Garrison for Compls.
McAllister Jewett & Jackson
Defts Solrs

State of Illinois } ss
Cook County

I Calvin D. Wolf a Justice of the Peace in and for the County of Cook and State of Illinois. do hereby certify that the foregoing Depositions of Augustus F. Otto Jacob Friedman. Charles Ahm and Charles Stoce. were taken by and before me at my office in Chicago on the 19th day of March A.D.1863 at the hour of 3 o'clock P.M. to be used on the trial of a cause pending in the Circuit Court of DuPage County-Illinois in which Michael Moritz is Complainant and Francis A Hoffman. Lepithia Hoffman. Alexander Siller & Bertha Siller & Theodore Hoffman are defendants. on the behalf of the Complainants & on verbal notice & in presence of the Solicitors of both parties. that prior to the taking of the depositions of said witnesses. they were each by me duly sworn to testify the truth in relation to the matter in controversy in said suit so far as they might be interrogated. that their depositions were taken & reduced to writing by me and signed & sworn to by said witnesses respectively at the time & place aforesaid.

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Witness my hand and seal this 19th day of March A.D.1863-

10 cent Revenue Stamp

Calvin D. Wolf (Seal)
Justice of the Peace

State of Illinois } ss
Cook County

I, Lauren P. Hilliard. Clerk of the County Court in and for said County. do hereby certify that Calvin D. Wolf Esq. whose name is subscribed to the ce-

tificate annexed hereto was. at the time of signing the same. an acting Justice of the Peace in and for said County. duly commissioned. sworn and authorized to take the same; and full faith and credit are due to all his official acts.

In Testimony Whereof. I have hereunto set my hand and affixed the official seal of said County Court. this 19th day of March A.D. 1863.

Seal

10 cent Revenue stamp

L.P. Williard. Clerk.

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And on the same day and year last aforesaid. to wit: on the Sixteenth day of November A.D. 1863. there was. also filed in said Court a certain deposition of O. Struckman which deposition is in words and figures following. to wit: ——

Deposition of the Witness D Struckman taken by and before Peter N. Witt a Notary Public in and for the City of Chicago County of Cook and State of Illinois, on the 11th day of October A.D. 1863 at the Office of Calvin D Wolf Esqr. in the City of Chicago to be used on the trial of a cause pending in the Circuit Court of DuPage County Illinois in which Michael Moritz is Complainant and Francis A. Hoffmann Lucretia Hoffmann Alexander Siller, Bertha Siller, Otto Gelpeke & Theodore Hoffmann are Defendants taken on verbal notice and in presence of A Harrison Compl. Solr. and A. Jackson Jr Defts Solr.

71 The Witness D. Struckman being duly sworn deposes and testifies as follows in answer to questions by Harrison Compl. Solr.

Question 1st What is your name age, occupation, where you reside. Do you know the parties to this suit?

Answer. My name is D. Struckman, I am 43 years old. I am a carpenter. I reside in DuPage County, I do not know Michael Moritz. I know Francis A. Hoffman and his wife. I know all the Defendants.

Quest. 2d Did you reside in DuPage County in 1858. Do you know where Francis A. Hoffmann now lives. You know where Alexander Siller and wife lives. And where have they resided for the last 6 or 8 years—

Answer. I lived in DuPage County in 1858.

and since 1844. I see him there once and and while at his home in Cottage Hill about two miles from Cottage Hill. He lives on Section 36, in the Town of Addison Range 11. James Heckman lives west of him. Siller and wife now lives at Cottage Hill. They have lived out there and some time lived in Chicago for the last 6 or 8 years. I mean Hoffman and family Siller and wife lives there for about five years I believe.

Quest. 3d. State who has been the owner of this property on which Hoffmann & Siller has been residing prior to Hoffmann and Sillers residence.

Answer. A man by the name of Blum

Question 4th. State. Do you know when the buildings where built on the premises occupied by Hoffmann and when on the premises occupied by Siller.

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Answer. I do. The first Building was built in 1856. (Blum has a Shanty on it before) the next was built in 1857. and an other wood and dry house in 1859 & 60. Siller built in 1858.

Question 5th. Was this premises on which Siller built property that used to be owned by Blum?

Answer. Yes it was owned by Blum, it is all on the 40 acre tract.

Question 6th. State who was the Carpenter and built the buildings for Hoffmann and the value or cost thereof. who built the buildings for Siller and the value or cost thereof

Answer. I built them myself. I built four for Mr Hoffmann on the premises in question, I built the dwelling house and a barn in 1856. The dwelling house comes to $1800 Mason work and all. The barn costs $400. I built a second dwelling house adjoining the above dwelling in 1857 I think. That was $1300 completed. I built a wood and log house afterwards in the winter of 1859 & 60. Contract and price paid was $418. Sellers Building. house and barn was built to my best knowledge in 1858. I was the carpenter who built it. The house in my judgment is worth $1200. The barn is worth between $300 or $400 Dollars. and was built the same year

73 Question 7. State at the time of the building of the house was there much timber at that time planted on the premises of Hoffmanns

Answer. I believe not

Question 8th Are you acquainted with the value of Real Estate in DuPage County. if ye. State what in your judgment is the value of land and premises in question above mentioned on which you built the buildings for Hoffmann above mentioned.

Answer. I am. If a man has a notion to live there. it is worth about $4000. the value of the property is more as I can tell.

Question 9th What did you consider the value of the premises of Hoffmann in

the Spring of 1862?

Answer. I believe it was about the same price

Question 10th State the value of the Sellers property. House and Lands 1861 & 1862

Answer. It is worth from 1800 to 1600 Dollars.

Question 11th How long have you known Francis A Hoffmann?

Answer. I know him since 1844

Question 12th What was his occupation from 1844 to 1852—

Answer. He was a minister of the Lutheran church—

Question 13th Was he upon a salary?

