



Minnesota District Court (Carver County)  
Civil and criminal case files

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No. 166 3381

DISTRICT COURT,

Carver County, Minnesota

*In the matter of the Estate  
of Beulah Virginia, deceased*  
Plaintiff—

vs.

Defendant

*John J. Fisher*

*Petitioner* Plaintiff's Attorney

Defendant's Attorney

Date of Entry *Jan. 29<sup>th</sup>* 191*4*

Register of Actions, *E* Page *167*

Term Tried.....191

Judgment for *Adoption*

Amount of Judgment, \$

Date of Judgment *Jan. 29<sup>th</sup>* 191*4*

Judgment Book *D* Page *454-55*

Default Judgment Book.....Page

Date of Docketing.....191



State of Minnesota, )  
County of Carver. ) SS

In District Court,  
Eighth Judicial District.

IN THE MATTER OF THE PETITION FOR THE ADOPTION OF BEAULAH VIRGINIA, A MINOR.

Now comes, L. W. Frank and Minnie Frank, his wife and respectfully allege, state and show to the Court:

That said L. W. Frank and Minnie Frank are now and have been for more than five years have been husband and wife, and maintain a home in the Town of Hollywood, Carver County, Minnesota, ~~and~~ are well able to care for, support and educate said minor child and to provide~~d~~ said minor with a suitable home<sup>and</sup> to furnish her with the necessities of life.

That said minor child is now living with your petitioners ~~at~~ their home as a member of their family, and that the parents ~~of~~ said minor child are dead, and that said minor child is not a ward of the state of Minnesota, and has no parent or guardian living.

That any rights that the parents of said minor child might have over it are cancelled and abrogated absolutely by their death.

That since said minor child has no parents or guardians living and is not a ward of the state of Minnesota, any consent on the part of parent, guardian, or the state is unnecessary.

Your petitioners therefore respectfully pray that a decree of this Court be made, setting forth the necessary facts in the case and making said Beulah Virginia the child by adoption of said L. W. Frank and Minnie Frank and she be given the name of Beulah Virginia Frank; that she be made the heir at law of the said L. W. Frank and Minnie Frank, and that she be deemed and taken to be the child of said L. W. Frank and Minnie Frank in all respects the same as though she had been born to them in lawful wedlock.

Dated this 22nd day of December, 1913.

L. W. Frank  
Minnie Frank

State of Minnesota, )  
County of Carver. ) ss

L. W. Frank and Minnie Frank, being duly sworn, depose and say that they are the two petitioners named in the within petition and who signed the same; that they have read the said petition so signed and executed by them and know the contents thereof, and that said petition is in all respects true.

L. W. Frank  
Minnie Frank

Subscribed and sworn to before me this 22nd day of December, 1913.

John J. Tahay



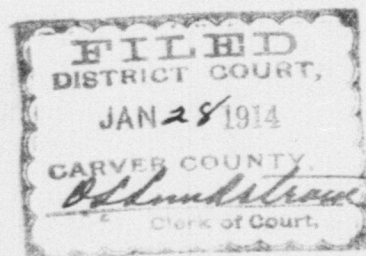


Original

In District Court  
County of Carver  
State of Minnesota

In the Matter of the  
Petition for the Adoption  
of Beulah Virginia,  
A Minor

Petition



E167

Illegible  
(Light Ink)



State of Minnesota,

In District Court,

County of Carver,

Eighth Judicial District.

IN THE MATTER OF THE PETITION FOR THE ADOPTION OF BEULAH VIRGINIA, A MINOR.

The above entitled matter came on for hearing and determination before me at my chambers in the Village of Norwood, state of Minnesota, on the 22nd day of December, 1913.

The petitioners, L. W. Frank and his wife, Minnie Frank appeared in person and by their attorney, John J. Fahey.

The said petitioners were duly sworn and testified in said matter.

After hearing the testimony adduced in said matter and the statements of said petitioners, and the argument of Counsel, the Court FINDS

#### AS FACTS

That the name of said minor child is Beulah Virginia, her age is two years and two months of age, being born on the 21st day of October, 1911.

That said L. W. Frank and Minnie Frank are now and have been for more than nine years husband and wife, and are residents of the Town of Hollywood, Carver County, Minnesota, where they reside on a farm; that they are well able to care for said minor child, provide her with a good home, educate her and maintain her in a good and suitable manner, and educate her in a Christian manner.

That said minor child is now living with the said petitioners, at their home as a member of their family, and that the parents of said minor child are dead, and that said minor child's parents are dead, and that the said minor is not a ward of the state of Minnesota, and has no guardian living.

That any right that the parents of said minor child might have over her are cancelled and abrogated absolutely by the death of said parents.

That since the parents of said minor are dead, and the said



minor is not a ward of the state of Minnesota, and has no guardian living, any consent to this adoption on the part of parents, state of Minnesota, or guardian is wholly unnecessary.

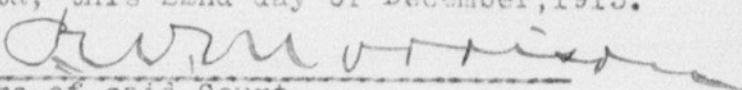
As Conclusions of Law

The Court Finds:

That this said minor child, Beulah Virginia, is entitled to the judgment and decree of this Court making her the child by adoption of said L. W. Frank and Minnie Frank, and that she be given and have the name of Beulah Virginia Frank; and that she be made the heir at law of the said L. W. Frank and Minnie Frank, and that she be deemed and taken to be the child of the said L. W. Frank and Minnie Frank in all respects the same as though she had been born to them in lawful wedlock.

Let Judgment be entered accordingly.

Dated at Norwood, Minnesota, this 22nd day of December, 1913.

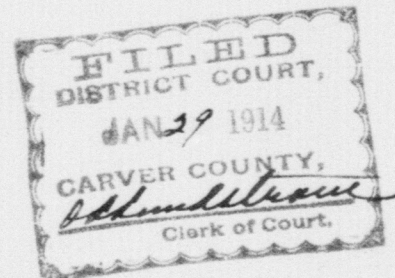
  
\_\_\_\_\_  
Judge of said Court.

Original

In District Court  
County of Carver  
State of Minnesota

In the Matter of the  
Petition for the Adoption  
of Beulah Virginia  
A. Muor

Findings <sup>and</sup> Decision



E167



Illegible  
(Light Ink)

State of Minnesota,  
County of Carver,

In District Court,  
Eighth Judicial District

IN THE MATTER OF THE PETITION FOR THE ADOPTION OF BEULAH  
VIRGINIA, A MINOR.

6

J u d g m e n t .

The above entitled matter came on for hearing and determination before the Honorable P. W. Morrison, Judge of the District Court of the Eighth Judicial District of Minnesota, at his Chambers in the village of Norwood, Minnesota, on the 22nd day of December, 1913.

The said Petitioners , L. W. Frank and his wife Minnie Frank appeared in person and by their attorney John J. Fahey.

The Judge duly made his Findings and Decision in said matter and the evidence conclusively showed:

That the name of said minor child is Beulah Virginia, her age is two years and two months, and that she was born on the 21st day of October, 1911.

That said L. W. Frank and Minnie Frank are now and have been for more than nine years husband and wife, and are residents of the Town of Hollywood , Carver County, Minnesota, where they reside on a farm; that they are well able to care for said minor child, provide her with a good home, educate her and maintain her in a good and suitable manner, and give her a Christian education.

That said minor child is now living with said L. W. Frank and Minnie Frank at their home as a member of their family, and that the parents of said minor child are now dead, and that said minor child is not a Ward of the state of Minnesota, and that she has no living Guardian.

That any rights that the parents of said minor child might have over her are cancelled and abrogated absolutely by the death of said parents.



That since the parents of said minor are dead, and the said minor is not a ward of the State of Minnesota, and has no guardian living, any consent to this adoption on the part of parents, state of Minnesota, or guardian is wholly unnecessary.

Now, therefore, on motion of John J. Fahey, attorney for said petitioners it is hereby Ordered, Adjudged and Determined that said minor child, Beulah Virginia, be and is hereby made the child by adoption of the said L. W. Frank and Minnie Frank, and that she be given and have the name of Beulah Virginia Frank; and that she be made the heir at law of the said L. W. Frank and Minnie Frank, and that she be deemed and taken to be the child of the said L. W. Frank and Minnie Frank in all respects the same as though she had been born to them in lawful wedlock.

Witness the hand and seal of the Honorable P. W. Morrison,  
Judge of said Court, this 29th day of January, 1914.

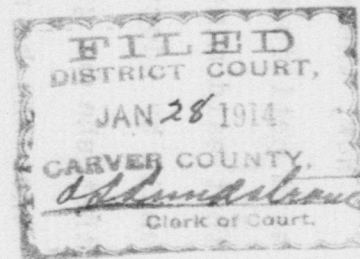
By O. L. Ludstrom Clerk of said Court.



In District Court  
County of Carver  
State of Minnesota

In the Matter of the  
Petition for the Adoption  
of Beulah Virginia  
Hoskins

Judgment



E167  
D454-455

No. 767 - Certificate of Copy of Record.

Class 6.

State of Minnesota,  
County of Carver

ss.

DISTRICT COURT.

Fifth Judicial District.

I, O. L. Lundstrom, Clerk of the District Court in and for Carver County, State of Minnesota, do hereby certify that I have carefully compared the paper writing hereto annexed with the original. In the Matter of the Petition and Adoption of Heulah Virginia, a Minor.

and find that the same is a true and correct copy of said original and the whole thereof.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said District Court at Osage, Minn., on this 23th day of January A. D. 1914.

O. L. Lundstrom  
Clerk of the District Court, Carver County, Minnesota.

~~Copy~~



State of Minnesota,  
County of Carver,

*Copy*  
In District Court,  
Eighth Judicial District

IN THE MATTER OF THE PETITION FOR THE ADOPTION OF BEULAH  
VIRGINIA, A MINOR.

6

J u d g m e n t .

The above entitled matter came on for hearing and determination before the Honorable P. W. Morrison, Judge of the District Court of the Eighth Judicial District of Minnesota, at his Chambers in the village of Norwood, Minnesota, on the 22nd day of December, 1913.

The said Petitioners, L. W. Frank and his wife Minnie Frank appeared in person and by their attorney John J. Fahey.

The Judge duly made his Findings and Decision in said matter and the evidence conclusively showed:

That the name of said minor child is Beulah Virginia, her age is two years and two months, and that she was born on the 23rd, day of October, 1911.

That said L. W. Frank and Minnie Frank are now and have been for more than nine years husband and wife, and are residents of the Town of Hollywood, Carver County, Minnesota, where they reside on a farm; that they are well able to care for said minor child, provide her with a good home, educate her and maintain her in a good and suitable manner, and give her a Christian education.

That said minor child is now living with said L. W. Frank and Minnie Frank at their home as a member of their family, and that the parents of said minor child are now dead, and that said minor child is not a Ward of the state of Minnesota, and that she has no living Guardian.

That any rights that the parents of said minor child might have over her are cancelled and abrogated absolutely by the death of said parents.

*copy*

That since the parents of said minor are dead, and the said minor is not a ward of the State of Minnesota, and has no guardian living, any consent to this adoption on the part of parents, state of Minnesota, or guardian is wholly unnecessary.

Now, therefore, on motion of John J. Fahey, attorney for said petitioners it is hereby Ordered, Adjudged and Determined that said minor child, Beulah Virginia, be and is hereby made the child by adoption of the said L. W. Frank and Minnie Frank, and that she be given and have the name of Beulah Virginia Frank; and that she be made the heir at law of the said L. W. Frank and Minnie Frank, and that she be deemed and taken to be the child of the said L. W. Frank and Minnie Frank in all respects the same as though she had been born to them in lawful wedlock.

Witness the hand and seal of the Honorable P. W. Morrison,  
Judge of said Court, this 29th day of January, 1914.

By *P. W. Morrison* Clerk of said Court.

*(Seal)*

*Filed* JUN 6 1966



No. 107-3362

DISTRICT COURT,  
Carver County, Minnesota

Leonic Penn Dickey  
Plaintiff

vs.

Theresa Kuhers  
Defendant

Francis Muehl  
Plaintiff's Attorney

Defendant's Attorney

Date of Entry

Feb 6th 1914

Register of Actions

E Page 168

Term Tried

March 6th 1916

Judgment for

Defendant, Dis.

