No. 8427

Supreme Court of Illinois

W. K. Carr

vs.

Zadoc Casey et al

At a Circuit Court begun and held at Mount Vernon in the County of Jefferson and State of Illinois, on the dates hereinafter named, the following proceedings were had in a certain suit wherein Nancy Dotson was complainant and Zadok Casey and Thomas S. Casey were defendants.

Present and presiding Honorable Downing Baugh, Judge, John S Bogan Clerk, and William Dodds Sheriff, to wit;

State of Illinois }
Jefferson County } sct.

The People of the State of Illinois. To the Sheriff of said County - Greeting; We command you to summon Zadok Casey and Thomas S. Casey if to be found in your County to appear before the Circuit Court of said County on the first day of the next term thereof, to be holden at the Court House in Mt Vernon on the fourth Monday in the month of September next, to answer Nancy Dotson in a Bill in Equity, and hereof make due return to our said Court, as the law directs.

Circuit Court S.P. Jefferson County Illinois

Witness T. B. Tanner, Clerk of our said Court, and the Judicial Seat thereof at Mount Vernon this 28th day of August A. D. 1854.

T. B. Tanner Clerk

Endorsed. "Executed the within Summons by reading & leaving a copy of the same with Defd Thos. S. Casey Sept 5. 1854. Fees Serving & returning 1.60 W. Dodds Shff J. C."

"August 28. 1854. Executed by reading and leaving a true copy of the within summons not found in my County. Fees Serving 50 cts Mileage 10 cts W. Dodds Shff J. C."

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Order of Court

September Term Jefferson Circuit Court
Monday September 25. 1854.

Nancy Dotson
vs
Zadok Casey &
Thomas S. Casey

Bill in Chancery

Now on this day came the parties by their Solrs. and R. T. Nelson Solr for complainant asked leave that time be given until the first of January to amend the Bill of said Complaint. And the Court being advised in the premises granted leave as asked by the counsel, and ordered the cause to be continued to the next Term of this Court at the cost of the said complainant.

Amended Bill

Jefferson Circuit Court May Term A.D. 1854.

To the Honorable Dawning Bangs Presiding Judge of the Jefferson Circuit Court in Chancery sitting:

The amended Bill of Nancy Dotson formerly Casey a resident of Marion County in the State of Tennessee - respectfully sheweth unto your Honor, that she your oratrix is the widow of one John Dotson now deceased and the sister of one Sarah Pigot late of the city of New York also now deceased, whose maiden name was Casey and who was the wife of one Aaron Pigot formerly a resident of the City of New York also now deceased, as hereinafter more particularly mentioned. That your oratrix is also the first cousin of one Zadok Casey who is a resident of Jefferson County State of Illinois, and the second cousin of his the s.d Zadok's son Thomas S. Casey, also a resident of the

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same County and State as was also her sister the sd. Sarah above mentioned. That the said Sarah had besides your oratrix several other brothers and sisters, some of whom with your oratrix survived her, and others died before her the sd. Sarah leaving heirs at law - nephews and nieces of the said Sarah - That the said Sarah had in all nine brothers and sisters including your oratrix, one of whom died without issue before the said Sarah, and others died before her the sd. Sarah leaving children, their heirs at law as above stated -

That your oratrix has been for 30 years and upwards a resident of the State of Tennessee, and has never been out of the State during that time, and of the said Sarah, who moved from the State of Georgia many years ago with her husband the sd. Aaron, to the city of New York (of which she had been a resident for some 30 years previous to her death) your oratrix knew nothing save that she had a sister who was married to a man of the name of Pigot, but of her circumstances or condition in life, or being even alive your oratrix knew nothing for several years before and at the time of her decease,

That your oratrix can neither read or write and is seventy five years of age and upwards, and never visited or corresponded in any manner whatever with the said Sarah for some 40 years before her death, which happened sometime in the Spring of the year 1844, not having during all that time either seen or heard from her, she having all that time lived either at a distance from her in the State of Georgia, or in the City of New York aforesd. - That your oratrix has for several years past from age and bodily infirmity been in a manner almost entirely incapable of transacting her own business and both on account of her infirmities aforesd. as well as

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her ignorance of letters, and on account of weakness of mind consequent upon her age and inability to read or write as aforesd. she has for several years past, when she had any business to transact, been entirely governed by the advice of those in whom she reposed confidence, having in truth and in fact no mind of her own, and such may it please Your honor was her situation and condition in life at the time of her being induced to execute the release or receipt to the said Zadok as hereinafter mentioned, being withal at the time of the making thereof in extreme poverty and wholly dependent upon her children who were and still are in poor and needy circumstances, as was also the condition at the same time of most of the brothers and sisters of the said Sarah & their children.