74 Answer. I do not know

Question 14th What was his business from 1852 up to 1855—

Answer. He was practicing law. Speculating in Real Estate and selling Exchange and Passage Tickets. and investing Money on foreign accounts.

Question 15th Was Mr Hoffmann in 1850 a Gentleman of any extensive money means?

Answer. He was not. (The parties admitted that he Hoffmann was at this time a person without means beyond his family support)

Question 16th When was this Shrubery and improvements on this place made?

Answer. In 1856—

Cross examination by O Jackson Jr Defendants attorney.

Question 1st Were the prices agreed to be paid for the Buildings you referred to in Cash payment other otherwise?

Answer. The last payment a part of it was in Town Lots, which have not been paid yet.

Question 2. Are the buildings referred to in your answer all standing on the property at the present time?

Answer. Hoffmans buildings are standing yet, but Sillers house is burnt down this Spring about 2 months ago

75

Question 3d When you speak of the value of the premises you referred to do you mean that is the cash value at the present time to every one?

Answer. I believe that is the cash value.

Question 4th Will that class of property sell readily -

Answer, That is more than I know. Farmers don't like that kind of property, it is what is be called fancy property -

Question 5th What is improved land in that vicinity worth of that quality?

Answer. It is worth from 25 to 30 Dollars an acre -

Re Examination of Allarison Complainants. Attorney -

Question 1st What property. Cows. horses and if had Mr Hoffmann on the premises

Answer. I dont know. he had 2 horses there and 2 cows.

Question 2d How long since you have been in the house of Mr Hoffmann?

Answer. The last time I was there in May 1862 when I was assessor.

Question 3d Did you go through the house?

Answer. I was only in the Kitchen and Parlor

Question 4th What was the furniture in the Parlor?

Answer. There was a Table. Chairs. Lounge and common furniture. It was furnished like an common farm house-

D. Struckmann

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State of Illinois }
Cook County } ss
City of Chicago }

I Peter H. Witt a Notary Public in and for the City of Chicago Cook County State of Illinois do hereby certify that the foregoing deposition of D. Struckmann was taken by and before me at the Office of Calvin D'Wolf Esqr. in Chicago on the 11th day of April AD 1863 at the hour of 3 oclock P.M. to be used on the trial of a cause pending in the Circuit Court of DuPage County Illinois in which Michael Moritz is Complainant and Francis A Hoffmann, Cynthia Hoffmann. Alexander Siller & Bertha Siller & Theodore Hoffmann are defendants on the behalf of the Complainant and on verbal notice and in presence of the solicitors of both

parties. That prior to the taking of the deposition of said Witness he was by me duly sworn, to testify the truth in relation to a matter in controversy in said suit so far he might be interrogated. That the deposition was taken and reduced to writing by me and signed and sworn to by said witness at the time and place aforesaid

Witness my hand and seal this 11th day of
Seal April A.D. 1863.

Peter A. Witt
Notary Public

And on the same day last aforesaid, to wit: on the sixteenth day of November A.D. 1863, there was filed in said Court, a certain deposition of Rudolph Schlosser, which
77. deposition is in words and figures following, to wit:

Deposition of Rudolph Schlosser taken by and before me Calvin D'Wolf a Justice of the Peace in and for the County of Cook & State of Illinois at his Office in Chicago, on the 27th day May of May A.D. 1863 by agreement of the parties to be used on the part of the Complainant in a cause pending in the Circuit Court of DuPage County in which Michael Moritz is complainant and Francis A Hoffmann et als are Defendants. Present A. Garrison, Attorney for Complainant and O. Jackson Jr. for Defendants.

The said Rudolph Schlosser being duly sworn deposes and testifies as follows in answer to questions by A. Garrison Counsel for Complainant.

Ques. 1st State your occupation & residence & if you know the parties to this suit & what your relation is to defendant Hoffman

Answer. I am acting agent of the Illinois mutual Insurance Company at Chicago. I know the parties to this suit. And am brother in law of Defr Francis A. Hoffman.

Question 2nd Do you know of any insurance having been made on the Siller House & Barn in DuPage County which was burned last winter. If so. State by whom insured. for what amount & by whom such premium was paid & State all the facts you know about such insurance & the loss and payment?

Objected to

Answer. I do know of insurance being had on the Siller property in the Illinois Mutual Insurance Company. There was $1000. insured on household furniture beds & clothing by Alex. Siller. loss if any, to be paid to Gustavus Pfeil Mortgagee of Date: 17th of January 1862.

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There was an insurance in same Company in the name of Berthia Siller of $1700. on house & $300 on Barn These policies were issued in 1863.

I believe Mr Siller paid the premiums. I know the buildings have burned down. That is. the House & furniture. I think checks were paid for the loss to amount of $2700. $1000. on the furniture & $1700. on the House. The checks were delivered to Mr & Mrs Siller I believe. I think they were both delivered to Mrs Berthia Siller. Alex. Siller was not present. I think Mr Siller built the House

I do not know of my own knowledge who furnished the means to build the House

R Schloeper

State of Illinois } ss
Cook County } I Calvin D Wolf a Justice of the Peace in and for the County of Cook and State of Illinois, do hereby certify that the foregoing deposition of Rudolph Schlosser was taken by and before me at my office in the City of Chicago on the 27th day of May A.D. 1863, at 5 o'clock P.M. to be used on a trial of a cause pending in the Circuit Court of DuPage County, Illinois, in which Michael Moritz is complainant and Francis A Hoffmann Cynthia Hoffmann Alexander Siller, Berthia Siller and Theodore Hoffmann are defendants on the behalf of the complainant and on a verbal notice and in

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presence of the Solicitors of both parties. That prior to the taking of the deposition of said witness, he was by me duly sworn, to testify the truth in relation to a matter in controversy in said suit so far as he might be interrogated. That the deposition was taken and reduced to writing by me and signed and sworn to by said witness at the time and place aforesaid.