Amount of Judgment, \$

24.00

Date of Judgment

May 10th 1916

Judgment Book

D Page 573

Default Judgment Book

Page

Date of Docketing

May 10th 1916



No.

# DISTRICT COURT,

Carver County.

Leonie Lienau Dickey,

against

Theresa Kehrler.

## NOTE OF ISSUE.

LAST PLEADING SERVED,

Feb. 21, - 1914. 189

Law. (Demurrer) Case.

Lance Muekel  
Attorney for Plaintiff.

Attorney for Defendant.

Will the Clerk please file this Note of  
Issue, and enter the cause on the Calen-  
dar for the March A. D. 1914

Term of this Court.

Yours, etc.,

Lance Muekel  
Attorney for Plaintiff.

Filed February 21, 1914

O. L. Lundstrom Clerk.

The \$3.00 deposit required by Sec. 2, Chap. 48, General Laws  
of 1883, must be paid before any action will be entered in  
Clerk's Office.

No. 2910

State of Minnesota, } ss

County of Carver

DISTRICT COURT

Eighth Judicial District

THE STATE OF MINNESOTA

TO Frank Leiser, Gotthel Buerlen, J. M. Arto, GREETING:

You are hereby Commanded, That laying aside all and singular your business and excuses, you be and appear before the Judge of the District Court for the Eighth Judicial District and County of Carver at the Court House in said County, on the 29th day of March 1906, at 9 o'clock in the forenoon, then and there to give evidence in the cause to be tried between

Lennie Leenan Dickey  
Plaintiff, and Theresa Kehr

Defendant on the part of the Defendants

Hereof fail not, on pain of the penalty that will fall thereon.

Witness the HON. P. W. MORRISON, Judge of the District Court aforesaid at Chaska this 28th day of March A. D. 1906

O. L. Lundstrom

Clerk of District Court.

ORIGINAL

# State of Minnesota, COUNTY OF CARVER

88.

## DISTRICT COURT Eighth Judicial District.

I hereby certify and return that I served the within Subpoena on the within named Frank Geiser, G. Buerlen, J. Maretz, by reading said Subpoena to him in his presence, and by delivering to him a true copy thereof, in County and State aforesaid, on this 28th, day of March 1916.

Fees, { Service, \$1.50  
Mileage, .20  
Total, \$1.70

G. A. Galt  
Sheriff of Carver County.

Deputy Sheriff.

STATE OF MINNESOTA,  
COUNTY OF CARVER

DISTRICT COURT,  
Eighth Judicial District.

AGAINST

## SUBPOENA

Issued

March 28 1916

O. S. Sundstrom

Clerk District Court.

Returned and Filed

March 29th 1916

O. S. Sundstrom  
Clerk.

On part of

Defendant

No. 2911

State of Minnesota, } ss.

County of Carver

DISTRICT COURT

Eighth Judicial District

## THE STATE OF MINNESOTA

TO

J. E. Du Bois of John Brinkhous

GREETING:

You are hereby Commanded, That laying aside all and singular your business and excuses, you be and appear before the Judge of the District Court for the Eighth Judicial District and County of Carver at the Court House in said County, on the 29<sup>th</sup> day of March 1906, at 9 o'clock in the fore noon, then and there to give evidence in the cause to be tried between

Plaintiff

, and

Leonie Leman Dickey  
Theresa Kerner

Defendant

on the part of the

Defendant

Hereof fail not, on pain of the penalty that will fall thereon.

Witness the HON. P. W. MORRISON, Judge of the

District Court aforesaid at Chaska this

day of

March

A. D. 1906

O. L. Lundstrom

Clerk of District Court.

ORIGINAL

State of Minnesota,  
COUNTY OF CARVER

ss.

DISTRICT COURT

Eighth Judicial District.

I hereby certify and return that I served the within Subpœna on the within named  
**F. E. Du Tiot, John Brinkhause**, by reading said Subpœna to him in his  
presence, and by delivering to him a true copy thereof, in County and State aforesaid,  
on this 28th, day of March 1916. 190

Fees, { Service, \$1.00  
Mileage, .20  
Total, \$1.20

*G. A. Gatz*  
Sheriff of Carver County.

By Deputy Sheriff.

No. 2911

STATE OF MINNESOTA,  
COUNTY OF CARVER

DISTRICT COURT,  
Eighth Judicial District.

AGAINST

SUBPOENA

Issued *March 28th* 1916  
*G. A. Gatz*  
Clerk District Court.

Returned and Filed  
*March 29th* 1916  
*G. A. Gatz*  
Clerk.

On part of *Defendant*



State of Minnesota,

County of

Scott



I hereby certify and return, that on the 7th

day of

February

1914

I served the

within and attached Summons and Complaint upon the within named Defendant

Theresa

by then and there handing to and leaving with him a

true copy of the same in the City of

For dan

County of

Scott

State of Minnesota.

Dated this

7th

day of

February

1914

Sheriff's Fees, Return, \$ 200

Mileage 24 \$ 240

Copy \$

Total \$ 440

Sheriff

Scott

County, Minn.

By

Deputy.

State of Minnesota,

DISTRICT COURT,

County of Carver

Eighth Judicial District.

Leonie Lienau Dickey, Plaintiff,

vs

SUMMONS.

Theresa Kehrer, Defendant

THE STATE OF MINNESOTA, TO THE ABOVE NAMED DEFENDANT:

You Theresa Kehrer are hereby summoned and required to answer the complaint in the above entitled action, which is hereto attached and served on you.

and to serve a copy of your answer to the said complaint on the subscriber, at his office, in Chaska in the County of Carver and State of Minnesota, within twenty days after the service of this summons on you, exclusive of the day of such service; and if you fail to answer the said complaint within the time aforesaid, the plaintiff in this action will Apply to the Court for the relief demanded and will take

Judgment against you for Fifty Dollars and the costs of this action.

Dated February 7th, A. D. 1924

Laurens Muekel  
Plaintiff's Attorney.  
Chaska Minn

State of Minnesota,

ss.

County of.....

I hereby certify and return..... being duly sworn, on  
oath says that at..... in the County of..... State of  
Minnesota, on the..... day of..... A. D. 190....., he served the within summons  
and the complaint thereto attached upon..... the defendant  
therein named, by.....  
handing to and leaving with..... said defendant....., a true and correct copy of each said  
summons and complaint, at the house of..... usual abode, by handing to and leaving with  
..... person of suitable age and discretion then resident therein, to wit,.....  
..... a true and correct copy of each said summons and complaint.

Subscribed and sworn to before me this..... day of..... A. D. 190.....

Notary Public..... County, Minn.

No. ....

DISTRICT COURT,

Judicial District.

County of.....

SUMMONS—SKELETON FORM

Plaintiff's Attorney.

No. 188.



State of Minnesota, }  
County of Carver, } ss.

In District Court,  
Eighth Judicial District .

Leonie Lienau Dickey, Plaintiff, )

versus )

Theresa Kehrler, Defendant )

COMPLAINT.

Par. 1, The plaintiff states that she is a resident of Ramsey County, Minn.,

Par. 2, That Mathias Schmidt, late of Carver County, Minn., died <sup>intestate</sup> therein on Dec. 10th, 1910, the fee simple owner of the following described real estate, situate in Carver County, Minn., to-wit: Lots one, two, three, four and five in Block 36, in Chaska, Carver County, Minn; according to the recorded plat thereof, which lots have three dwelling houses thereon, also Lot 10 in Block 46 in Chaska, Carver County, Minn., which lot has a large dwelling thereon. also the following tract of land on the outskirts of Chaska, in Carver County, Minn., commencing at a point on the northeast corner of the Northwest quarter of the Northeast quarter of Section 9, Township 115 North, Range 23 West; thence running south along the middle line of said Northeast quarter 10 chains and 16 L. to a post; ~~thence~~ thence North 88° 55' west (variation 16° 25' E.) 4 chains and 31 L. to a post, thence North 17° 25' west 8 chains and 50 L. to a post; thence south 74° west 4 chains to a post; thence North 17° 25' west 3 chains and 22 L. to a post on the north line of said section 9, thence east 11 chains and 30 L. to the place of beginnig, containing 7 acres more or less. Leaving surviving him as his heirs at law, Barbara Schmidt, his surviving spouse, one son named Edmund Schmidt, one daughter, the defendant Theresa Schmidt Kehrler, One grand-daughter, the above named plaintiff and one grand-son named Mathias Lienau, the brother of this plaintiff.

Par.3.

This plaintiff and her brother Mathias Lienau are both of legal age and are all the children of a deceased daughter of said decedent and that she departed this life before Mathias Schmidt died.

Par. 4. That defendant Theresa Kehrer was appointed administratrix or representative of the estate of Mathias Schmidt, Deceased, acting in such capacity until she was discharged and the Final Decree of Distribution was filed in said estate, to-wit: May 12th, 1911.

Par. 5. That after May 12th 1911, the exact date of which time plaintiff is unable at this time to specify, she received from defendant through the U. S. Mail a paper or writing, a copy of which is hereto attached, marked "Exhibit A" and made a part hereof, said paper or writing being recorded on page 512 of Book 22 of the Deed Records of Carver County, Minn.,

Par. 6. That at the time plaintiff so received said writing above referred to, which plaintiff is informed is a Warranty Deed, ~~sh~~ she also received therewith a letter from defendant instructing and requesting plaintiff to sign and execute said Warranty Deed before a Notary Public and return same to defendant, stating and representing to this plaintiff that she, defendant, was desirous of settling the affairs of said decedent Mathias Schmidt and that upon settlement thereof, plaintiff would receive the sum of \$250.00.

That the value of the portion of said decedent Mathias Schmidt's estate that the plaintiff inherited from him was only worth the sum of \$250.00 and that her interest in her said grandfather's estate was not worth any more than \$250.00 and that the real-estate described in said Warranty Deed was the portion that plaintiff inherited from said decedent Mathias Schmidt and was not worth more than \$250.

Par. 7. That plaintiff is unable to set out a copy of the ~~writing~~ <sup>letter</sup> referred to in paragraph 6 hereof because the same is not at this time in plaintiff possession.

That at the time plaintiff received said Warranty deed for her signature and the ~~writing~~ <sup>letter</sup> referred to in paragraph 6 hereof, she was living in Pittsburg, Allegheny County, Penn.,

Par. 8. The plaintiff states that she was wholly ignorant of the quantity, character and value of the real estate her said ~~xxx~~ grandfather died seized of and was wholly ignorant of the quantity, character and value of the portion thereof this plaintiff inherited from said decedent Mathias Schmidt. That the defendant is the sister of plaintiff's dead mother, ~~xxx~~ was the administratrix of the estate of plaintiff's said grandfather, was familiar with his affairs and the quantity character and value of his estate and the portion thereof this plaintiff inherited from



(3)

her said grandfather and by reason thereof, this plaintiff relied on the written statments and representations of defendant, referred to in paragraph 6 hereof, relative to the <sup>value</sup> ~~xiame~~ of the portion of real estate plaintiff inherited from her said grandfather and being described in said Warranty Deed and plaintiff believed such statments and represent ations to be true and by reason thereof she signed said Warranty Deed as appears by said copy thereof hereto attached.

Par. 9.

The plaintiff further states that after signing said deed as above set forth, she visited with the defendant Theresa Kehrer, the exact date of which this plaintiff is at this time unable to furnish and that then the defendant verbally stated and represented to this plaintiff that the real estate described in said deed was the portion of the estate of said decedent Mathias Schmidt this plaintiff inherited from him and that ~~ixxxx~~ her share was not worth more than \$250~~XX~~ that pleintiff's share in said decedents estate and that ~~ix~~ plaintiff's portion thereof was only worth \$250.00 and that plaintiff could not get any more for it.

Par. 10.

The plaintiff further states that she never saw any of the property herein described except Lot 10 in Block <sup>46</sup> herein before described, was wholly ignorant of the quantity, character and value of the real estate said decedent Mathias Schmidt died seized of, ~~and~~ the character, quantity and value of the portion thereof she inherited from said decedent, that the defendant is the aunt of this plaintiff, was familiar with the value, character and quantity of the real estate said decedent died seized of and the portion thereof this plaintiff inherited from said decedent, that by reason thereof this plaintiff relied on the said verbal representations of the defendant referred to in paragraph 9 hereof and believed them to be true.