Your oratrix would further state that she resides in Marion County Tennessee where she has lived for several years past at the house and in the family of her son-in-law one Jenkins Swindle, and that one Peter King who is a brother-in-law of the said Zadok Casey, resides in the sd. last mentioned County and State at the distance of about one mile from the house of her said son-in-law, and that the said Zadok formerly resided in the same County and State and moved from there some 30 years ago into the State of Illinois, That your oratrix was acquainted with the sd. Zadok from his infancy & until he left Marion County Tennessee was on terms of the greatest intimacy and friendship with him the sd. Zadok cemented by their near relationship. And from the time the said Zadok began to do for himself & whilst but a youth, though in very poor and needy circumstances as was your oratrix herself & her family - she your oratrix as well as her husband John Dotson looked

upon and treated him the said Zadok as one of their own children and almost as near and dear to them, not alone on account of his relationship as aforesd. but the said Zadok when a young man was known to her, & others as a professor of religion and minister of the gospel he being a preacher in the Methodist Episcopal Church for some time before he left Marion County Tennessee, for the State of Illinois, when he the said Zadok to the great delight of herself and family became still more distinguished both as a minister of the gospel and statesman and withal a man of wealth, compared to her poor and needy condition in life, which she and her said husband were fully apprized of from time to time, by neighbors & friends, who visited them from Illinois, altho' it is true she heard nothing more from the sd. Zadok himself, after he commenced rising in life, until his unexpected and unlooked for visit to her in 1844 when he the said Zadok was in the hight of wealth and prosperity and your oratrix was in or about her 65th year of her age and in circumstances as before stated, the very reverse of every respect; and your oratrix would here state that from all the above circumstances combined he the said Zadok who was also then in the prime of life and mental vigor had and exercised the most unbounded influence over the minds of herself and husband, who like herself was old & illiterate and infirm both in body and mind, at the time of his visit to them in the Spring of 1844 as aforesd. and the truth is may it please your honor so much confidence had they then in the said Zadok, that nothing short of the most plain and positive evidence would have induced them to believe that the said Zadok was anything, but a disinterested and benevolent friend,

as well as a great & good man, and a blood relation of whom she had every reason to be proud.

It was under these circumstances may it please your Honor that he the said Zadok having such a fast hold upon the affections and understandings of your oratrix and her said husband John Dotson as to be able by abusing and betraying their confidence so reposed in him as aforesd. to obtain from her a transfer and Power of Attorney as she has since been informed authorizing him to collect & receive for his own benefit her share of her said sisters estate in the Spring of 1844 aforesaid, which said transfer or whatever it was, was obtained from her & her sd. husband, or from herself alone, for she has forgotten how it was, by his first pretending to visit them as a friend and relative, and conversing with them as such, and completely dissipating thereby anything that had the most remote tendency to awaken suspicion, telling them of the death of Mrs Sarah Pigot and with it mixing up such remarks as were suitable to the occasion, & then in connection with the same discourse going on to state that she had, it was said, some estate, but it was very uncertain whether anything could be got or not, as it was involved in law - he however didn't know, he thought he would make them an offer but it was like throwing money away - that he really thought $100 would be a full share & he was getting too old to engage in such business, that he should have a heavy lawsuit if he ever got anything and it would hardly pay him but he would give your oratrix a horse at $100, and fifty dollars in cash for her interest, and these statements with a variety of desponding remarks, such as that the estate was not worth more than $100 to the share and he feared he would not get his

money back, and such like, all having a tendency to render the case of the heirs hopeless induced her self her share for that amount nominally (for the horse was really not worth more than $50 in cash) with her husbands consent but not a word did he the said Zadok tell her or her husband about the value of the estate or what was coming to her, or the circumstances in which the estate of her deceased sister was placed after death or what he had been doing himself or that he had been doing anything as their Attorney agent or in any other capacity, but just simply stated that he had heard something about it when in New York on his own business - and so your oratrix executed a paper which was rather read to her, & which she could not herself read - which she has since been told was a transfer and power of attorney drawn in the most skillful & scientific manner, and made to wear the appearance of candor honest and fairness to so great a degree, as for its excessive fairness to render it fraudulent on the face of it, and which she charges was fraudulent in fact for the reasons hereinabove & hereinafter mentioned. That the said Zadok having obtained all he wanted of her at that time, left shortly afterwards as she supposes to follow up what he had so happily begun, by calling upon the other heirs of s.d. Sarah who were poor and ignorant like herself with some few exceptions perhaps, of which she however is by no means certain, and your oratrix did not see any thing more of the said Zadok, nor ever dream of his calling upon her again in reference to her sisters estate for she your oratrix really believed she got all that was coming to her from her sisters estate, or nearly so and the said Zadok was out of the purest motives venturing his money to accommodate her, by giving her more than