Witness my hand and Seal this 27th day of May A.D. 1863.

Calvin D Wolf Esqr
Justice of the Peace

And heretofore, to wit: on the Twenty fifth day of March A.D. 1863 there was filed in the Office of the Clerk of the Circuit Court of DuPage County a certain Transcript of Judgment of Superior Court of Chicago which Transcript is in words and figures following, to wit:

United States of America
State of Illinois
County of Cook } ss

Pleas. before the Honorable. the Judges of the Superior Court of Chicago within and for the County of Cook and State of Illinois, at a Regular Term of said Superior Court of Chicago, begun and holden at the Court House, in the City of Chicago, in said County and State, on the first Monday, being the Fourth day of November in the year of our Lord One Thousand Eight Hundred and Sixty one and of the Independence of the United States of America the Eighty seventh

Present the Honorable

John M. Wilson, Chief Justice of the Superior Court of Chicago
Van H. Higgins
Grant Goodrich } Judges

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Carlos Havens. Prosecuting attorney.
Anthony C. Hesing. Sheriff of Cook County.

Attest. Walter Kimball. clerk.

Be it remembered that heretofore to wit on the Twenty first day of June in the year of our Lord One Thousand Eight Hundred and Sixty one, there was filed in the Office of the clerk of the Superior Court of Chicago a certain Praecipe, in words and figures following. to wit:

Superior Court of Chicago

Michael Moritz
vs
Francis A. Hoffman. Atts
Gelpcke & Alexander Sellers

Walter Kimball clerk
Issue Summons

the name of the above named Plaintiff against the above named defendants in an action of assumpsit damages $5000. Returnable at the next term of said Court

Garrison & Anderson
Pltffs Attys

June 22d 1861

And on the same day and year aforesaid there issued out of the office of the Clerk aforesaid the Peoples Writ of Summons which said Writ with the Sheriffs return thereon endorsed are in words and figures following to wit -

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State of Illinois } ss
County of Cook }

The People of the State of Illinois to the Sheriff of said County - Greeting - We command you that you Summon Francis A Hoffman. Otto Gelpcke & Alexander Seller if they shall be found in your County, personally to be and appear before the Superior Court of Chicago of said Cook County, on the first day of the next term thereof, to be holden at the Court House in Chicago in said Cook County on the first monday of July next to answer unto Michael Moritz in a plea of Trespass on the Case upon promises to the damage of the said Plaintiff as is said in the sum of Five thousand Dollars - And have you there this writ, with an endorsement thereon in what manner you shall have executed the same

Witness Walter Kimball Clerk of our said Court and the seal thereof at Chicago aforesaid this 21st day of June A D 1861

(Seal)

Walter S Kimball Clerk

Served this Writ by reading to the within named defendants. Otto Gelpcke & Alexander Siller this 21st day of June 1861. the other within named defendant not found in my County this 29th day June 1861

Ale Hessing Sheriff

And on the same day and year aforesaid the Complainant herein by Garrison & Anderson his attorneys filed in the office of the Clerk aforesaid his certain Declaration in words and figures following to wit

82 Superior Court of Chicago } ss Of the July
Cook County — } Term A.D. 1861

Michael Moritz plaintiff in this suit by Garrison & Anderson his attorneys complain of Francis A Hoffman. Otto Gelpcke & Alexander Siller Copartners doing business in the firm name of Hoffman & Gelpcke defendants being duly Summoned &c. of a plea of trespass on the case upon promises

For that whereas the said defendants Copartners & doing business in the firm name & style of Hoffman & Gelpcke as Bankers to wit at the City of Chicago in the County of Cook aforesaid to wit on the 21st day of June A.D. 1861. and at the place aforesaid were indebted to said plaintiff in the sum of Five Thousand Dollars lawful money of the United States of America for so much money before that time deposited with said defendants as Bankers & Copartners as afore

said plaintiff and at their special instance & request and being so indebted the said defendants copartners as aforesaid in consideration thereof to wit at the time of depositing the same & afterwards to wit on the same day & year aforesaid and at the place aforesaid undertook and promised the said plaintiff well & truly to pay unto the said plaintiff the said sum of money above mentioned when the said defendants should be thereunto requested. And the said plaintiff further avers that at the time & place last aforesaid he demanded of said defendants at their place of business at Chicago aforesaid the said sum of money so by him deposited as aforesaid of said defendants yet they disregarded their said promises & undertakings & neglected & refused to pay the same,

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And whereas also the said defendants as copartners as aforesaid afterwards to wit on the day & year last aforesaid, were indebted to the said plaintiff in the further sum of Five thousand Dollars for so much money before that time and then due & payable from them to the said plaintiff for interest upon & for the forbearance of divers large sums of money before then lent and advanced and deposited by the said plaintiff to & with the said defendants as copartners & Bankers & at their special instance & request & by him the said plaintiff forborne to the said defendants for divers long spaces of time before then elapsed at the like special instance & request of said defendants. And also for other money before that time & then due & payable from the said defendants to said

plaintiff for interest upon & for the forbearance of divers other large sums of money before then due & owing from said defendants Copartners as aforesaid to said plaintiff and by him said plaintiff forborne to the said defendants for long spaces of time before then elapsed at the like special instance and request of said defendants, and being so indebted the said defendants copartners as aforesaid in consideration thereof afterwards to wit on the day and year last aforesaid & before the commencement of this suit & at the place aforesaid undertook & then & there faithfully promised the said plaintiff to pay him the said sum of Five thousand Dollars when they said defendants should be thereunto afterwards requested.