~~X~~ Par. 11.

Plaintiff states that she believed the

written statments and representations of the defendant referred to in paragraph 6 hereof to be true and relied thereon and that she believed the verbal statments and representations made by defendant referred to in paragraph 9 hereof to be true and relied thereon and that because of the written statments and representations and the verbal statments and representations of the defendant, plaintiff signed and delivered to the defendant the deed a copy of which is hereto attached and received from the defendant ~~and~~



4  
only the sum of \$250.00 therefor.

Par. 12. -The plaintiff alleges that the written statements and ~~alleged~~ representations and the verbal statements and representations, all made by the defendant hereinbefore referred to and complained of, were and are all false and fraudulent and intended to deceive and mislead the plaintiff to her great loss and damage. That the plaintiff was deceived and misled by the said written statements and representations made by defendant referred to in paragraph 6 hereof, which were and are false and fraudulent and the plaintiff was deceived and misled by the verbal statements and representations made by defendant and referred to in paragraph 9 hereof which verbal statements and representations were and are false and fraudulent, was misled and deceived by said written and verbal ~~representations~~ representations to her great loss and damage, which said written and verbal statements and representations this plaintiff believed to be true and that she relied thereon and by virtue thereof she signed and delivered to the said defendant the deed, a copy of which is hereto attached and marked "Exhibit A" and by virtue of which written and verbal statements and representations plaintiff parted with her title in and to the real estate described in said deed.

Par. 13. The plaintiff states that she did <sup>not</sup> know <sup>any</sup> of the falsity and fraudulent character of ~~all~~ of said representations made by defendant above referred to and the character, quantity and value of the real estate described in said deed and which plaintiff conveyed to defendant therein, until about January 1st. 1914.

Par. 14. Plaintiff alleges that Barbara Schmidt <sup>surviving</sup> ~~surviving~~ spouse of said decedent Mathias Schmidt, departed this life about Nov. 1st. 1913.

Par. 14. The plaintiff further states that she is informed and believes that the defendant Theresa Kehrer sold the acreage tract, containing 7 acres more or less, hereinbefore described, but the plaintiff has not sufficient information to form a belief as to whether such sale is bonafide. That plaintiff is informed and believes that her interest at the time said deed, a copy of which is hereto attached and marked "Exhibit A" <sup>was signed</sup> was worth

the sum of Fifty Dollars.

Par. 14.

The plaintiff states that the sum of \$250.00 is a grossly inadequate price for the rights and interests of this plaintiff, described and conveyed in said Deed, a copy of which is hereto attached and marked ~~XXXXXX~~ "Exhibit A" and made a part hereof. That said interests of this plaintiff is and was at the time of the execution of said deed more than double the value of the sum of \$250.00.

Par. 15.

The plaintiff recinds said deed and the execution thereof and is desirous of and is ready, willing and able to make such restitution, repayment and restoration of the defendant and place her in statu quo according to equity and good conscience in ~~such~~ such manner and form consistent with the directions and the Decree of the Court.

WHEREFORE plaintiffs prays for a Decree and Judgment, recinding, annulling and setting aside the said deed rendering the same inoperative as to Lots one, two, three, four and five in Block 36 and Lot ten in Block 46 all in the City of Chaska, hereinbefore described, and restore the fee simple title therein to the plaintiff and Judgment against defendant for the sum of Fifty Dollars and the costs of this action and for such further and other relief as the Court in its wisdom and discretion deems meet under the premises,

*Francis Muekel*  
Attorney for Plaintiff.

I, Leonie Lienau Dickey, on oath depose and say that I am the plaintiff in the above entitled action, that I have read the foregoing Complaint and that the statements therein contained are true except as to matters stated on information and belief, and as to those matters I believe them to be true.

*Leonie Lienau Dickey*

*24th of Feb.*

Sworn to before me this *24th* of January 1914.

*P. Lundstram*  
*clerk of the District Court, Ramsey County, Minn.*  
Notary Public in and for Ramsey County, Minn.



# "EXHIBIT A"

## This Indenture,

Made this 3rd day of July in the year of our  
 Lord one thousand nine hundred and eleven between Leonie Dickey and husband  
G. W. Dickey

part <sup>ies</sup> of the first part, and

Theresa Kehrer

part of the second part

Witnesseth, That the said part <sup>ies</sup> of the first part, for and in consideration of the sum of

Two Hundred Fifty

DOLLARS,

to them in hand paid by the said part <sup>V</sup> of the second part, the receipt whereof is hereby acknowledged, ha<sup>ve</sup>  
 Granted, Bargained, Sold, Released, Conveyed and Confirmed, and do her by these presents Grant, Bargain, Sell  
 Release, Convey and Confirm unto the said part of the second part, her heirs and assigns, forever,  
 all that parcel of land situate, lying and being in the County of Carver and State of Minnesota, known and described as  
 follows, to-wit:

Lots 1-2-3-4-5 Block 36 and Lot 10 Block 46, all of Chaska  
Minn., also; commencing at a point on the northeast corner of the  
northwest 1/4 of the northeast 1/4 section 9, Township 115, Range  
23, thence running south along the middle line of said northeast 1/4  
10 chains and 16 links to a post, thence north 88° 55' W. (variation  
16° 25' E, ) 4 chains 31 links to a post, thence north 17° 25' W.  
8 chains 50 links to a post thence south 74° 4 chains, thence north  
17° 25' W, 3 chains 22 links to a post on the north line of said  
section 9, thence east 11 chains 30 links to the place of begining  
and containing 7 acres more or less.

It is understood that the interest of the grantors herein is  
 an undivided 1/6 in and to said lot 10 subject to <sup>the</sup> life estate  
 of Barabara Schmidt and an undivided 1/9 ~~XXXXXX~~ in and to all the  
 other property described herein,

To have and to hold the Same, Together with all and singular the hereditaments and appurtenances thereto  
 belonging or in anywise appertaining, unto the said part <sup>V</sup> of the second part her heirs and assigns, forever.

And the said Leonie Dickey and husband G. W. Dickey

part <sup>ies</sup> of the first part, do themselves hereby, for their heirs, executors, administrators, and each and every of them,  
 covenant and agree to and with the said part <sup>V</sup> of the second part, her heirs and assigns, in the manner and  
 form following, that is to say: That they are at the time of encasing and delivery of these presents  
~~X~~ the true, lawful and rightful owner <sup>to the extent of the interest herein stated</sup> of said premises hereby conveyed and ha<sup>ve</sup> therein a good, sure, perfect  
 and indefeasible estate in fee simple; and that they ha<sup>ve</sup> full right, power and authority to grant, bargain, sell,  
 remise, release, convey and confirm the said premises unto the said part <sup>V</sup> of the second part her heirs and  
 assigns, in manner and form aforesaid; and that the said premises are free and clear of all incumbrances whatever

and that the said part <sup>V</sup> of the second part, her heirs and assigns, shall quietly enjoy and possess the said premises;  
 and that they will Warrant and Defend the title to the same against all lawful claims. to the extent of  
their said interest

In Testimony Whereof, The said part <sup>ies</sup> of the first part ha<sup>ve</sup> hereunto set their hand and affixed  
their seal the day and year first above written.

Signed, Sealed and Delivered in Presence of

Robt. L. Wickline

J. W. Dickey.

Leonie Dickey

G. W. Dickey

{ SEAL }

{ SEAL }

{ SEAL }

{ SEAL }

Penn  
State of ~~MINNESOTA~~,

County of Allegheny

BE IT REMEMBERED, That on the 3rd

day of July 1911 before the undersigned came Leonie Dickey an G, W,

Dickey her husband Xwd

to me known to be the individual person<sup>s</sup> described in and who  
executed the foregoing deed, and they in due form of law acknowledged that they executed the same freely  
and voluntarily, for the uses and purposes therein expressed, as their free act and deed.

Robt. L. Wickline

Notary Public

My commission expire May 14 1915.

#####  
# Notarial #  
# Seal. #  
#####

# WARRANTY DEED.

TO

OFFICE OF REGISTER OF DEEDS,

County of Carver.

I hereby certify that the within deed was  
filed in this office for record on the

day of A. D. 19

at o'clock M. and was duly

recorded in Book of Deeds, on

Page

Register of Deeds.

By

Deputy.

Taxes paid and transfers entered this

day of 19

County Auditor.

By

Deputy Auditor.

I hereby certify that the taxes for the year  
19 on the land within described are paid.

County Treasurer.

**ALBERT MEYER,**

Register of Deeds and Official Abstractor,  
CHASKA, CARVER COUNTY, MINN.



167

Original.

State of Minnesota,

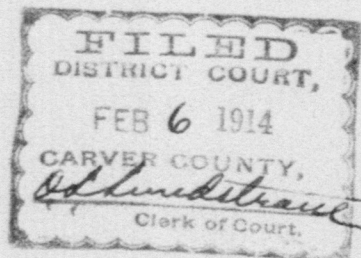
County of Carver,

Leonie Lienau Dickey,  
Plaintiff.

vs.

Theresa Kehrer, Defendant.

C O M P L A I N T .



Francis Muekel, Atty.,

for Plaintiff.

E/68

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(Light Ink)



State of Minnesota,  
County of Carver.

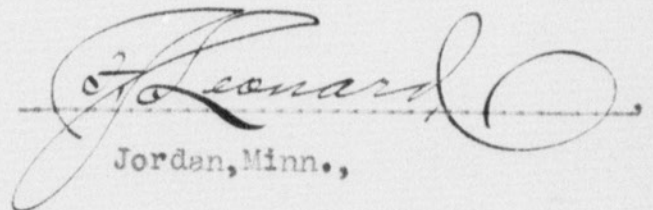
District Court,  
Eighth Judicial District.

-----:  
Leonie Lieneau Dickey, Plaintiff,

-----VS-----  
Theresa Kehrer, Defendant.

-----:  
Now comes said defendant and demurs to the complaint of the plaintiff herein on the grounds and for the reason that it appears on the face of said complaint that the same does not state facts sufficient to constitute a cause of action.

Dated ~~Mo~~ Feb. 20, 1914.

  
Jordan, Minn.,

Atty. for Deft.

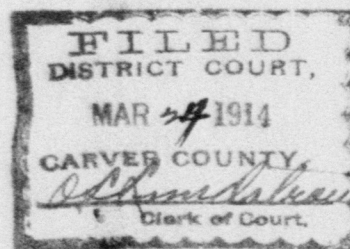
State of Minnesota,  
County of Carver,  
Dist. Court.

Leonie L. Dickey,  
Plff.

vs.  
Theresa Kehrens,  
Def.

Demurrer

J. J. Leonard  
Jordan, Minn.  
Atty. for Def.





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(Light Ink)

State of Minnesota, }  
County of Carver. }

{ IN District Court.  
{ 8th Judicial District.  
-----

Leonie L. Dickey,  
-vs- Plaintiff. }

Theresa Kehrler, :  
Defendant. }

The defendant, in the above entitled action, interposed a demurrer to the complaint of the plaintiff therein, upon the ground that said complaint did not state facts constituting a cause of action.

Said demurrer came duly on for hearing, at the March, a.d. 1914, General Term of said Court, at which time the issues involved in said cause so raised by such demurrer were submitted to the court for determination and decision.

F. J. Leonard Esq; appeared for the defendant in support for such demurrer and Francis Muekel Esq; appeared as Counsel for the plaintiff in opposition to such demurrer.

After hearing the arguments of Counsel for the respective parties and giving all things involved in said cause due consideration,

IT IS ORDERED, that the said demurrer so interposed to said complaint be, and the same hereby is overruled, with leave granted to the defendant to file and serve an answer to said complaint within twenty days after the filing of this order.

Dated at Norwood, this 27, day of June, a.d. 1914.

*H. Morrison*  
Judge of said Court.

Memorandum:

It is very questionable in my mind whether the complaint states a cause of action and the demurrer ought not to be sustained. The verbal statements set out in the complaint are immaterial because made after the execution of the deed and could not have been relied upon by the plaintiff as inducement for her to execute the instrument.

It is also questionable whether or not the statements in the written communication are sufficient to constitute fraud, but that can be better determined upon the trial when we have a better opportunity to learn the purport of such statements if any were in fact made.

*H. Morrison*  
Judge.

