State of Tennessee
Blount County
Second Circuit

Be it remembered that at a ~~court~~ circuit court, began and held for the county aforesaid at the courthouse in Maryville on the first Monday of February 1810 a caveat was transmitted from the caveat court of the county aforesaid in these words "

State of Tennessee } Office of the Surveyor General for the District South of French broad and Holston —

Cornelius Buck and James Brandon enter a Caveat against John McNeiley to prevent him from obtaining a Grant for a survey of three hundred and nine acres and three roods of land surveyed the 27th day of April 1807 by John Wilkinson deputy surveyor for said District for said John McNeiley situate lying and being in the county of Blount in the District aforesaid on pistol creek survey beginning at a Blackoak stump corner to Cornelius Alexander and Robert McNutt thence north one degree west three chains and thirty five links to a stake on pistol creek thence south 58 degrees and 3/4 ~~degrees~~ west one hundred and twenty one chains to a postoak &c the several courses and distances of which will more fully appear reference being had to the plat and certificate of said survey filed in said Office on

the 31st day of August 1807 by said John Wilkinson. To which said Tract of land said Cornelius and James claim Title by virtue of the oldest and best improvement on the same and by virtue of the right of occupancy and preemption to the same which title to the said tract is vested in them by purchase under Josiah Danforth in whom the said right was vested wherefore they pray that no grant do issue to the said John for said land until the right to the same can be investigated and a trial be had and that the right of preemption and Occupancy be adjudged to said Cornelius and James and that they be allowed to obtain a Survey and Grant for the same

Cornelius Burk
James Brandon } by
James Trimble

December 13th 1807

Accompanying which Caveat is the following plat and certificate of survey

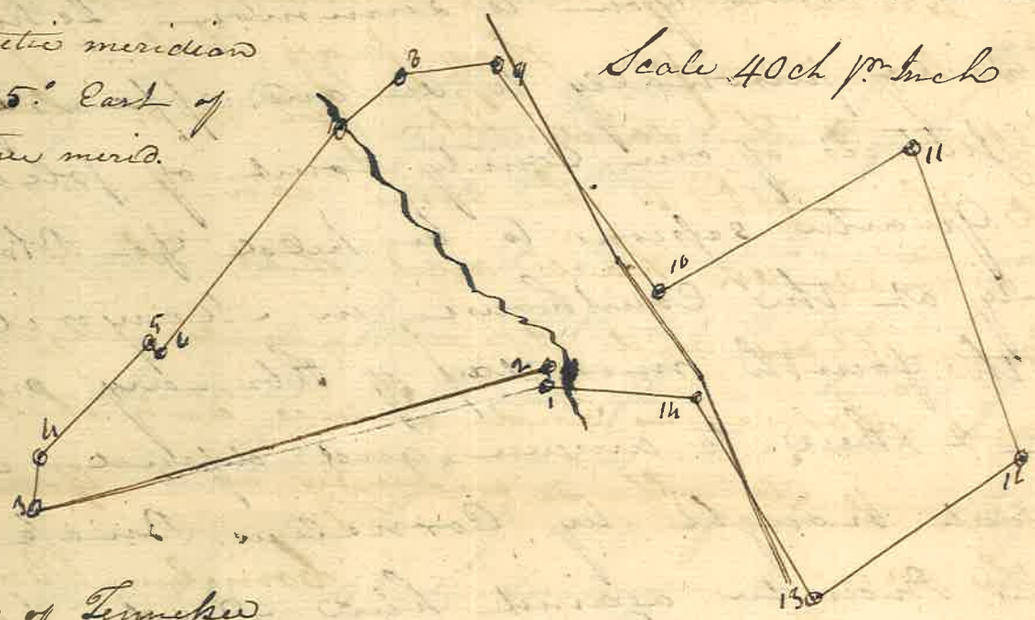
John McNeely 300 A 30 P
Beginning at a Walnut Stump
Corner with Cornelius
Alexander & Robert McNutt

No	Courses	Dist Ch. Lks	By whom & what bounded	Corners	Roads & water courses
1	N. 7 W.	3 . 35	with the land of Cornelius Alexander	to a stake on Pistol creek	
2	S. 58¾ W.	121. 00	Same	Post oak	
3	N. 11 E	12 25	Vacant land	Three pines	
4	N. 30¾ E	36 00	James Wear	Stake	
5	N. 58¼ W	2. 18	Same	Post oak	
6	N. 24½ E.	64 - 21	George Worley	Post oak	