And Whereas also the said defendants Copartners aforesaid to wit on the 20th day of June in the year of our Lord one thousand eight
84 Hundred and Sixty one at the place aforesaid were indebted to the said plaintiff in the sum of Five thousand Dollars lawful money of the United States of America, for money before that time lent and advanced by the said plaintiff to the said defendants as copartners and at the special instance and request of the said defendants. and for other money by the said plaintiff before that time paid laid out and expended for the said defendants as copartners and at the like request of said defendants. And for other money by the said defendants as copartners before that time had and received to and for the use of the said plaintiff. and being so indebted the said defendants copartners as aforesaid in consideration thereof afterwards to wit on the same day and year last aforesaid, and at the place aforesaid, undertook and then and there faithfully promised

the said plaintiff will and truly to pay unto the said plaintiff the said sum of money in this count mentioned when the said defendants should be thereunto afterwards requested.

And Whereas also the said defendants afterwards to wit on the same day and year last aforesaid and at the place aforesaid accounted together with the said plaintiff of and concerning divers other sums of money before that time due and owing from the said defendants copartners as aforesaid to the said plaintiff and then and there being in arrear and unpaid and upon such accounting the said defendants then and there were found to be in arrear and indebted to the said plaintiff in the further sum of Five Thousand Dollars of like lawful money as aforesaid. And being so found in arrear and indebted to the said plaintiff the said defendants in consideration thereof afterwards to wit on the same day and year last aforesaid and at the place aforesaid undertook and then and there faithfully promised the said plaintiff well and truly to pay unto the said plaintiff the said sum of money last mentioned when the said defendants should be thereunto afterwards requested.

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Nevertheless the said defendants although often requested have not yet paid the several sums of money above mentioned or any or either of them or any part thereof to the said plaintiff but to pay the same or any part thereof to the said plaintiff the said defendants have hitherto altogether refused and still do refuse to the damage of the said plaintiff of five thousand Dollars and therefore the said plaintiff brings suit &c

Garrison & Anderson
Attys for Plff

Defendants to.

1861 Michael Moritz Dr

June 21	1859	To $5000 Money lent & advanced to Defts,	
"	"	" " 5000 Money had & received by Defts,	
"	"	" " 5000 Balance due on accounting together,	
"	"	" " 5000 Balance of Interest due Plff.	
"	"	" " 5000 Amount due of money deposited,	
"	"	" " 5000 for money laid out & expended to & for the use of Defts	
Sept. 1.	1859	To Balance of Deposit then due Plff as shown balancing books to that date	2536 72
"	"	To Interest	112 78
"	6	" Cash	80 00
"	19.	" "	83 00
"	27	" "	140 00
"	28	" "	100 00
Oct.	7	" "	75 00
"	18	" "	60 00
Nov.	8	" "	72 00
"	19	" "	70 00
Dec	7	" "	85 00
"	13	" "	65 00
"	23	" "	160 00
Jan	7, 1860	"	150 00
"	17	" "	60 00
"	28	" "	135 00
Feb	8	" "	98 00
"	10	" "	165 00
Mch.	3	" "	118 00
"	21	" "	74 00
April	4	" "	60 00
"	17	" "	60 00

86 Page of Record

Apl. 24. 1860	To Cash		60 00
May 19 "	"		470 00
June 8 "	"		100 00
" 20 "	"		60 00
July 4 "	"		75 00
" 25 "	"		50 00
" 26 "	"		220 00
" 31 "	"		100 00
Aug 7 "	"		60 00
" 11 "	87 pay of Record o		160 00
" 30 "	"		40 00
Sept 3 "	"	Ballance $3780 37/100 due Rff	90 00
" 8 "	Interest		160 50
" 18 "	" dep		50 00
Oct 1 "	"		80 00
" 6 "	"		135 00
" 9 "	"		94 00
" 19 "	"		60 00
Nov 1 "	"		70 00
" 15 "	"		70 00
" 26 "	"		50 00
Dec 4 "	"		90 00
" 19 "	Cash dep		60 00
Jan 9. 1861	"		120 00
" 21 "	"		50 00
Feb 14 "	"		85 00
" 26 "	"		72 80
Mch 2 "	"		85 00
" 28 "	"		70 00
Apl 6 "	"		70 00
" 16 "	"		153 00
" 23 "	"		75 00
" 27 "	"		89 00

May 6	"	"	60	00
" 11	"	"	50	00
" 18	"	"	150	00
June 11	"	Interest	181	62
		Balance due plaintiff	4440	34

Garrison & Anderson

And afterwards to wit on the second day of July in the year aforesaid the Defendants in this cause by Davis & Nissen their attorneys filed herein their certain Pleas and affidavit of Merits in words and figures following to wit.

State of Illinois } ss
Cook County }

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Otto Gelpcke and Alexander Siller impleaded with Francis A. Hoffman
vs
Michael Moritz

In the Superior Court of Chicago
July Term A.D. 1861

And the said Defendants Otto Gelpcke and Alexander Siller impleaded with Francis A. Hoffman by Davis and Nissen their attorneys come and defend the wrong and injury, when &c and say that they did not undertake and promise in manner and form as the said plaintiff hath above thereof complained against the said Defendants, And of this the said Defendants impleaded as aforesaid put themselves upon the country &c.

Davis & Nissen
Defts attys

And for a further plea in that behalf by leave of the Court here &c. the said Defendants Gelpcke and Siller impleaded as aforesaid. say actio non. because they say that the said plaintiff before and at the time of the commencement of said suit. viz: at the County aforesaid was and still is indebted to said defendants in a large sum of money. viz: the sum of Ten Thousand Dollars for money by the defendants before that time lent and advanced to. and paid, laid out. and. expended for the said plaintiff and at his request and for money by said plaintiff before that time had and received to and for the use of said defendants, which said sums of money so due and owing from said plaintiff to said defendants as aforesaid exceed the damages sustained by the said plaintiff by reason of the non performance by the said defendants of the said several supposed promises and undertakings in the said declaration mentioned. and out of which said sums of money so due and owing from the said plaintiffs to said defendants, the said defendants are ready and willing and hereby offer to set off and allow to said plaintiffs the full amount of the said damages. according to the form of the Statute in such case made and provided and this the said defendants impleaded as aforesaid are ready to verify wherefore they pray Judgment if ~~the said plaintiff~~ if the said plaintiff ought to have or maintain his aforesaid action thereof against them.