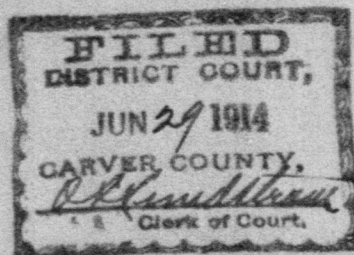


No 167

State of Minnesota  
County of Carver  
In said Court.

Diekey, vs.  
- vs -  
Kehner, def.

Order overruling  
demurrer.



E168



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(Light Ink)



Fol. 1

State of Minnesota,  
County of Carver.

District Court,  
Eighth Judicial District.

-----:  
Leonie Lienau Dickey, Plaintiff,

-----VS-----  
Theresa Kehr, Defendant.  
-----:

Said defendant for her answer to the complaint of the plaintiff in the above entitled action:-

1. Denies each and every allegation in said complaint contained and each and every part and portion thereof not hereinafter expressly admitted.

" 2      2. Said defendant admits the allegations set forth in paragraphs numbered 1, 2, 3 and 4 of said complaint.

3. Further answering said complaint, said defendant admits that in the month of May 1911, said plaintiff was temporarily residing in Pittsburg, Penn., and that in said month said defendant wrote said plaintiff a letter pertaining to said property, but denies that therein said defendant made any statements or representations that were not true.

" 3      4. Further answering said complaint, said defendant admits and avers, that in the month of July 1911, said plaintiff executed and delivered to said defendant the deed described in said complaint, and that the same was thereafter duly recorded at the time, place and manner as in said complaint alleged, and that exhibit "A" of said complaint is a true and correct copy thereof, but emphatically and specifically denies that said defendant, at said time, or at any other <sup>time either</sup> ~~time~~ verbally or in writing, ever made to said plaintiff any false or fraudulent statements or representations relative to said property or the value thereof, or that said plaintiff ever relied on any statements made by said defendant with reference thereto in disposing of her said interest therein.

" 5      5. Further answering said complaint, and as a further defense herein, said defendant admits that said defendant is a sister of said plaintiff's deceased mother, who died prior to Dec. 10, 1910, leaving surviving said plaintiff and another child, Mathias Lienau by name, and admits that said defendant was <sup>The</sup> Representative of the estate of Mathias Schmidt

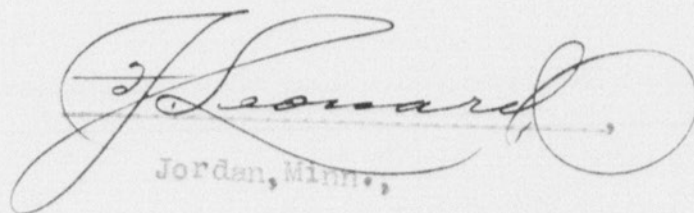
decedent, and the aunt of said  
in the month of Nov. 1913.

at died

" 6 ~~No~~ 6. Further answering said complaint, said defendant admits and avers, that some time after the execution of the said deed by said plaintiff, and before the commencement of this action, she sold the so-called 7-acre tract of land and that said sale was bona fide and in good faith and in the usual course of business and for a valuable consideration.

" 7 7. Further answering said complaint, and as a further defense herein, said defendant avers, that as Representative of the estate of said Mathias Schmidt, and otherwise, she had necessarily paid out and expended several hundred dollars in the payment of taxes, insurance and in repairing and in keeping up said estate, for no part of which she was ever reimbursed, and that she believes, and so charges the fact to be, that the payment of \$250 for the interest ~~of~~ said plaintiff had in and to said  
" 8 land and premises was an adequate and full compensation for the same. That, if said plaintiff, did not know the value of her interest in said property at the time of said sale, she had the same opportunity for ascertaining and determining the value thereof as said defendant, and could have easily and readily have done so; that in ~~her~~ failure to have done so, ere the commencement of this action said plaintiff has been guilty of laches in the premises.

Wherefore, said defendant demands judgment, that said plaintiff take nothing by this action, and that she be hence dismissed with her costs and disbursements therein.

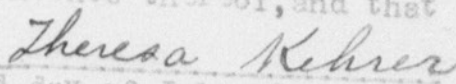
  
Jordan, Minn.,

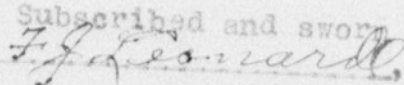
Atty. for ~~Plaintiff~~ Deft.

-----  
State of Minnesota,  
County of Scott.

Theresa Kehrer being first duly sworn deposes and says, that she is the defendant in the action above entitled; that she has heard read said answer and knows the contents thereof, and that she believes the same to be true.

Subscribed and sworn to before me this 2nd day of July 1914.



  
Notary Public, Scott County, Minn.  
My Commission Expires May 8, 1916.



#167

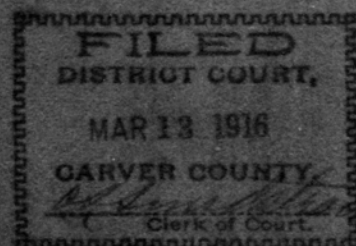
District Court,  
Carver County,

~~~~~  
Lionel L. Dickey,  
Plff.

~ vs. ~

Theresa Kehrer,  
Def.