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from what he said to her, he would in all probability ever get, and she in truth and in fact felt thankful to him the s.d Zadok as her greatest benefactor for buying her share, & she thought when she signed said transfer in 1844 that it was simply a receipt for the money, and never more thought about it. But he the said Zadok did think about the matter so much as not to call upon her again at her own house, it is true, but to send for her to call and see him some-time in the Spring of the year A. D. 1853, in the month of May as she best recollects at the house of his brother-in-law Peter Kings, who resides in Marion County Tennessee as afores.d and after several messages being sent to her in succession, at last his the said Zadok's son Thomas S. Casey came to the house of one Nash's (where she happened to be staying on a visit at the time, but was about leaving to go back to her son-in-law) a near neighbor and told her that his father was sick at Peter Kings and that he wanted to see her and was too sick to come and see her, That your oratrix was then old and infirm as hereinbefore stated much more so than she was when she executed the transfer in 1844 being ten years older and a widow, and much poorer and more needy than she was when the s.d Zadok the last time called upon her - having become so weak in body and mind as to become solely dependent upon her son-in-law for a support - yet old and infirm as she was she could not resist going when the son of her friend, benefactor and near blood relation came for her, and she accordingly went by a nearer way than common, along with s.d Thomas S. Casey and a son of s.d Peter Kings by going which near way to s.d Kings she unfortunately did not pass her son in-laws where she lived, for it in all probability would have saved

her from the snare, may it please your Honor, that was laid for her (and into which she fell at the said Peter's) by the said Zadok and his said son Thomas S. Casey and other conspirators to your oratrix unknown as aforesd. as hereinafter mentioned.

That on her arrival at Peter Kings the said Zadok appeared somewhat unwell but immediately upon coming into the house after asking her how she was he told her that he wanted her to renew her contract with him that she was not entitled to anything in fact, but if she would sign a paper he produced he would give her one hundred dollars, he further represented in a very brief manner, that he had a lawsuit, which he either had or would lose by false swearing, and lies had been sworn against him, and that he had been greatly wronged by false swearing all of which was perhaps repeated in the presence of sd. Thomas and said Peter King who advised her from what the sd. Zadok said, to sign it - and your orator, without reading the said paper, or hearing it read, executed it without reluctance, for the fact is, may it please your Honor she did believe that the said Zadok told the whole truth and nothing but the truth about it, and supposed he was only calling on her for another receipt because the first paper she signed in 1844 was not properly written or drawn right, and she was just doing the same thing over again, and she did actually believe that he the said Zadok had given her, as he led her by his conversation to believe, a pure bonus of $100 which she was not legally entitled to if he the sd. Zadok thought proper not to give it, but she never for one moment supposed she was executing a release when she executed said paper writing as the same was never read to her, and what was the amount

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of her share of her sisters estate when she executed the first transfer or power of Attorney in the year 1844, she did not then know, nor did she know the amount thereof when she executed the second paper in 1853 nor was she in any manner whatever by the said Zadok apprized of the nature, amount or extent of her interest in her said sisters estate at any time nor why or wherefore he was calling upon her to execute another paper or receipt or whatever it was. But so it is may it please your Honor that she has since then been informed and has no doubt of the truth of it that her sisters estate, when she died was actually worth $15.429 in cash and upwards & was in fact with principal and interest, when she made s.d transfer worth over $16.000 and that the said Zadok fearing that she might institute a suit against him on account of the gross fraud practiced upon her by him when he obtained from her the first transfer and power of attorney, or whatever it was, for the recovery of her share of her sisters estate, came in the most secret and clandestine manner and procured thro' the agency of his son Thomas S. Casey & others a release or receipt of her interest in said estate a second time. And your oratrix has since the executing of s.d release or receipt in 1853 ascertained and charges it to be the fact, that the said Zadok had been for many years previous to the death of said Aaron and Sarah Pigots death a constant and assiduous visitor at their house, her sister and her husband being in comparatively affluent circumstances, whilst your oratrix and many of her co-heirs were widows and orphans and struggling in the most abject poverty. and as it afterwards turned out uncared for by him the s.d Zadok.