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Davis & Kilgore
Defts Attys.

State of Illinois
Between Michael Moritz, plaintiff
And
Francis A. Hoffman, Otto Gelpcke
and Alexander Siller Defendants.
Cook County

} In the Superior Court of Chicago

Alexander Siller of DuPage County State aforesaid being duly sworn, says and deposes that he is one of the defendants in the above entitled cause, and that he verily believes the the said defendants have a good defence to said suit upon the merits.

Sworn to and subscribed before me this 2d day of June A.D. 1861.
W. S. Kimball, Clerk.

} Alexander Siller

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And afterwards to wit on the Sixth day of August in the year aforesaid the Defendants in this Suit by Davis & Aiken their Attorneys filed herein this certain other plea in words and figures following, to wit:

State of Illinois } ss
Cook County

Francis A. Hoffman impleaded with Otto Gelpcke and Alexander Siller

ats.

Michael Moritz

} Superior Court of Chicago August Term A.D. 1861

And the said Defendants Francis A. Hoffman impleaded with Otto Gelpcke and Alexander Siller by Davis & Aiken their Attorneys, come and defend the wrong and injury

when &c. and says that he did not undertake or promise in manner and form as the said plaintiff has above thereof complained against the said Defendants, and of this he the said Defendant puts himself upon the Country &c.

And for a further plea in that behalf by leave of the Court here &c the said Defendant Francis A. Hoffman impleaded as aforesaid, says actio non, because he says that the said Defendants before and at the commencement of said suit to wit, at the County aforesaid was and still is indebted to the said Defendants in a large sum of money; to wit the sum of Five Thousand Dollars, for money by the said Defendants before that time lent, and advanced to, and paid, laid out and expended for the said plaintiff and at his request; and for money by
90 the said plaintiff at that time had and received to and for the use of said defendants, which said sums of money so due and owing from said plaintiff to said defendants as aforesaid exceed the damages sustained by the said plaintiff by reason of the non performance by the said Defendants of the said several supposed promises and undertakings in the declaration mentioned, and out of which said sums of money so due and owing from the said plaintiff to said Defendants the said Defendants impleaded as aforesaid, is ready and willing, and hereby offers to set off and allow to said plaintiff the full amount of said damages according to the form of the Statute in such case made and provided, and this the said Defendant impleaded as aforesaid is ready to verify, wherefore he prays Judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against them.

Davis & Nelson, Defts. attys.

And afterwards to wit on the Twenty first day of September in the year aforesaid, The Complainant by A. Harrison files herein his replication in words and figures following to wit,

Superior Court of Chicago

Michael Moritz
vs
Francis A Hoffman et.al.

And now comes the said Plaintiff and to the several pleas of the General issue by the said Defendants above pleaded whereof they have put themselves upon the Country Reff- doth the like &c.

92 And the said plaintiff to the two several pleas of Set off by the defendants above pleaded says prelude non because he says that he does not owe and is not indebted for the several sums of money or either of them in said plea mentioned in manner and from as the said defendants have in said plea thereof complained against him, and of this he said plaintiff puts himself upon the Country &c.

A. Harrison
Atty for Reff-

And afterwards to wit on the Twenty Sixth day of November in the year aforesaid said Day being one of the Days of November Term of said Court the following among other proceedings were had in said Court and entered of Record to wit,

Michael Moritz
vs
Francis A Hoffman. Atts
Siepke Ans Alexander Siller
} Assumpsit

This day comes the said Plaintiff by Garrison & Anderson his attorneys and the said Defendants by Davis & Nissen their Attorneys also come. and upon agreement of the parties made now here in Open Court this cause is submitted to the Court for trial upon the issues joined therein without intervention of jury. And the Court now here after hearing evidence and argument of Counsel and being fully advised in the premises assesses and finds issues for said Plaintiff and assesses his damages herein against all the said Defendants to the sum of Four Thousand and One hundred Dollars

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Therefore it is Considered that the said Plaintiff do have and recover of and from the said defendants his damages of Four Thousand and One hundred Dollars in form aforesaid found and assessed by the Court and also his costs and Charges in this behalf expended and have execution therefor

State of Illinois } ss
Cook County } I Thomas B Carter Clerk of the Superior Court of Chicago within and for the County and State aforesaid do hereby certify that the foregoing is a full true and complete transcript of all the pleadings on file. and the order of Judgment entered of Record in said Court in a certain case wherein Michael Moritz was plaintiff and Francis A. Hoffman

Otto Kelpeke and Alexander Siller were defendants.

In Testimony whereof I have hereunto set my hand and affixed the Seal of said Court this Twenty Third day of March A.D. 1863



Thomas B. Carter
Clerk.

State of Illinois
County of DuPage } ss. I, T. S. Rogers, Sheriff of the County of DuPage and State of Illinois, do hereby certify, that by virtue of an Execution and Fee Bill issued out of the Superior Court of Chicago Cook County, and to me directed, dated the second day of December 1861 and delivered in favor of Michael Moritz and against Francis A. Hoffman Otto Gelpcke and Alexander Siller I have levied on the following Real Estate, to wit:

Lots One (1) Two (2) Three (3) Four (4) Five (5) Six (6) And Seven (7) in F. A. Hoffmans Subdivision of part of east half of South east quarter of Section Thirty Six 36 in Township Forty (40) North Range Eleven East of the Third Principal Meridian. Also all the remainder of said east half of South east quarter of said Section Thirty Six (36) Township Forty (40) Range Eleven East of third principal Meridian not included in said lots before described —

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Witness my hand and seal at Naperville this first day of March 1862

T. S. Rogers Seal
Sheriff of DuPage County.

And afterwards, to wit; on the day and year first aforesaid, to wit; the Sixteenth day of November in the year A.D. 1863. there was filed in our said Circuit Court of the County of DuPage a certain Deposition in words and figures following, to wit; —

Deposition of Lewis Stave taken by and before Calvin D Wolf a Justice of the Peace in and for the County of Cook & State of Illinois at his Office in Chicago on the 26th day of May 1863. by agreement of the parties & to be used on the part of the Defendants in a cause pending in the Circuit Court of DuPage County in which Michael Moritz is Complainant and Francis A. Hoffman et als are Defendants. Present Harrison attys for Complainant & O. Jackson Jr. for Defendants

Lewis Stave being duly sworn deposes & testifies as follows in answer to questions by Jackson Counsel for Defendants -

Ques 1. What is your name age. residence & occupation & do you know the parties to this suit.