~~~~~  
Answer.  
~~~~~



E168  
J. Leonard,  
Jordan, Minn.  
Atty. for Def.

State of Minnesota,  
County of Carver, ss.

In District Court,  
8th Judicial District.

Leenie Lienau Dickey, Plaintiff,

vs

Reply.

Theresa Kehrer, Defendant.

1.

Comes now the plaintiff and for her Reply, if such be necessary, to the allegations contained in paragraph "7" of defendant's Answer, and denies that the defendant, either individually or in any other capacity, necessarily or otherwise, laid out or expended any sum whatever for the payment of taxes, insurance or repairs of said estate, at such a time or under such conditions, as to be entitled to reimbursement therefor from this plaintiff, or which can be deducted from the value of the interest of this plaintiff in said real estate.

11.

The plaintiff denies each and every allegation contained in paragraph "7" of the defendant's Answer.

111.

Answering the allegations contained in paragraph "6" of defendant's Answer, the plaintiff alleges that she has not sufficient information or knowledge to form a belief.

Wherefore plaintiff demands judgment and a Decree as prayed for in her Complaint.

State of Minnesota,  
County of Carver, ss.

*Francis Muekel*  
Attorney for Plaintiff,  
Post-office Building,  
Chaska, Minn.,

I, Francis Muekel on oath, depose and say that I am the attorney for the above named plaintiff, that the foregoing Reply has been read by me and that the statements and allegations therein contained are true to the best of my knowledge ~~and~~ information and belief and the reason this verification is not made by plaintiff is that she is not present nor is she a resident of Carver County, Minn.,

*Francis Muekel*

Sworn to before me this 14th of  
March 1916.

*John Gleason*  
Judge of Probate, Carver Co., Minn.,



State of Minnesota

ss.

County of.....

.....being first duly sworn upon oath says  
that he is.....the.....in the foregoing  
and within entitled action; that he has heard read the foregoing.....  
that the same is true.....of his own knowledge, except as to  
matters therein stated on information and belief, and as to such matters he believes it to be true.

Subscribed and sworn to before me this.....day of  
.....19.....

Notary Public.....Minnesota

My Commission Expires.....

State of Minnesota

ss.

County of.....

.....COURT.

.....JUDICIAL DISTRICT.

AGAINST

Plaintiff

SUMMONS

Defendant.

The State of Minnesota to the Above Named Defendant:

You.....are hereby summoned and required to answer the com-  
plaint of the Plaintiff in the above entitled action, which complaint is hereto annexed and herewith served  
upon you.....Court, at the.....  
County of.....and State of Minnesota, and to serve a copy of your answer to the  
said complaint on the subscriber, at.....office, in the.....of.....  
in said county of.....within.....days after service of this summons upon  
you, exclusive of the day of such service; and if you fail to answer the said complaint within the time afore-  
said, the plaintiff in this action will take judgment against you for the sum of.....  
.....Dollars, (\$.....) with interest at the rate of.....per  
cent per annum since the.....day of.....19.....  
.....  
.....  
together with Plaintiff's costs and disbursements herein.

Dated.....19.....

Plaintiff's Attorney.

.....Minn.

State of Minnesota

ss.

County of

being first duly sworn upon oath deposes and says, that at the

day of

19, he served the within

upon

the

therein named, personally, by

leaving with said

at the house of the usual abode of said

with

a

person of suitable age and discretion, then resident therein, a true and correct copy of said

Subscribed and sworn to before me this

day of

19

Notary Public,

County, Minn.

My Commission Expires

# 167

State of Minnesota

County of

Carver

District

Court

Leone Dickson

Plaintiff.

vs.

Theresa Johnson

Defendant.

Reply

Due and personal service of the within

FILED  
DISTRICT COURT,

day of  
MAR 18 1916

CARVER COUNTY

Clerk of Court.

Attorney for

FRANCIS MUEKEL

CHASKA, MINN.

Attorney for

F 168



Now comes said defendant and objects to the introduction of any evidence, and moves for judgment on the pleadings for the reason that said complaint does not state facts sufficient to constitute a cause of action, and more particularly stated in this:

1. That it appears on the face of said complaint that a number of years elapsed after the giving of the deed in question by the plaintiff before she instituted suit, and has in consequence been guilty of laches.

2. That it appears on the face of said complaint that more than 2 1/2 months elapsed after ~~the~~ plaintiff admits she acquired knowledge of the claimed fraud before she instituted suit herein, and in this respect has been guilty of laches.

3. It appears that the instrument in controversy, to-wit, the said deed, is the only instrument given and includes and covers all of the property conveyed and for one consideration in a lump sum, and not a conveyance by several deeds of the different tracts and a separate and distinct consideration for each, but the several tracts were sold together for one and an indivisible consideration, ~~but~~ it also appears that this action is to rescind this instrument in part and ratify it in part, - to ratify and confirm the deed as to ~~all~~ the 7-acre tract, and rescind it as to all the other tracts, not to ratify or rescind in toto.

4. It appears on the face of said complaint that a part of said property, to-wit, the 7-acre tract has been conveyed by said defendant <sup>before instituting this suit</sup> and now in the hands of an innocent purchaser, and as a result it again appears that plaintiff has been guilty of laches and that this <sup>defendant</sup> ~~action~~ cannot be placed in statu quo.

In return one.

Plaintiff has been guilty of laches and that this action cannot be placed  
the hands of an innocent purchaser, and as a result it again appears that  
erty, to-wit, the Y-acre tract has been conveyed by said defendant and now in

4. It appears on the face of said complaint that a part of said prop-  
erty, to-wit, the Y-acre tract, has been conveyed by said defendant and now in  
possession of the Y-acre tract, and as a result it again appears that

deed as to defendant the Y-acre tract, and reselling it as to all the other  
this instrument in part and reselling it in part,--to resell and confirm the  
divisible consideration, and it also appears that this action is to resell  
action for each, but the several tracts were sold together for one and an in-  
several deeds of the different tracts and a separate and distinct consider-  
conveyed and for one consideration in a lump sum, and not a conveyance by  
is the only instrument given and includes and covers all of the property  
3. It appears that the instrument in controversy, to-wit, the said deed,  
been guilty of laches.

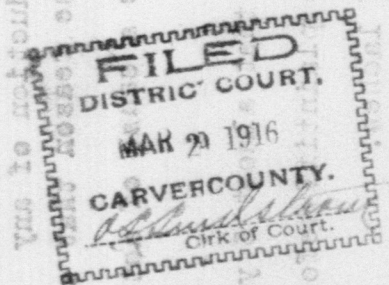
claimed land before the institution said parcel, and in this respect has  
because alleged that said defendant had the required knowledge of the

3. That it appears on the face of said complaint that more than 2 1/2

the institution said, and has unconscionable been guilty of laches, and  
elapsed after the giving of the deed in question by the

1. That it appears on the face of said complaint  
and more particularly stated in this:

complaint does not state facts sufficient to constitute  
evidence, and moves for judgment on the pleadings for the  
Now comes said defendant and objects to the introduction of any





State of Minnesota,  
County of Carver

ss.

## District Court

Judicial District

Leonie Lenau Diskey, Plff.  
— vs. —  
Theresa Kehrer, Defendant

## AMOUNT OF JUDGMENT OR VERDICT

Amount of Judgment or Verdict, - - - - - \$

Interest on same from the Defendants day of 191 \$

## COSTS AND DISBURSEMENTS

Statutory Costs, - - - - - \$ 5.003 Affidavits, - - - - - \$ 1.75

Acknowledgments, - - - - - \$

Sheriff's Fees, - - - - - \$

Jury Fees, - - - - - \$

Clerk's Fees (to be taxed), - - - - - \$ 5.95

Witness Fees, viz: (Give name of each Witness, Residence, Number of Days and Dates of Attendance and Number of Miles Traveled)

| NAMES                 | RESIDENCE            | NO. DAYS ATTENDANCE | DATES OF ATTENDANCE  | NO. MILES TRAVELED |                |
|-----------------------|----------------------|---------------------|----------------------|--------------------|----------------|
| <u>A. C. Hagis</u>    | <u>Jordan, Minn.</u> | <u>1</u>            | <u>Mar. 29, 1916</u> | <u>20</u>          | \$ <u>2.20</u> |
| <u>Louisa Fichter</u> | <u>" "</u>           | <u>1</u>            | <u>" " "</u>         | <u>20</u>          | \$ <u>2.20</u> |
| <u>Frank Geiser</u>   | <u>Chaska " "</u>    | <u>1</u>            | <u>" " "</u>         | <u>2</u>           | \$ <u>1.10</u> |
| <u>John Brinkhaus</u> | <u>" " "</u>         | <u>1</u>            | <u>" " "</u>         | <u>2</u>           | \$ <u>1.10</u> |
| <u>J. H. Hest</u>     | <u>" " "</u>         | <u>1</u>            | <u>" " "</u>         | <u>2</u>           | \$ <u>1.10</u> |
| <u>Fred J. J. J.</u>  | <u>" " "</u>         | <u>1</u>            | <u>" " "</u>         | <u>2</u>           | \$ <u>1.10</u> |
| <u>Mr. J. J. J.</u>   | <u>" " "</u>         | <u>1</u>            | <u>" " "</u>         | <u>2</u>           | \$ <u>1.10</u> |

The above Bill of Costs and Disbursements taxed and allowed at \$

Dated May 9th 1916Total Amount, \$ 21.60O. L. Lundstrom  
Clerk

## AFFIDAVIT OF DISBURSEMENTS

State of Minnesota,  
County of Scott

ss.

being duly sworn, says on oath, that he is the Attorney of the defendant in the above entitled action; that the foregoing is a true and correct statement of the costs and disbursements of said defendant in the above entitled action; and that the foregoing items of disbursements, and each item thereof, have been actually and necessarily paid or incurred therein, by and on behalf of said defendant; and that each of the above named witnesses was a material witness for the said defendant in said action, and was duly sworn, and testified on the trial of said action, on behalf of said defendant. That each of said witnesses actually and necessarily traveled the number of miles above set opposite his name, in going from his said place of residence to, and returning to said place of residence from, the place of trial of said action, and for the purpose of so testifying, actually and necessarily attended said Court the number of days and on the dates hereinbefore stated; and that the residence of each of said witnesses is at the place above stated.

Subscribed and sworn to before me this

5th day of May 1916W. H. HestNotary Public  
County, Minn.My commission expires Jan 4, 1923F. Leonard

NOTICE OF TAXATION OF COSTS

State of Minnesota,  
County of Carver

ss.

Eighth

District Court

Judicial District

Leonia Lorne Dickey, Deft.

Theresa Kehrer, Defendant

Sir : Please Take Notice, That on the

9th day of

May

1916

at 9 o'clock A. M., application will be made to.

O. S. Sundstrom, Esq.

Clerk of said Court, at his office in the

Carver House

in the city

of

State of Minnesota, County of Carver, ss:

and State of Minnesota,

to have the within bill of costs and disbursements taxed and inserted in the judgment then and there to be entered therein.

The attorney of said Defendant within named and residing at Jordan, Minn. that Frank Muekel is

of the within named plaintiff and residing at Chaaska, Minn.

doth on the 5 day of May, 1916 by depositing in a properly sealed envelope a copy of the notice of Bill

sent in the post-office at said Jordan properly directed to said

Frank Muekel at Chaaska, Minn. with the postage fully pre-

paid thereon, and that there was then a regular communication by mail between said Jordan and said Chaaska.

Subscribed and sworn to before me this

8th day of May, 1916.

W. H. Leonard  
Not. Pub., Minn.  
My Comm. Exp. 1-4-23.

DISTRICT COURT

Judicial District

County of

Leonia L. Dickey  
Deft.

Theresa Kehrer  
Deft.

Notice of Taxation of Costs and Bill of  
Costs and Disbursements

Due service of the within bill of disbursements and affidavits to same, and notice of taxation thereof, by delivery of copy thereof, is hereby admitted this

9th day of

Attorney for

Filed this 8th day of May  
A. D. 1916.

O. S. Sundstrom  
Clerk



STATE OF MINNESOTA }  
County of Carver } ss.

**DISTRICT COURT**  
Eighth Judicial District

Leonie Lienau Dickey,

Plaintiff.

vs

Theresa Kehrler,

Defendant.

**JUDGMENT.**

The above entitled cause came duly on for trial before the Court without a Jury, at the Court House, in the City of Chaska, in said County of Carver, on the 29th. day of March, A. D. 1916.

Francis Muekel, Esq. Appeared for the plaintiff and F. J. Leonard, Esq. appeared for the Defendant.

Upon the offer of evidence on the part of the plaintiff the defendant objected to the introduction of any evidence and moved for Judgment on the pleadings upon grounds reduced in writing and filed herein.

The said Court by its Order made and filed herein granted said motion.

Now, Therefore, upon Motion of F. J. Leonard Esq. Attorney for said defendant, It Is Hereby Ordered, Adjudged, and Decreed, and the Judgment of said Court is, That said defendant have and is hereby given, Judgment in her favor herein on the merits and that she have and recover Judgment against said plaintiff for the Costs and Disbursements herein taxed and allowed at Twenty One and 60/100 Dollars (\$21.60), and that she have execution therefor. Dated at Chaska, Minn. this 0th. day of May, 1916.

By the Court,

*O. L. Lundstrom*  
Clerk of said Court.

# 167

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## DISTRICT COURT

County of Carver

---

*Leonard Linna Dickey*  
Plaintiff

-----  
AGAINST  
-----

*Theresa Kehrer*  
Defendant

---

## JUDGMENT ROLL

---

Filed *May 10th* A. D. 1916

*O. Lundstrom*  
Clerk of the District Court.

---

No. 1071



State of Minnesota,  
~~State~~  
County of Carver,

In District Court

Eighth Judicial District.

-----  
Leonie Linau Dickey, Plaintiff.

vs.

Notice of Hearing and Trial.

Theresa Kehrer, Defendant.