That during the said Zadoks visits to the City of New York he became thoroughly acquainted with their affairs & what they were worth, and did at the same time form an acquaintance with and make a confidant of one John A. Kane, a young man who had been raised and educated by the s.d Aaron as one of the family, who told him the s.d Zadok all about it. That Aaron Pigot himself was a preacher & was blind from age - that he had made a will constituting Nicholas Emmett and Thomas McFarlan & his wife Sarah his executors, and left his whole estate to his wife Sarah and after the making of his will died sometime in the month of March or April 1844, and his wife Sarah your oratrix's sister died in a few days afterwards whereby the whole of her estate, which was the said Aarons whilst living & was willed to her as aforesaid worth $15429 at the time of her death fell to your oratrix and her co-heirs in the proportion of one eighth part to each surviving brother and sister of the s.d Sarah or the children of each deceased brother or sister being $1928. to the share - which s.d amount your oratrix was entitled to as her share. That the said Zadok had been immediately apprized of the death of s.d Aaron and Sarah, and the value of their estate by John A Kane above mentioned, and whilst he kept the matter an entire secret from the said Sarahs heirs went himself to New York to superintend matters pretending to be acting on behalf the heirs and actually as their Attorney without their knowledge or consent in any manner whatever - consulted and employed counsel in reference to the estate of the said Sarah and by these means and others and particularly thro' the instrumentality of the said John A. Kane whom the said Zadok employed to take care

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of the said Sarah's estate until he the said Zadok had got transfers from them - got possession of all the information that was necessary in order to enable him to draw take & receive the whole of the money as soon as he got fixed for it - Your oratrix has also since ascertained and charges to be the fact that according to the laws of the State of New York which the s.d Zadok well knew at the time your oratrix executed the transfer and power of Attorney in 1844, she the said Sarah as the widow of said Aaron was absolutely entitled out of said Aaron's estate clear of all deductions to - first the sum of two thousand dollars and secondly one half the remainder in case of the said will being invalid, as in case of intestacy - and that your oratrix and co-heirs were entitled to the sum of $8.714 or the sum of $1.089 to each share irrespective of any will at all - as the representatives of the s.d Sarah & that too clear of all costs and charges whatever, irrespective of the will, and which was not in the slighest degree uncertain or involved in law, and that the only difference the will of the said Aaron made in regard to their rights was that they were entitled to $6.715 more under the will out of which said last mentioned sum of money would be deducted, the costs and expenses of administration in case of the said Aaron's intestacy & the balance would go to the said Aarons next of kin, but a will having been made the whole subject to the costs and expenses of executing the will would go to the said Sarah's heirs in equal proportions - that the estate of the s.d Sarah was worth in case the will of the said Aaron was a valid will from $14.000 to $16.000. That several of the heirs of s.d Sarah lived within 30 miles of said Zadok & your oratrix and others lived within two or three days

side of him, and that he without ever letting them know a word about the matter as soon he received intelligence from the said Kane of the s.d Sarahs death instantly went to New York himself and pretended to act as their attorney and agent and actually employed his man Kane to superintend and take care of the estate until he pretended it should be wound up, but in truth and in fact until he could buy up the shares of your oratrix and her co-heirs as hereinafter mentioned.

That one of the said Aaron Pigots brothers & others heirs of said Aaron being largely indebted to the said Sarahs estate knowing all the heirs of s.d Sarah to be non resident of the State of New York and ignorant of their rights strove to procrastinate the settlement of the said Sarahs estate by opposing the probate of s.d Aarons will in the probate and Circuit Courts of the City of New York without success and after appealing to the Court of Chancery dismissed the appeal without a trial or hearing of it, when the proceeds of said estate was ready to be paid over to the heirs of the said Sarah, when the said Zadok well knowing all the foregoing facts in relation to the condition and situation and value of said Sarahs estate, after having been twice to the City of New York on no other business than to watch said estate, and find out all that was necessary to be known in regard to it - in the latter part of the summer and fall of the year 1844, went round to all the said Sarahs heirs and amongst the rest to your oratrix, and without ever letting them know the true situation and condition of said estate, telling one the estate was willed to him another that the estate was only worth $100 to the share others that there was some estate but that it was in-

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volved in law, and it was doubtful whether they would ever get any thing, another that the expense of getting the estate would exceed the profit, and a variety of other representations which were either untrue or so mixed up with falsehood as to render their case, in their extreme poverty & condition in life entirely hopeless, by these means and these alone succeeded in obtaining Transfers from all of them of their interest in said Sarah's estate and thereby enriched himself and his friends as hereinafter mentioned at their expense to the amount of about $16.000 all the time pretending to act for them even before he got the said transfers without their knowledge or consent in any manner whatever as their agent, Attorney or friend whilst he was in truth and in fact acting for himself & solely with a view to his own interests & even setting up title to the estate himself long before he obtained said transfers.