95 Answer. My name is Lewis Stave. I am 40 years old I reside at Chicago. I know the parties to this suit. I am a Real Estate Agent.

Ques. 2nd How long have you known Defendants. Francis A. Hoffman & wife?

Answer. About 11. or 12 years.

Question 3d. Where did they reside in the year 1857. & since?

Answer. I think they resides in DuPage Co. on their farm at that time. I am sure they have resided there for the past 5 years.

Question 4. Discribe the premises as near as you can.

Answer. It is a little north of East of Cottage Hill. DuPage Co. about 2 miles therefrom & is a farm of about 30 acres with large sized House Barn &c.

Question 5. Are you acquainted with the value of lands & lots in DuPage Co. and in the vicinity of the lands mentioned in your last answer.
Answer. I am. I buy & sell lands in that County

Question 6. What in your opinion is the actual value of the farm referred to in Question 4th.
Answer. I think it is worth from 40 to $50 per acre with the improvements the whole is worth say $1.600.

Question 7. Where have the Defts. Alex Siller & wife lived for last 4 or 5 years.
Answer. On 10 acres North & adjoining Mr Hoffman. It may be east and adjoining. I am not positive.

96 Ques 8th When was Sillers House built?
Answer About 4 years ago.

Question 9. Are the House & improvements standing there now.
Answer. The House was burned soon, some months ago.

Question 10th What in your opinion was the actual value of the 10 acres referred to prior to the destruction of the House.
Answer. I consider it worth about $800 to $900.

Ques. 11th What is the value of the 10 acres now.
Answer. About $150.

Ques. 12th During the time Hoffman has resided on his farms have you been in the habit

of visiting his House.
Answer. I have visited there a number of times—
Ques. 13th. How was his house furnished?
Answer. Very plain. plainer than many of his acquaintances except his library and Piano—
Ques 14. What did he do with that Piano.
Answer. He turned it out to a creditor soon after he failed.

X Questioned by Garrison for Complainant

X Ques. 1 When was you last on the farm in question?
Answer. I dont remember. I think about 2 years ago.
X Ques. 2. How much did it cost to build the House & Barn alone on this farm
Answer. I think some $2500.

X Ques 3d Did Hoffman put on Shrubbery & trees on this place.
Answer. Yes sir it was in good order and very handsome round the House.
X Ques 4. Do you know of any 30 acres in DuPage County in as good state of improvement as this.
Answer. Yes a great many—
X Ques. 5 Whose?
Answer. Thos. B. Bryans place. B. F. Barons place— Hoffmans place is not improved at all as a farm place.

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X Ques. 6. Are the fences farm fences or for a nice place -

Answer. I dont remember, only I remember it was nothing extra -

X Ques 7. State whether the Shrubbery was any amount of it of a valuable kind. any great amount of it & how much money do you think was laid out for the same.

Answer. I could not state if it was very valuable it was very pretty. I cannot as to its cost.

X Ques 8. When you say $40 or $50 per acre. do you mean to include the value of the buildings & improvements.

Answer. I do. I mean as a Real Estate agent It would not bring more than that.

98

X Ques. 9. What land have you sold in that neighborhood & were they in as good a state of Cultivation as this.

Answer. I have sold several farms. They were not in as good a state of Cultivation as this.

X Ques 10. To whom did you sell lands & where were they?

Answer. I sold to Thomas B. Bryan. a farm of about 200 acres a few miles east of Hoffmans for about $3000. I sold a farm to a Man by the name of Dubrock. from 10 to $12 per acre. Several Miles west of it. I dont remember the names of others.

X Ques. 11. Was there any improvements or high land on the farm you sold to Bryan?

Answer. Yes.

X Ques. 12. What?
Answer. Good houses & fences &c.

X Ques 13. Was this land you sold to Bryan in Cook County—
Answer. I do not know. it was on both sides of the O Plain River—
X Ques 14. Where was the land you sold to Dubrock.
Answer. It was several miles West of Hoffmans & in DuPage Co, near the Rail Road & South of it.
X Ques 15. What station was nearest to the farm you sold to Dubrock.
Answer. I don't remember.

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X Ques. 16. How long ago did you sell to Dubrock
Answer. 6 or 7 years ago

X Ques 17 How long ago did you sell to Bryan
Answer. About 8 or 9 years ago

X Ques 18 Was not this farm of Hoffmans fitted out as a Gentlemans Country residence?
Answer. No mistake a Gentleman could live there—
X Ques 19 Did not Mr Hoffman call it his Country residence.
Answer. I don't know.

X Ques. 20 What year was you there?
Answer. I cannot say.

X Ques 21. How do you know Sillers house was

burned up.

Answer. I heard so. I went down and asked Sillen

X Ques 22. Did he tell you he had any insurance on it.

Answer. No.

X Ques 23. Who built the house on Sillens lot?

Answer. I dont know.

X Ques 24 How do you know the Piano was turned out to creditors?

Answer. I heard so in the circle of my acquaintance it was a matter of general talk.