Sir: You will please take notice that the issue of law joined on Defendant's Demurrer to plaintiff's Complaint, in the above entitled action will be brought on for hearing and trial at the next March Term, of the District Court to be held ~~xx~~ in and for the County of Carver at the Court House in the Village of Chaska, in said County on the 9th day of March A.D. 1914 at the opening of Court on that day or as soon thereafter as counsel can be heard. You will therefore govern yourself accordingly.

Dated February 24th, 1914.

Francois Muekel  
Attorney for Plaintiff.

To F. J. Leonard,  
Attorney for Defendant.

Original <sup>167</sup>

State of Minnesota,

County of Carver,

In District Court,

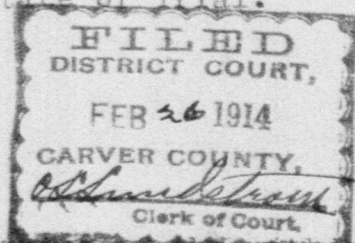
Eighth Judicial District.

Leonie Lienau Dickey,  
Plaintiff.

---VS---

Theresa Kehrer,  
Defendant.

Notice of Trial.



Service of the within  
Notice of Trial and re-  
ceipt thereof accepted this  
25<sup>th</sup> day of February, 1914.

*E. Leonard*  
Atty. for Defendant.

E/68



No. 1653382

DISTRICT COURT,

Carver County, Minnesota

Matthias Lienau

Plaintiff

vs.

Theresa Schmidt Kehr

Defendant

Francis Muekel

Plaintiff's Attorney

Defendant's Attorney

Date of Entry Feb 6th 1914

Register of Actions, E Page 169

Term Tried Mar 4th 1916

Judgment for Defendant Dis.

Amount of Judgment, \$ 24.00

Date of Judgment May 10th 1916

Judgment Book D Page 574

Default Judgment Book Page

Date of Docketing May 10 1916

State of Minnesota,

County of

I hereby certify and return, that on the 7<sup>th</sup> day of February 1914, I served the within and attached Summons and Complaint upon the within named Defendant Theresa Schmidt Kehrer by then and there handing to and leaving with him a true copy of the same in the City of Jordan County of Scott State of Minnesota.Dated this 7<sup>th</sup> day of February 1914

Sheriff's Fees, Return, \$

Mileage \$

Copy \$

Total \$

Sheriff Scott County, Minn.

By Deputy.

130 A 1913.



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NOTE OF ISSUE.

State of Minnesota,  
County of ~~Scott~~, *Crow*

District Court,  
Eighth Judicial District.

*Mathias Lirnan*, Plaintiff,

*Theresa S. Kahren*, Defendant.

Issue of *Law and Fact*  
*Court* case

Last pleading served, *Feb. 21*, 191*4*

*Francis Muekel*, Atty. for Plff.

*F. J. Leonard*, Atty. for Def.

Will the clerk of said court please file this note of issue and enter  
the cause on the calendar of said court for the General *Mar.* term  
thereof?

Respy.,

*F. J. Leonard*,  
Jordan, Minn.,

Atty. for Plff. *Def.*



#168.

themselves

the name on the calendar of said court for the General

Attest the clerk of said court issues this note of

last pleading served,

Name of

FILED  
DISTRICT COURT,  
MAR 6 1916  
CARVER COUNTY.  
Clerk of Court.

E 169

Deputy,

Secy. Min.

Atty. for pfr. S. H.

Defendant

Plaintiff

County of Carver, Minn.

State of Minnesota

North Dakota District

District Court

NOTE OF ISSUE

#  
10  
2

Now comes said defendant and objects to the introduction of any evidence, and moves for judgment on the pleadings for the reason that said complaint does not state facts sufficient to constitute a cause of action, and more particularly in this:

1. That it appears on the face of said complaint that almost three years elapsed after the giving of the deed in question by the plaintiff before she instituted suit, and has in consequence been guilty of laches.

2. That it appears on the face of said complaint that more than two months elapsed after plaintiff admits she acquired knowledge of the claimed fraud before she instituted suit herein, and in this respect has been guilty of laches.

3. It appears that the instrument in controversy, to-wit, the said deed, is the only instrument given and includes and covers all of the property conveyed and for one consideration and in a lump sum, and not a conveyance by several deeds of the different tracts and a separate consideration for each, but the several tracts were sold together for one and an indivisible consideration, and it also appears that this ~~action~~ action is to rescind this instrument in part and ratify it, in part, - to ratify and confirm the deed as to the 7-acre tract, and rescind it as to all the other tracts, not to ratify or rescind in toto.

4. It appears on the face of said complaint that a part of said property, to-wit, the 7-acre tract has been conveyed by said defendant before instituting this suit and now in the hands of an innocent purchaser, and as a result it again appears that plaintiff has been guilty of laches and that this defendant cannot be placed in statu quo.

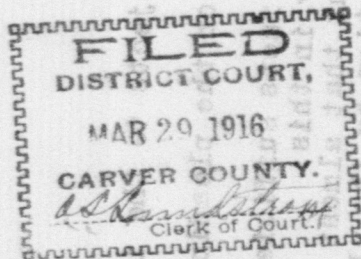


# 168

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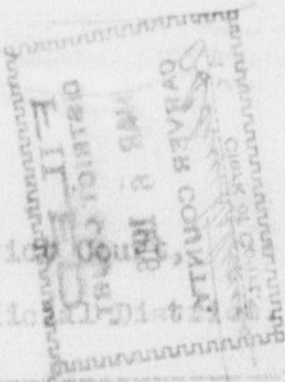
NOTE OF ISSUE.

State of Minnesota,

County of Scott, *Carver*

District Court,

Eighth Judicial District.



*Leonie L. Dickey*

, Plaintiff,

*Theresa Kehren*

, Defendant.

Issue of *Law and Fact*  
*Court* case

Last pleading served, *July 2*, 1914.

*Francis Muskel*

, Atty. for Plff.

*F. J. Leonard*

, Atty. for Def.

Will the clerk of said court please file this note of issue and enter the cause on the calendar of said court for the General *Mar* term <sup>1914</sup> thereof?

Respy.,

*F. J. Leonard*

Jordan, Minn.,

Atty. for ~~Plff.~~ *Def.*



#167

County of Carver  
State of Minnesota

NOTICE OF SALE

FILED  
DISTRICT COURT,  
MAR 6 1916  
CARVER COUNTY.  
Clerk of Court.

E169

John J. Smith

John J. Smith

John J. Smith

John J. Smith

John J. Smith

John J. Smith

John J. Smith

John J. Smith

John J. Smith

John J. Smith

State of Minnesota, } DISTRICT COURT,  
County of Carver } Eighth Judicial District.

Mathias Lienau, Plaintiff,

versus

SUMMONS.

Theresa Schmidt Kehrер, Defendant

THE STATE OF MINNESOTA, TO THE ABOVE NAMED DEFENDANT:

You Theresa Schmidt Kehrер, are hereby summoned and required to answer the complaint in the above entitled action, which is hereto attached and served on you.

and to serve a copy of your answer to the said complaint on the subscriber, at his office, in Chaska in the County of Carver and State of Minnesota, within twenty days after the service of this summons on you, exclusive of the day of such service; and if you fail to answer the said complaint within the time aforesaid, the plaintiff in this action will Apply to the Court for the relief demanded and will

take Judgment against you in the sum of Fifty Dollars and the ~~costs~~ costs of this action,

Dated February 7<sup>th</sup> A. D. 1914

Francis Muekel  
Plaintiff's Attorney.  
Chaska Minn



State of Minnesota, }  
County of ..... } ss.

I hereby certify and return ..... being duly sworn, on  
oath says that at ..... in the County of ..... State of  
Minnesota, on the ..... day of ..... A. D. 190..., he served the within summons  
and the complaint thereto attached upon ..... the defendant  
therein named, by .....  
handing to and leaving with ..... said defendant..., a true and correct copy of each said  
summons and complaint, at the house of ..... usual abode, by handing to and leaving with  
..... person of suitable age and discretion then resident therein, to wit, .....  
..... a true and correct copy of each said summons and complaint.

Subscribed and sworn to before me this ..... day of ..... A. D. 190.....

Notary Public ..... County, Minn.

No. ....  
DISTRICT COURT,  
..... Judicial District,  
County of .....

SUMMONS—SKELETON FORM

Plaintiff's Attorney.  
No. 855.

State of Minnesota, }  
County of Carver, } ss.

In District Court,  
Eighth Judicial District.

Mathias Lienau, Plaintiff, }

vs. }

COMPLAINT.

Theresa Schmidt Kehrler, Dfdt.)

Par. 1. Comes now the plaintiff in the above entitled action and represents that he is a resident of Ramsey County, Minnesota.

Par. 2. That Mathias Schmidt, late of Carver County, Minnesota, died intestate therein on Dec. 10th, 1910, the fee-simple owner of the following described real estate, situate in Carver County, Minn. to-wit: Lot 10 in Block 46 and Lots 1-2-3-4 and 5 in Block 36, all in the City of Chaska, Carver County, Minn., according to the recorded Plat of Chaska; also the following described tract of farm land, to-wit: Commencing at a point on the Northeast corner of the Northwest quarter of the Northeast quarter of Section 9, Township 115 North of Range 23, West: thence running south along the middle line of said Northeast quarter, 10 Ch. and 16 L. to a post, thence North  $88^{\circ} 55'$  west (variation  $16^{\circ} 25'$  E.) 4 Ch. and 31 L. to a post, thence north  $17^{\circ} 25'$  west 8 Ch. and 50 L. to a post thence south  $74^{\circ}$  west 4 ch. to a post, thence North  $17^{\circ} 25'$  west 3 ch. and 22 L. to a post on the north line of said Section nine, thence east 11 ch. and 30 L. to the place of beginning, containing 7 acres more or less.; together with other property, the character, quantity or value of which the plaintiff has not sufficient information to form a belief.

Par. 3. The plaintiff further alleges that said decedent Mathias Schmidt, left surviving him as his heirs at law, Barbara Schmidt, (surviving spouse) one son, named Edmund Schmidt, one daughter named Theresa Schmidt Kehrler, the defendant in the above entitled action, one grand-son named Mathias Lienau, the plaintiff herein and one grand-daughter, named Leonie Lienau Dickey, the sister of the plaintiff.

Par. 4. The plaintiff further alleges that Leonie Lienau Dickey and himself are the children of a deceased daughter of the



decedent Mathias Schmidt, she having departed this life prior to December 10th, 1910.

Par. 5. The plaintiff further alleges that the defendant Theresa Kehrler was appointed administratrix or representative of the estate of said decedent Mathias Schmidt, acting in such capacity until she was discharged and the Decree of Distribution was filed in said estate, to-wit: May 12th, 1911.

Par. 6. The plaintiff further states that during the month of May 1911 he was living in Pittsburg, Allegheny County, Pennsylvania and while there he received through the United States Mail, a letter from the defendant Theresa Kehrler, the exact date of which the plaintiff is at this time unable to specify and a copy of which letter the plaintiff is unable to furnish on account of the said letter now being out of plaintiff's possession, in which letter the said defendant stated and represented to the plaintiff that she was desirous of settling the affairs of the said decedent and that the plaintiff and his sister Leonie Lienau Dickery were each entitled to \$250.00 as our share in said decedent's estate. That the property this plaintiff inherited from said decedent was not worth any more than \$250.00 and that she, defendant desired this plaintiff to execute a ~~quitclaim~~ deed to her for \$250.00.

Par. 7. The plaintiff further states that thereafter, the exact date being at this time unknown to plaintiff, he visited the said defendant Theresa Kehrler and she then and there verbally stated and represented to this plaintiff that the property he inherited from the said decedent Mathias Schmidt, was not worth more than \$250.00 and that was all plaintiff's interest in said decedent's estate was worth.

Par. 8. The plaintiff further states that at the time he visited the said defendant as set forth in paragraph seven hereof, he was 22 years of age, that he had not seen or visited with the said decedent for many years prior thereto, was wholly ignorant of the quantity, character ~~and~~ value of the estate of said decedent Mathias Schmidt nor did he know the quantity, character ~~and~~ value of ~~his~~ the real estate he inherited from said decedent. That the said defendant is the sister of plaintiff's deceased mother and was the administratrix or representative of the estate of said decedent Mathias Schmidt and was familiar with the quantity, character and value of said estate and the portion thereof this plaintiff inherited

of his said grandfather and by reason thereof this plaintiff believed the said written statments and representations made by defendant as referred to in paragraph 6 hereof and believed the verbal statments and representations made by defendant as set forth in paragraph 7 hereof and relied on all of said representations, both written and verbal and believed them to be true and by reason thereof plaintiff signed a deed which is recorded on page 511 of Book ~~of Mortgages~~ <sup>Twenty-two</sup> ~~Mortgages~~ <sup>Deed</sup> Records of Carver County, Minn., a copy of which deed is hereto attached and marked "Exhibit A" and made a part hereof and in which deed there is a correct description of the portion of real estate this plaintiff inherited from said decedent Mathias Schmidt and which defendant verbally and in writing, as aforesaid, represented was not worth more than \$250.00.

Par. 9. The plaintiff further states that he never saw any of the real estate of which the said decedent Mathias Schmidt died seized of, except Lot 10 in Block hereinbefore described, that he was at the time of the execution of said deed wholly ignorant of the character quantity and value of the real estate said decedent Mathias Schmidt died seized of, wholly ignorant of the character, quantity and value of the portion thereof he inherited from said decedent and by reason thereof together with the fact of the blood relationship existing between this plaintiff and defendant plaintiff had confidence and faith in defendant and believed to be true and relied on all of said written and verbal representations hereinbefore complained of and parted with his title to the real estate described in said deed for the sum of \$250.00. to his great loss and damage.

Par. 10. The plaintiff alleges that the ~~re-~~ written statments and representations hereinbefore referred to made by defendant to plaintiff regarding the value of plaintiff's real estate ~~as~~ described in said deed, were and



are false and fraudulent and made to deceive and mislead this plaintiff. That this plaintiff was deceived and misled thereby to his great loss and damage.

Par. 11. The plaintiff alleges that the verbal statements and representations hereinbefore referred to, made by defendant as to the value of plaintiff's real estate described in said deed, were and are false and fraudulent, were made to deceive and mislead this plaintiff. That this plaintiff was deceived and misled by said verbal statements and representations to his great loss and damage.