7	N. 30. E	18	25	James Houston	Sycamore on Pistol creek	
8	N 66 E	22	28	Same	Pine	
9	S. 54 E	64	23	John Rupley	Stone	partly with road to Rankins Jury
10	N. 43. E	67	00	Same	Blackoak	
11	S. 36 E	75	29	David Eggleton	Postoak	
12	S. 39 W.	57	00	David Owens	Blackoak	
13	N. 50½ W	54	20	Robert McNutt	Postoak	32 Chs to Ro to Rankins
14	S. 71½ W.	30	45	Same	to the beginning	25 Chs crossing pistol creek

Magnetic meridian Var. 5° East of the true merid.

Scale 40 ch pr Inch



State of Tennessee

District south of French broad & Holston

Pursuant to the laws in such case made and provided and by virtue of a deputation from Robert Wear Esq. Surveyor General for the District aforesaid completed April 27th 1807 the Survey of a tract of land for John McNeily claimed and held by right of preemption improvement and occupancy being a part of the original improvement right of John Irwin situate on Pistol creek in Blount county in the District aforesaid containing three hundred and nine acres and three roods Being bounded as above

described and represented by the prefixed plat

John Wilkinson D.S.

Whereupon the following subpena issued

State of Tennessee To the Sherriff of Blount county greeting

We command you to summon Robert McNeiley personally to be and appear before the Justices of our County court of pleas and Quarter sessions to be held for Blount county at the Courthouse in Maryville on the fourth monday of February next then & there to answer and defend a caveat brought by Cornelius Buck and James Brandon against him And have you then and there this writ and how you have executed the same Witness James Houston clerk of our said Court at Office the fourth monday of November 1807 and 32d year of american independence

J Houston C.B.C

On which subpena the Sherriff of said county made the following return

Rec.d 21st of December 1807 A. Cowan D. Shff

Executed the 4th of January 1808

A Cowan D. Shff

Which cause being in this court was continued from day to day and from Term to Term until August term 1814 At which time came the parties by their attorneys and thereupon the following Jury was empanneled and sworn to try such issues of fact as should be submitted to them in this cause. (To wit)

John Williams Thomas Maxwell Peter Snider Samuel Gould John McReynolds John Gould William Pride John Shain Larry McMachan James Ewing John Cox & Major Beavers To whom were submitted the following issues To wit

1st Is the land described in the Caveat included in the Defendents surveys

2d Was John Erwin in possession of the land in dispute and described in the Caveat on the sixth of February 1796 holding and claiming it for himself and how long did he continue in possession

3d Did not said John Erwin on the 14th day of September 1797 sell and convey the said Tract of land to Josiah Dunforth for a full and valuable consideration which was afterwards paid by said Josiah

4th Did not the said Josiah Danforth on the 9th day of April 1802 sell and convey said tract of land to John Lowry and John Montgomery in trust for Buck and Brandon the Caveators

5th Did not the said John Lowry and John Montgomery agreeable to the terms of trust on the 27th day of May 1807 convey said tract of land to the Caveators

6th Did the Trustees twenty days previous to a sale of said land give public notice of the time and place of selling the same in a Gazette published nearest the premises and by advertisement at the Court house in Blount County

7th Or were the Trustees requested by Buck & Brandon or Josiah Danforth to make sale of the land in the Dispute

8th Did the possession of the land in the dispute accompany the Deed under which the plaintiffs claim Title from the Trustees or were the Trustees Lowry & Montgomery ever in possession of the same —

9th Did Josiah Danforth sell and convey the land in dispute to the Defendant and if so when, had the Defendant at the time he purchased any notice of the land being included in the Deed of Trust under which the plaintiffs claim the same

10th If the land in dispute were conveyed by Josiah Danforth to M'Neiley was it for a full and valuable consideration or was it not fraudulently made

11th Does the plaintiffs Deed from the Trustees under which they claim the land in dispute include all the land surveyed for the Defendant and if not how much of said land does said Deed include

To which issues the Jury returned the following answers —

To the 1st Issue — Yes
2d Ditto — yes & continued in possession one year & eight months
3d Ditto — Yes
4 Ditto — Yes
5 Ditto — Yes
6 Ditto — Yes
7 Ditto Yes

8th Ditto No
9th Ditto No sale

11th Ditto All the land of said claim

Whereupon the plaintiffs by their attorney prayed Judgment on the facts as aforesaid found by the Jury — And it is therefore considered by the Court that the Defendants survey be void and that the plaintiffs have the right of survey to the land in dispute and that the plaintiff recover of the Defendant their costs by their about their suit in this behalf sustained

State of Tennessee } I Jesse Boone Clerk pro tempore of the Court of the
Blount County } County aforesaid ~~[illegible]~~ do certify that the foregoing Transcript is a true Copy of the record & proceedings had in the suit Buck & Brandon against John McNealy in the Court aforesaid now remaining in my office

Seal

In testimony whereof I have hereunto set my name and affixed my private seal having no seal of office at office this 15th day of August 1815 and 40th year of American Independence

Jesse Boone Clk p.t.