X Ques 25. How much was that Piano & Library worth—

108 Answer. I expect the Piano was worth some $600. I dont know the value of the library It was a large & handsome library 500 or 600 volumes—

X Ques 26. Is B. F. Cowens place in DuPage Co.

Answer. I dont know exactly it is in Lyons

Lewis Stave

State of Illinois } ss
Cook County }

I Calvin D Wolf a justice of the Peace in and for the County of Cook and State of Illinois do hereby certify that the foregoing deposition of Lewis Stave was taken by and before me at my office in the City of Chicago on the 26th day of May A.D. 1863 at 3 o'clock P.M. to be used on a trial of a cause pending in the Circuit Court of DuPage County, Illinois in which Michael Moritz is complainant and Francis A. Hoffmann

Cynthia Hoffmann, Alexander Liles, Bertha Liles & Theodore Hoffmann are defendants, on the behalf of the defendants and on verbal notice and in presence of the solicitors of both parties. That prior to the taking of the deposition of said Witness he was by me duly sworn, to testify the truth in relation to a matter in controversy in said suit so far as he might be interrogated. That the deposition was taken and reduced to writing by me and signed and sworn to by said witness at the time and place aforesaid.

Witness my hand and seal this 26th day of May A.D. 1863

Calvin D'Wolf, Seal
Justice of the Peace

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State of Illinois } ss
Cook County }

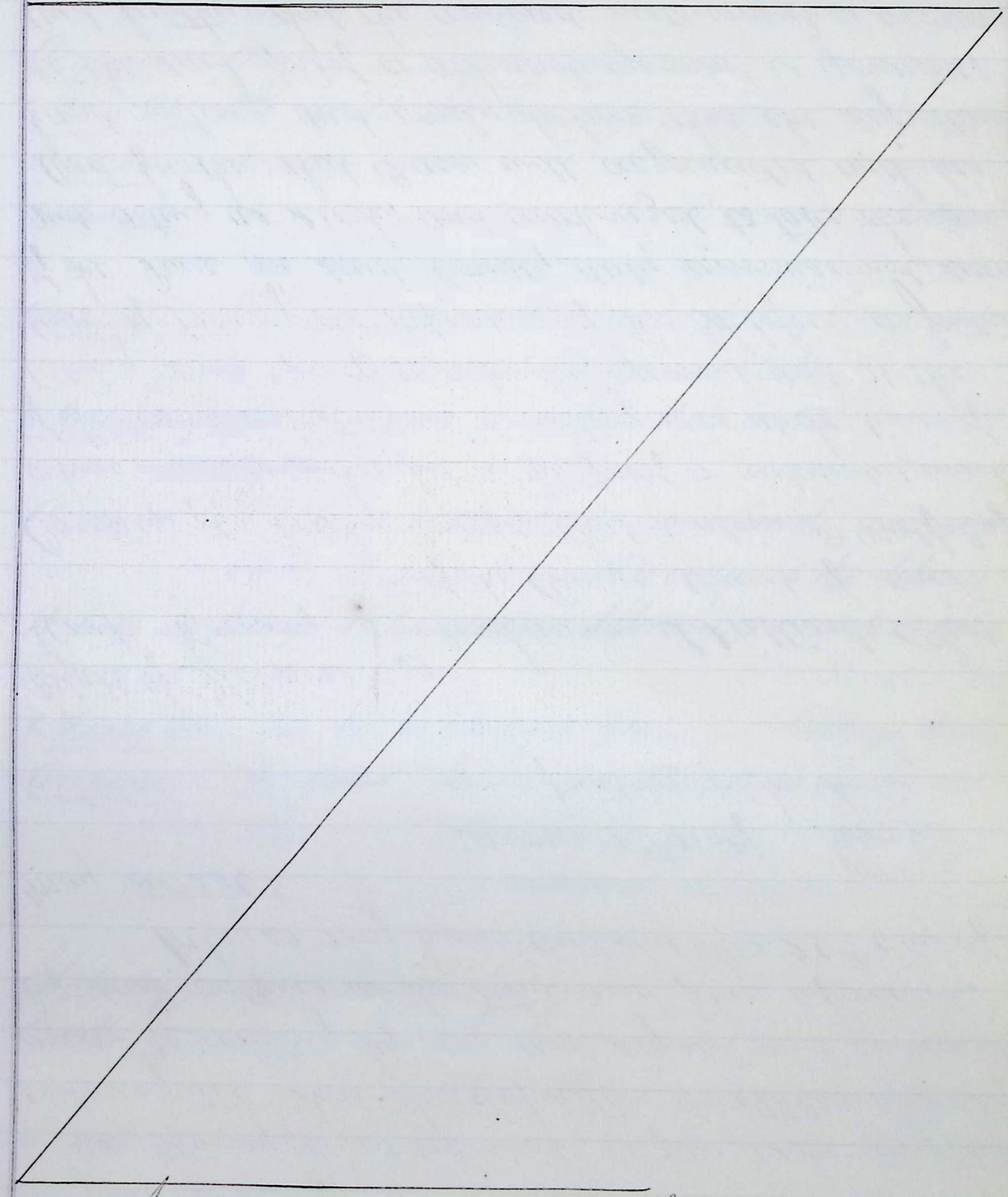
I, Lauren P. Hilliard, Clerk of the County Court of said County, do hereby certify that Calvin D'Wolf Esq. whose name is subscribed to the proof or acknowledgement of the annexed instrument in writing, was at the time of taking such proof or acknowledgement and at the time of taking the deposition of R. Schlofer a Justice of the Peace in said County, duly commissioned, sworn and acting as such, and authorized to take the same. And further, that I am well acquainted with his hand writing, and verily believe that the signature to the said proof or acknowledgement is genuine; And further, that the annexed instrument is executed and acknowledged according to the laws of the State of Illinois.