Par. 12. The plaintiff states that the sum of \$250.00 is a grossly inadequate price for the real estate described in said deed and which plaintiff conveyed to defendant through her said false and fraudulent representations and that the value of said real estate described in said deed at the time of the execution thereof was double the sum of \$250.00.

Par. 13. Plaintiff alleges that he did not know of the falsity or fraudulent character of any of said ~~stated~~ written or verbal statements or representations made by ~~him~~ defendant above described, or the character, quantity or ~~value~~ value of the real estate described in said deed and conveyed to defendant as aforesaid until Jan. 1st., 1914.

Par. 14. Plaintiff states that Barbara Schmidt departed this life about Nov. 1st. 1913.

Par. 15. Plaintiff alleges that he is informed and believes that defendant sold said acreage tract containing 7 acres more or less hereinbefore described and that plaintiff's interest therein was worth Fifty Dollars.

Par. 16. Plaintiff recinds said ~~deed~~ deed and the execution thereof, is desirous of making and ready, willing and able to make repayment to defendant and place her in statu quo according to equity and good conscience, in manner and form consistent with the directions and Decree of the Court.

WHEREFORE, the plaintiff prays the Court to render  
a Decree recinding and cancelling the said ~~quitclaim~~<sup>Deed</sup>, declarring it null  
and void and wholly inoperative so far as the same affects Lot 10 in  
Block 46 and Lots one, two, three, four and five in Block 36 in the City  
of Chaska, Carver County, Minn., according to the recorded plat of the City  
of Chaska; and render judgment in favor of the plaintiff and against the  
defendant for the sum of ~~one hundred dollars~~<sup>Fifty Dollars</sup> and the Costs of this action  
and for such other and further relief as the Court deems just and equitable  
which relief <sup>plaintiff</sup> asks be granted him on such conditions and limitations as  
as the Court in its wisdom and equity sees fit to impose on this plaintiff  
in requiring the plaintiff to make such ~~payment~~ repayment and restoration  
to the defendant Thresa Kehrer and to place her in statu quo in such manner  
as the Court deems just and equitable.

Francis Muekel  
Attorney for Plaintiff.

State of Minnesota,        )  
County of Carver,        )   ss.

I, Mathias Lienau, on oath depose and say  
that I am the plaintiff in the foregoing Complaint in the above entitled  
action, that I have read the same and that the statments and allegations  
therein contained are true and as to the matters stated <sup>upon</sup> information  
and belief, I believe such matters to be true.

Mathias Lienau

Sworn to before me this 20th day of January 1914.

Lawrence E. Hiltenschied  
Notary Public in and for  
said County and  
State..  
My Commission expires April 1st 1920.



"EXHIBIT A"

## This Indenture,

Made this 5th day of June in the year of our

Lord one thousand nine hundred and eleven between Mathias Lienau (single)

part 7 of the first part, and

Theresa Kehrler

part 7 of the second part

Witnesseth, That the said part of the first part, for and in consideration of the sum of

Two Hundred Fifty DOLLARS,

to him in hand paid by the said part of the second part, the receipt whereof is hereby acknowledged, has  
 Granted, Bargained, Sold, Released, Conveyed and Confirmed, and do by these presents Grant, Bargain, Sell  
 Release, Convey and Confirm unto the said part of the second part, her heirs and assigns, forever,  
 all that parcel of land situate, lying and being in the County of Carver and State of Minnesota, known and described as  
 follows, to-wit:

Lots 1-2-3-4-and 5, Block 36 and Lot 10 Bl. 46, all of Chaska  
 Minn also, Commencing at a point on the Northeast corner of the  
 northwest 1/4 of the ~~XXXXXXXXXXXX~~ Northeast 1/4, Section 9  
 Township 115, Range 23, thence running south along the ~~XXXXXXXXXXXX~~  
 middle line of said northeast 1/4 10 chains, <sup>and</sup> 16 ~~XX~~ L. to a post,  
<sup>thence</sup> ~~then~~ north 88° 55' W. (variation 16° 25' E. ) 4 Chains, <sup>and</sup> 31 Links  
 to a post, <sup>thence</sup> north 17° 25' W. 8 chains 50 links to a post  
<sup>South</sup> thence 74° west 4 chains, thence north 17° 25' W. 3 chains 22 link  
 to a post on the northline of said section 9, thence east ~~XXXXXX~~  
 11 chains 30 links to the place of the beginning. and containin  
 7 acres more or less.

It is understood that the interest of the grantor herein is a  
 undivided 1/6 into said Lot 10 subject to the life estate of  
 Barbara Schmidt, and an undivided 1/9 interest in and to all  
 the other property described therein.

To have and to hold the Same, Together with all and singular the hereditaments and appurtenances thereto  
 belonging or in anywise appertaining, unto the said part Y of the second part her heirs and assigns, forever.

And the said Mathias Lienau

part Y of the first part, do <sup>es</sup> hereby, for himself, his heirs, executors, administrators, and each and every of them,  
 covenant and agree to and with the said part Y of the second part, Y her heirs and assigns, in the manner and  
 form following, that is to say: That he is at the time of en sealing and delivery of these presents  
<sup>X</sup> the true, lawful and rightful owner of said premises hereby conveyed, and has therein a good, sure, perfect  
 and indefeasible estate in fee simple; and that he has full right, power and authority to grant, bargain, sell,  
 remise, release, convey and confirm the said premises unto the said part of the second part, her heirs and  
 assigns, in manner and form aforesaid; and that the said premises are free and clear of all incumbrances <sup>whatsoever</sup>

and that the said part Y of the second part, her heirs and assigns, shall quietly enjoy and possess the said premises;  
 and that he will Warrant and Defend the title to the same against all lawful claims. <sup>to the extent of</sup> his said interest

In Testimony Whereof, The said part Y of the first part has hereunto set his hand and affixed  
 his seal the day and year first above written.

Signed, Sealed and Delivered in Presence of

Mathias Lienau

{ SEAL }

F. J. Leonard

{ SEAL }

Louisa Richter,

{ SEAL }

{ SEAL }

State of Minnesota,  
County of Scott } ss

BE IT REMEMBERED, That on the 5th  
day of June 1911 before the undersigned came Paulus Lienau (single)

and X  
to me known to be the individual person described in and who  
executed the foregoing deed, and he in due form of law acknowledged that he executed the same freely  
and voluntarily, for the uses and purposes therein expressed, as his free act and deed.

F.J. Leonard  
Notary Public Scott County  
Minn.,

My commission expires May 8-1916

Notarial seal.

## WARRANTY DEED.

TO

OFFICE OF REGISTER OF DEEDS,

County of Carver.

I hereby certify that the within Deed was  
filed in this office for record on the

day of A. D. 19

at o'clock M. and was duly

recorded in Book of Deeds, on

Page

Register of Deeds,

By

Deputy.

Taxes paid and transfers entered this

day of 19

County Auditor.

By

Deputy Auditor.

I hereby certify that the taxes for the year  
19 on the land within described are paid.

County Treasurer.

ALBERT MEYER,

Register of Deeds and Official Abstractor,  
CHASKA, CARVER COUNTY, MINN.



168

Original.

State of Minnesota,

County of Carver,

(o)

In District Court,

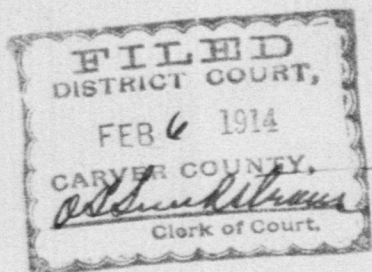
Eighth Judicial District.

Matthias Lienau, Plaintiff,

vs

Theresa Schmidt Kehrner,  
Defendant.

COMPLAINT.



Francis Muekel, Atty, for  
Plaintiff.

E164

State of Minnesota,  
County of Carver,

In District Court,  
Eighth Judicial District.

Mathias Lienau, Plaintiff.

vs.

Notice of Hearing of Motion.

Theresa Kehrer, Defendant.

To Theresa Kehrer and to F. J. Leonard, her Attorney.

You will please hereby take notice that the plaintiff will present the Motion, hereto attached, to the District Court, for hearing thereon, on the opening of Court on the morning of March 24th, 1914, said day being one of the days of the regular March A' D. 1914 Term of said Court, holden at the Court house in the village of Chaska, Carver Co., Minn., or as soon thereafter as the Court in its wisdom and discretion will hear the same.

Francis Muekel  
Attorney for Plaintiff.

Service of the ~~foregoing~~ hereto attached Motion and the foregoing Notice of Hearing thereof, is hereby accepted and copy of said Motion and Notice of Hearing thereof, received this \_\_\_\_ day of March 1914.

\_\_\_\_\_  
Attorney for Defendant.



State of Minnesota,  
County of Carver,

In District Court,  
Eighth Judicial District.

Mathias Lienau, Plaintiff,

vs.

MOTION.

Theresa Kehrler, Defendant.

Comes now the plaintiff and moves the Court.

First To strike all that portion of defendant's Answer, beginning with the word "that" in the second line of the 7th paragraph thereof and ending with the word "reimbursed" in the fifth line of said paragraph. for the reason that the same is not a matter of defense, is irrelevant, redundant and immaterial, it not appearing in defendant's said Answer that there is any obligation on plaintiff's part to defendant for any such alleged outlays and expenses.

Second. All that portion of defendant's answer in paragraph 7, after the word "same" in the eighth line thereof and ending with the word "premises" in the thirteenth line of said paragraph, because the same is not a matter of defense to plaintiffs Complaint, is evidentiary, irrelevant, redundant and immaterial and that from a perusal of defendant's answer the same is inconsistent with <sup>the balance of</sup> said Answer and contradicted thereby.

Third. If the Court overrules "Item First" of plaintiff's Motion herein, plaintiff moves the Court to require the defendant to set out a Bill of Particulars of the alleged outlays and expenses, the capacity in which she made the same, and whether with plaintiff's authority or consent.

*Froncus Muekel*  
Attorney for Plaintiff.

<sup>168</sup>  
*Original*

State of Minnesota,

County of Carver,

In District Court,

Eighth Judicial District.

Mathias Lienau,

vs.

Theresa Kehrner,

Motion and Notice of

Hearing.

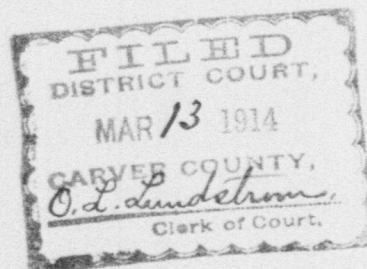
*Service hereof by copy  
admitted Mar. 11, 1914,*

*J. Leonard,  
Atty. for Deft.*

Francis Muekel,

Atty. for Plaintiff.

*E169*



*(E.-169)*



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Vol. 1

State of Minnesota,  
County of Carver.

District Court,  
Eighth Judicial District.

Mathias Lienau, Plaintiff,  
Theresa Schmidt Kehrner, Defendant.

Said defendant for her answer to the complaint of the plaintiff herein,-

1. Denies each and every allegation in said complaint and each and every part and portion thereof not hereinafter expressly admitted.

2. Said defendant admits the allegations set forth in paragraphs numbered 1, 2, 3, 4 and 5 of said complaint.

3. Further answering said complaint said defendant admits that, in the month of May 1911, said plaintiff was temporarily residing in Pittsburg, Penn., and that in said month said defendant wrote said plaintiff a letter pertaining to said property, but denies that therein said defendant made any statements or representations that were not true.

4. Further answering said complaint said defendant admits and avers, that, in the month of June 1911, said plaintiff visited said defendant at her home in Jordan, Minn., and that while at said Jordan and while so visiting said defendant, said plaintiff executed and delivered to said defendant the deed described in said complaint, and that the same was thereafter duly recorded at the time, place and manner as in said complaint alleged, and that "Exhibit A" of said complaint is a true and correct copy thereof, but denies emphatically and specifically that said defendant at said time, or at any other time, ever made to said plaintiff any false or fraudulent statements or representations relative to said property or the value thereof, or that said plaintiff ever relied on any statements made by said defendant with reference thereto in disposing of his said interest therein.

5. Further answering said complaint and as a further defense herein said defendant admits that said plaintiff was, at the time of the execution of said deed, about 22 years of age, and that said defendant is the sister of said plaintiff's deceased mother, who died prior to Dec. 10, 1910, leaving surviving her said plaintiff and another child, now Leonie Dickey by name, and admits that said defendant was the Representative of the



estate of Mathias Schmidt deceased.

" 7 6. Further answering said complaint said defendant ~~alleges~~ admits and avers that, some time after the execution of the said deed by said plaintiff, and before the commencement of this action, she sold the so-called seven-acre tract of land, and that said sale was bona fide, in good faith, in the usual course of business and for a valuable consideration.

" 8 7. Further answering said complaint and as further defense herein, said defendant avers, that as Representative of the estate of said Mathias Schmidt, and otherwise, she had necessarily laid out and expended several hundred dollars in the payment of taxes, insurance and in repairing and in keeping up said estate, for no part of which she was ever reimbursed, and that she believes, and so charges the fact to be, that the payment of \$250 for the interest said plaintiff had in and to said land and premises was an adequate and full compensation for the same. That, if said plaintiff did not know the value of his interest in said property at the time of said sale, he had the same opportunity for ascertaining and determining the value thereof as said defendant, and could have easily and readily done so; that in his failure to have done so ere the commencement of this action said plaintiff has been guilty of laches in the premises.

" 9 Wherefore, said defendant demands judgment, that said plaintiff take nothing by this action, and that she be hence dismissed with her costs and disbursements herein.

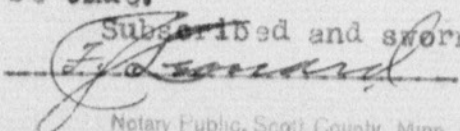
  
Jordan, Minn.,

Atty. for Deft.

-----o-----  
State of Minnesota,  
County of Scott.