— 69 —

John McNeily
vs
Cornelius Buck &
James Brander

Filed Aug 5 1815
in my Office
T. Emmons

State of Tennessee viz

Supreme Court of errors and appeals of the second judicial circuit of the said State.

John McNeely
vs
Cornelius Buck &
James Brander
} In Error

And now at this day to wit the 5th day of August 1815. comes the said John McNeely by his attorney and says in the Record and proceedings in this cause in the said Circuit Court of Blount County there is manifest Error in this that judgement was rendered by the said Court in favor of the said Cornelius Buck and James Brander when by law judgement ought to have been rendered for the said John McNeely and for these and other Errors apparent in the Record of the said Cause said John McNeely prays that said judgement rendered by the said Circuit Court may be reversed annulled set aside and for naught held and that judgement may be rendered therein for and in behalf of him the said John McNeely

John Wilkinson
Attorney for Plaintiff in Error

John McNeely
Jr Esq

Cornelius Rush &
James Brandes

Department
of State

Know all men by these Presents that We John McNeely, James McNeely & Robert Richey are held & firmly bound unto Cornelius Buck & James Brandon in the Sum of One thousand Dollars to which payment well and truly to be made and done, we bind ourselves, our and each of our Executors or administrators firmly by these Presents. Sealed with our seals & dated this 4th day of August 1815.

The Condition of the above Obligation is Such that Whereas the above John McNeely hath this day Obtained a Writ of Error to remove a cause from the Circuit Court of the County of Blount to the Supreme Court of Errors and Appeals wherein Cornelius Buck & James Brandon are Caveators the said McNeely is Caveator —

Now if the said McNeely shall prosecute said Writ of error with effect, or in case of failure that he will pay all costs that may be awarded against him then the above Obligation to be void Otherwise to be and remain in full force and virtue

Attest

John A. Gamble

John McNeely Seal

James McNeely Seal

Robert Richey Seal

Blount County October 30th 1815

To the Clerk of the supreme Court of Error and appeals of the Second Circuit of the State of Tennessee

Sir you will please to dismiss a writ of Error I have depending in said Court against James Brander & Cornelius Buck as I wish to prosecute said writ of Error no further the cause was removed from the Circuit Court of the County of Blount by me to reverse the judgment of said Circuit Court in a caveat cause determined against me

John McNeely

Test

Enoch Pearson

Order to dis –
McNeily
To
Buck & Brander

C McNeily's
Order to
Emmerson,
To dismiss a
writ of Error
chancery
by
Buck & Brander

John Menilly
vs
Beck & Brandon } Holsmiers

In this cause the Record shews the Defendants in Error to be the Legal and Bonafide purchasers of the Land in controversy from the Commonwealth or those holding under him on the 6th of February 1796 and that the Defendant has no Title either Legal or Equitable

The only Question is whether the fair and Bonafide purchasers for full consideration is entitled to a Survey & Grant for this Land or the naked possessor without colour of Title either in Law or Equity if the Law is in favor of the purchasers the Judgment must be affirmed

W. Campbell atty for Defts in Error

Geo Mungilly
Wm Stephens
Buck & Brouder

Wm Minnilly
C Buck & Z Brander

Court of appeals 2d circuit
November Term 1815

And said defendants by their attorney come and say that there is no Error either in the Record and proceedings aforesaid or in the Judgment of the Judgment aforesaid and likewise pray that the court now here may proceed to the Examination as well of the Record and proceedings aforesaid as of the matters aforesaid assigned for Error and that the Judgment aforesaid may be in all things affirmed

McCampbell atty
for Defts in Error

Geo Murphy
Y Ypsila
Back 1 Brooder

Tax — — — — 1.00

Trans — 1.60
Errors pleadings Statement } 40
2nd Tax — 2.00 — 4.00

Ella McCamp 6.25

$11.25