5 Cent Revenue Stamp

In Testimony Whereof, I have hereunto set my hand and affixed the seal of

Said Court at the City of Chicago in
Seal Said County this 30th day of May A.D. 1863

E. P. Hilliard Clerk



And afterwards, to wit: on the Nineteenth day of November A.D. 1863. it being one of the days of the November Term of said Court for said year, the following among other proceedings were had and entered of Record in said Court, to wit:

Michael Moritz
vs
Francis A Hoffmann
Cynthia Hoffmann
Alexander Siller
Bertha Siller
Otto Gelpcke &
Theodore Hoffmann

Bill and Injunction
In Chancery

This cause having heretofore been brought on to be heard upon the bill, answer, replication and proofs filed and taken therein. and upon argument of Garrison of Counsel for the Complainant, and of Jackson of Counsel for the defendants, And the Court being now fully advised thereon and it appearing to the Court here that the equities in said cause are with the defendants. It is Ordered, adjudged and decreed and this Court doth order, adjudge and decree that the Injunction heretofore ordered in this cause be and the same is hereby dissolved.

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That the Bill of Complaint heretofore filed herein be dismissed out of Court as to all of the defendants.

That the Complainant pay all costs of Court in this cause to be taxed, and that the defendants have Execution therefor to which decision the Complainant by his Counsel excepts.

And now again comes said Complainant by Garrison of Counsel, and makes his application for an appeal from the above order and decree of this Court to the Supreme Court of this State.

Thereupon it is ordered by the Court that said Appeal be allowed, on said Complainants filing Bond with the Clerk of this Court in ten days from this date, with Calvin De Wolf as surety in the sum of Two hundred dollars.

And afterwards, towit: on the Twenty fourth day of November in the year first aforesaid there was filed in the office of the Clerk of the Circuit Court of said DuPage County, a Certain Appeal Bond in words and figures as follows, to wit;

Know all men by these presents, That we, Michael Moritz and Eulois D'Wolf of the County of Cook and State of Illinois, are held and firmly bound unto Francis A Hoffmann & Clymthia his wife, Alexander Siller & Bertha his wife & Theodore Hoffmann also of the same County and State, in the

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penal sum of Two hundred dollars, lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly, severally and firmly, by these presents.

Witness, our hands and seals this 22d day of November A.D. 1863-

The Condition of the above obligation is such, That whereas, the said Francis A. Hoffmann & wife Alexander Siller & wife and Theodore Hoffmann did, on the 18th day of November A.D. 1863 in the Circuit Court, in and for the County of DuPage and State aforesaid, and of the November Term thereof, A.D. 1863 recover a Judgment against the above bounden Michael Moritz the same being a judgment or decree dismissing said Moritz Bill of Complaint against them, besides Costs of suit; from which said Judgment of the said Circuit Court, the said Michael Moritz has prayed for, and obtained an appeal to the Supreme Court of said State.

Now Therefore, if the said Michael Moritz shall duly prosecute his said appeal with effect and moreover, pay the amount of the Judgment Costs, interest and damages rendered, and to be rendered, against him in case the said judgment shall be affirmed in said Supreme Court, then the above obligation to be void, otherwise to remain in full force and virtue.

Taken and entered into before me, at my office in Naperville this 23d day of November A.D. 1863

Wm W. Whitney, Clerk

Michael Moritz (Seal)
Calvin D Wolf (Seal)

1034

State of Illinois } ss
DuPage County }

I, Wm W. Whitney, Clerk of the Circuit Court in and for said County, do hereby certify, the above and foregoing to be a true and complete Copy of Record and files of a certain cause, lately pending in said Court, between Michael Moritz Complainant and Francis A. Hoffmann, Cynthia Hoffmann, Alexander Siller, Bertha Siller, Otto Gelpcke and Theodore Hoffmann, defendants, as required by a certain Praecipe of said Complainant, (Excepting the original Pass Books marked "Exhibits" "A" & "B" which are herewith transmitted by agreement of parties,) as appears from said Record and files of said cause now in my office.

Given under my hand and the seal of said Court at Naperville in said County this Eighteenth day of April A.D. 1864

Wm W. Whitney Clerk

Supreme Court
Michael Moritz
vs
Francis A Hoffmann &
Cynthia his wife
Alexander Silber &
Bertha his wife
Otto Gelpcke &
Theodore Hoffmann

} Assignment of Errors

And now Comes the said Michael Moritz Appellant by Garrison & Blanchard his attorneys and says that in the proceeding & in the rendition of the judgment and decree dismissing said Complainants bill of Complaint there is manifest Error in this wit

1 The decree should have been in favor of Complainant and his bill of Complaint ought not to have been dismissed

2 The Court Erred in not granting the relief prayed at least a part thereof

3 The Court Erred in not decreeing the Conveyances to Theodore Hoffmann mentioned and set forth in said bill of Complaint fraudulent & void as against the Execution & Judgment of Appellant he being a Creditor at the time the same was made & also the Conveyance to Bertha Silber

4 The Court Erred in not decreeing said Execution & Judgment was a lien upon all the lands ~~mentioned & set forth in~~ the Bill of Complainant ~~& levied~~ especially the land sought to be conveyed in Trust to Theodore Hoffman

5 Erred in not decreeing the land deeded by F A Hoffmann & wife, to Silas was subject to said Judgment & Execution — And especially in not decreeing the House & Barn put thereon by Silas was subject to said Execution

6 The Complainant was entitled to some relief in the premises & the Court granted none

We ask decree be reversed &c Garrison & Blanchard
for Appellant

And now comes the said defendants appellees by McAllister Swett & Jackson their attorneys & defend the wrong & injury when &c and say that in the proceedings & decree aforesaid in them is no Error but the same in all things ought to be affirmed

McAllister Swett & Jackson
Attys for
Appellees

Michael Moritz
25
vs
Francis C. Hoffman
et al

Transcript

Filed April 21. 1869
L. Leland
Clerk

Fees $ 3.00
Rec'd payment
Wm. M. Whitney
Atty