Theresa Kehrer being first duly sworn deposes and says, that she is the defendant in the action above entitled; that she has heard read the foregoing pleading, and knows the contents thereof, and that the same is true of her own knowledge, except as to matters stated on her information and belief, and as to those matters she believes them to be true.

Subscribed and sworn to before me this 20th day of Feb. 1914.

  
Notary Public, Scott County, Minn.  
My Commission Expires May 8, 1916.

# 168

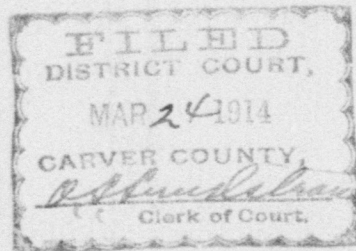
State of Minnesota,  
County of Carver,

Mat. Linnam,  
Plff.

v. vs. v.

Theresa Kikero,  
Def't.

Answer.



J. J. Leonard  
Jordan, Minn.,  
Atty. for Def't.

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State of Minnesota,  
County of Carver, ss.

In District Court,  
8th Judicial District.

Mathias Lienau, Plaintiff,

vs.

Reply.

Theresa Schmidt Kehrner,  
Defendant.

1.

Comes now the plaintiff and for his Reply, if such be necessary, to defendant's Answer, alleges:

That he has not sufficient information or knowledge concerning the allegations contained in paragraph "6" of said Answer, to form a belief.

11.

the plaintiff denies that the defendant, either individually or in any other capacity, necessarily or otherwise, laid out or expended any sum of money whatever for the payment of taxes, insurance or repairs of said estate at such times or under such conditions as to be reimbursed therefor from this plaintiff or have the same deducted from the value of the interest of this plaintiff in said real estate. The plaintiff denies each and every other allegation contained in paragraph "7" of defendant's Answer.

Wherefore the plaintiff demands judgment and a Decree as prayed for in his Complaint.

State of Minnesota,  
County of Carver, ss.

*Francis Muekel*  
Attorney for Plaintiff,  
Post-office Building,  
Chaska, Minn.,

I Francis Muekel, on oath depose and say that I have read the foregoing Reply and that ~~that~~ the statements and allegations therein contained are true to the best of my knowledge, information and belief and the reason this verification is not made by the plaintiff is, that the plaintiff is not present and is not a resident of the County of Carver, Minn.,

*Francis Muekel*

Sworn to before me this 14th of March 1916.

*John Kereses*  
Judge of Probate, Carver Co.,  
Minnesota.

State of Minnesota

ss.

County of.....

.....being first duly sworn upon oath says  
that he is.....the.....in the foregoing  
and within entitled action; that he has heard read the foregoing.....  
that the same is true.....of h own knowledge, except as to  
matters therein stated on information and belief, and as to such matters he believes it to be true.

Subscribed and sworn to before me this.....day of  
.....19.....

Notary Public.....Minnesota

My Commission Expires.....

State of Minnesota

ss.

County of.....

.....COURT.

.....JUDICIAL DISTRICT.

AGAINST

Plaintiff.

SUMMONS

Defendant.

The State of Minnesota to the Above Named Defendant:

You.....are hereby summoned and required to answer the com-  
plaint of the Plaintiff in the above entitled action, which complaint is hereto annexed and herewith served  
upon you.....Court, at the.....  
County of.....and State of Minnesota, and to serve a copy of your answer to the  
said complaint on the subscriber , at.....office, in the.....of.....  
in said county of.....within.....days after service of this summons upon  
you, exclusive of the day of such service; and if you fail to answer the said complaint within the time afore-  
said, the plaintiff in this action will take judgment against you for the sum of.....  
.....Dollars, (\$.....) with interest at the rate of.....per  
cent per annum since the.....day of.....19.....  
.....  
.....  
together with Plaintiff's costs and disbursements herein.

Dated.....19.....

Plaintiff's Attorney.

.....Minn.



State of Minnesota

County of

ss.

being first duly sworn upon oath deposes  
and says, that at the in said County and State, on the  
day of 19, he served the within  
upon the  
therein named, personally, by  
leaving with said at the house of the usual abode of said  
with a  
person of suitable age and discretion, then resident therein, a true and correct copy of said

Subscribed and sworn to before me this  
day of 19

Notary Public, County, Minn.  
My Commission Expires

State of Minnesota

County of

Court

Plaintiff.

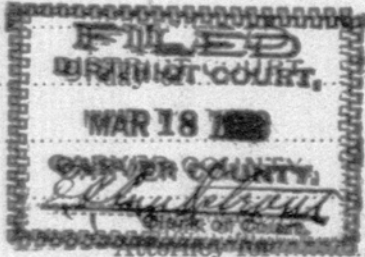
vs.

Defendant.

Due and personal service of the within

noted and admitted

this



FRANCIS MUEKEL  
CHASKA, MINN.

Attorney for

#  
25  
2

Now comes said defendant and objects to the introduction of any evidence, and moves for judgment on the pleadings 10

for the reason that said complaint does not state facts sufficient to constitute a cause of action, and more particularly in this:

1. That it appears on the face of said complaint that almost three years elapsed after the giving of the deed in question by the plaintiff before she instituted suit, and has in consequence been guilty of laches.

2. That it appears on the face of said complaint that more than two months elapsed after plaintiff admits she acquired knowledge of the claimed fraud before she instituted suit herein, and in this respect has been guilty of laches.

3. It appears that the instrument in controversy, to-wit, the said deed, is the only instrument given and includes and covers all of the property conveyed and for one consideration and in a lump sum, and not a conveyance by several deeds of the different tracts and a separate consideration for each, but the several tracts were sold together for one and an indivisible consideration, and it also appears that this ~~can~~ action is to rescind this instrument in part and ratify it in part, - to ratify and confirm the deed as to the 7-acre tract, and rescind it as to all the other tracts, not to ratify or rescind in toto.

4. It appears on the face of said complaint that a part of said property, to-wit, the 7-acre tract has been conveyed by said defendant before instituting this suit and now in the hands of an innocent purchaser, and as a result it again appears that plaintiff has been guilty of laches and that this defendant cannot be placed in statu quo.



# 167

How comes said defendant and others

FILED  
DISTRICT COURT,  
MAR 29 1916  
CARVER COUNTY,  
Clerk of Court.

F 168

production of any evidence, and moves for judgment on  
the ground that the plaintiff has failed to establish a  
prima facie case of conversion, and that the defendant  
has established a complete defense.

1. That the plaintiff has failed to establish a  
prima facie case of conversion, and that the defendant  
has established a complete defense.

2. That the plaintiff has failed to establish a  
prima facie case of conversion, and that the defendant  
has established a complete defense.

3. That the plaintiff has failed to establish a  
prima facie case of conversion, and that the defendant  
has established a complete defense.

State of Minnesota,

District Court

County of

Carver

ss.

Eighth

Judicial District

Matthias Leneau, Plaintiff

- vs. -  
Theresa Schmidt Kehrens, Deft.

## AMOUNT OF JUDGMENT OR VERDICT

Amount of Judgment or Verdict, - - - - - \$

Interest on same from the day of 191 \$

## Defendants COSTS AND DISBURSEMENTS

Statutory Costs, - - - - - \$ 5

3 Affidavits, - - - - - \$ 75

Acknowledgments, - - - - - \$

Sheriff's Fees, - - - - - \$ 2.60

Jury Fees, - - - - - \$

Clerk's Fees (to be taxed), - - - - - \$ 5.65

Witness Fees, viz: (Give name of each Witness, Residence, Number of Days and Dates of Attendance and Number of Miles Traveled)

| NAMES          | RESIDENCE    | NO. DAYS ATTENDANCE | DATES OF ATTENDANCE | NO. MILES TRAVELED |         |
|----------------|--------------|---------------------|---------------------|--------------------|---------|
| Al. Hagie      | Jordan, Minn | 1                   | Mar 29, 1916        | 20                 | \$ 2.20 |
| Louisa Richter | "            | 1                   | " " "               | 20                 | \$ 2.20 |
| Frank Reiser   | Chaska " "   | 1                   | " " "               | 20                 | \$ 1.12 |
| John Brinkhaus | Chaska " "   | 1                   | " " "               | 2                  | \$ 1.12 |
| J. M. Arel     | " " "        | 1                   | " " "               | 2                  | \$ 1.12 |
| W. J. Arel     | " " "        | 1                   | " " "               | 2                  | \$ 1.12 |
| Mr. Basine     | " " "        | 1                   | " " "               | 2                  | \$ 1.12 |

The above Bill of Costs and Disbursements taxed and allowed at \$

Dated May 9th 1916

Total Amount, \$24.00

J. J. Leonard  
Clerk

## AFFIDAVIT OF DISBURSEMENTS

State of Minnesota,

County of

Scott

ss.

F. J. Leonard

being duly sworn, says on oath, that he is the Attorney of the defendant in the above entitled action; that the foregoing is a true and correct statement of the costs and disbursements of said defendant in the above entitled action; and that the foregoing items of disbursements, and each item thereof, have been actually and necessarily paid or incurred therein, by and on behalf of said defendant; and that each of the above named witnesses was a material witness for the said defendant in said action, and was duly sworn, and testified on the trial of said action, on behalf of said defendant. That each of said witnesses actually and necessarily traveled the number of miles above set opposite his name, in going from his said place of residence to, and returning to said place of residence from, the place of trial of said action, and for the purpose of so testifying, actually and necessarily attended said Court the number of days and on the dates hereinbefore stated; and that the residence of each of said witnesses is at the place above stated.

Subscribed and sworn to before me this 5th day of May 1916

W. H. Ahlman  
Notary Public  
County, Minn.

My commission expires Jan. 4, 1923

F. J. Leonard



NOTICE OF TAXATION OF COSTS

State of Minnesota,  
County of Cass ss.

District Court  
Eighth Judicial District

Mathias Jensen, Deft.  
vs.  
Theresa Schmidt Jensen, Deft.

Sir: Please Take Notice, That on the

9th day of May 1916

at St. Cloud, Minn. My application will be made to the  
Clerk of said Court, at his office in the County of Cass and State of Minnesota,  
of Chaaska in the County of Cass and State of Minnesota,  
to have the within bill of costs and disbursements taxed and inserted in the judgment then and there to  
be entered therein.

Dated May 10, 1916  
County of Scott. Yours respectfully,

P. J. Leonard being first duly sworn deposes and  
swears, that he is attorney the attorney of the defendant within named  
and resides at Jordan, Minn.; that Frank Mursel is  
the attorney of the within named plaintiff and resides at Chaaska  
Minn.; that on the 5th day of May 1916 he deposited in a properly  
sealed envelope a copy of the Notice & Bill annexed in  
the most said Jordan properly attested to said Frank Mursel  
at Chaaska, Minn. with the postage fully prepaid thereon, and  
that there was then a regular communication by mail between said Jordan  
and said Chaaska.

Subscribed and sworn to before me this 6th day of May 1916  
McLennan  
Notary Public, Minn.  
My Comm. Exp. 1-4-23

Howard

#168  
DISTRICT COURT  
Eighth Judicial District  
County of Cass

Math Jensen, Deft.  
vs.  
Theresa Jensen, Deft.

Notice of Taxation of Costs and Bill of  
Costs and Disbursements

Due service of the within bill of disburse-  
ments and affidavits to same, and notice of  
taxation thereof, by delivery of copy thereof,  
is hereby admitted this \_\_\_\_\_ day of  
1916, at \_\_\_\_\_

Attorney for \_\_\_\_\_

Filed this 8th day of May  
A. D. 1916.  
D. Lindstrom  
Clerk



NOTICE OF TAXATION OF COSTS

State of Minnesota, } ss. District Court  
County of Carver } Eighth Judicial District

Mathias Jensen, Deft.  
vs.  
Theresa Schmidt Kehrer, Deft.

Sir : Please Take Notice, That on the 9th day of May 1916  
at 9 o'clock A. M., application will be made to O. F. Lundstrom, Esq.,  
Clerk of said Court, at his office in the Carver House in the City  
of Shastota in the County of Carver and State of Minnesota,  
to have the within bill of costs and disbursements taxed and inserted in the judgment then and there to  
be entered therein.

Dated May 5, 1916  
Yours respectfully,

To Frank Mueller  
Attorney for Deft.

O. F. Lundstrom  
Attorney for Deft.

#168  
DISTRICT COURT  
Eighth Judicial District  
County of Carver

Math. Jensen, Deft.  
- v -  
Theresa Kehrer, Deft.

Notice of Taxation of Costs and Bill of  
Costs and Disbursements

Due service of the within bill of disbursements and affidavits to same, and notice of taxation thereof, by delivery of copy thereof, is hereby admitted this 19th day of May 1916, at

Attorney for

Filed this 8th day of May  
A. D. 1916.  
O. F. Lundstrom Clerk



STATE OF MINNESOTA }  
County of Carver } ss.

DISTRICT COURT  
Eighth Judicial District

Mathias Lienau, Plaintiff,

VS

Theresa Schmidt Kehrler, Defendant.

JUDGMENT.

The above entitled cause came duly on for trial before the Court without a Jury, at the Court House in the City of Chaska, in said County of Carver, on the 29th day of March, A.D. 1916.

Francis Muekel, Esq. appeared for the plaintiff and F. J. Leonard, Esq. appeared for the Defendant.

Upon the offer of evidence on the part of the plaintiff the defendant objected to the introduction of any evidence and moved for Judgment on the pleadings upon grounds reduced in writing and filed herein.

The said Court by its Order made and filed herein granted said motion.

Now, Therefore, upon motion of F. J. Leonard Esq., Attorney for said defendant, It Is Hereby Ordered, Adjudged, and Decreed, and the Judgment of said Court is, That said defendant have and is hereby given Judgment in her favor herein on the merits and that she have and recover Judgment against said plaintiff for the Costs and Disbursements herein taxed and allowed at Twenty Four Dollars (\$24.00), and that she have execution therefor.

Dated at Chaska, Minn. this 10th day of May, 1916.

By the Court,

*W. L. Lundstrom*  
Clerk of said Court.

#168

# DISTRICT COURT

County of Carver

Mathias Linna  
Plaintiff

AGAINST

Theresa Schmitt Krier  
Defendant

## JUDGMENT ROLL

Filed May 10th A. D. 1916

D. Lindstrom  
Clerk of the District Court.

No. 1071

E169