That your oratrix has also since she made the said release in the spring of the year 1853 as aforesaid heard from a neighbor who lately visited the State of Illinois, for has never been in the State of Illinois or the State of New York and is wholly ignorant of their laws - what has greatly surprised her and she was wholly ignorant of when she executed said release in 1852 - she has heard in fact and has ascertained and charges it to be the fact, that since he the said Zadok got possession of the s.d Sarahs Estate one of the heirs at law of the said Sarah, and co heir of your oratrix that is to say Robert W. Casey commenced a suit against the said Zadok in equity & set aside a transfer made by him, in the fall of 1844 for his share of s.d Sarahs estate, to the said Zadok on the grounds of fraud actual as well as constructive, and that the said Zadok having obtained a copy of the decree & opinion

of the Court vacating said transfer of said heirs, fearing that the other heirs of said Sarah and more particularly your oratrix would also commence a suit against him for the recovery of their respective shares of said Sarah's estate, secretly procured releases to be made out and amongst the rest one for your oratrix to execute, by his own Attorney in the town of Mt. Vernon Jefferson County Illinois, or elsewhere and with a copy of the decree and opinion of the Court in his pocket set out in the Spring of 1853 a second time to hunt up the heirs of the said Sarah, and consummate his wrongful and fraudulent intentions so long kept by him in view of again wronging and defrauding the remaining heirs of the said Sarah and more particularly your oratrix by obtaining from her a release of her interest in said Sarahs Estate, of all of which facts and circumstances ascertained by your oratrix since the making said release by her in the Spring of 1853 she your oratrix was at the time she signed the same entirely ignorant - Your oratrix further sheweth unto your Honor that at the time the said Zadok obtained from her the transfer in 1844 - it is true no inventory had been filed of s.d Sarahs estate, but the s.d Zadok well knew that it was nearly worth what it since has been ascertained to have been worth, and without any inventory at all, it was well known to said Zadok that said Sarah's estate was worth $12,000 at least, and it must have been valuable is clear from the fact of s.d making two trips to New-York on account of it. & consulted and even on his own responsibility retained counsel in reference to it and when she made s.d transfer and power of Attorney in 1844 so far from knowing that he had before then been acting as her agent or attorney in reference to her

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sisters estate she did not even know until lately, that she made any transfer or power of Attorney at all, but actually believed it was a receipt for what was due her from her sisters estate never supposing for one moment that she was executing a transfer for what she has since ascertained her share amounted to, and thought that the said Zadok was paying her very nearly the full amount more out of his superabundant kindness for her than any thing else, and she therefore had no hesitation in signing the same & she believes her husband was as well satisfied to sign it as herself - for may it please your Honor they had no means of information at hand, nor counsel to advise with excepting the said Zadok himself in whom she confided as a sincere friend, and he the said Zadok being besides a relation - a man of wealth intelligence and high standing and position in society and a preacher of the gospel, whilst your oratrix and her said husband were in poor and indigent circumstances illiterate being unable to read or write, as well as aged and infirm in mind as well body - he the said Zadok had in contending with them, and did take an undue advantage of their situation and condition in life - and by so doing did obtain from your oratrix and her said husband a transfer and power of Attorney without causing them to suspect that he was intending to wrong them out of one cent and it was under circumstances of this kind as well as by his deceitful representations, that he succeeded in procuring said transfer in 1853 - And since your oratrix executed the s.d supposed release in 1853, she has ascertained from others, and charges that the said Zadok having obtained the copy of the opinion of the Supreme Court in the Spring of 1853 as herein before stated without letting his object in leaving home be known

to any one save a few confidential friends set out for Marion County Tennessee, where your oratrix resided in company with his son Thomas S. Casey and that on arriving at Lafayette the County-seat of Marion County aforesd. put up at the tavern of one Brandon who was formerly well acquainted with the said Zadok when he lived in Marion County aforesd. That said Brandon had entirely forgotten the said Zadok & did not know the name either of himself or his son and that in a conversation with the said Brandon he the said Zadok asked him if he was acquainted with Nancy Dotson widow of John Dotson decd. to which sd. Brandon replied that he was, whereupon the sd. Zadok inquired of him if she the sd. Nancy did not have a legacy coming to her from New York - to which said Brandon replied that she did have a legacy coming to her but that she had been swindled out of it to which the sd. Zadok made no reply, but intimated that he knew nothing about it, which conversation took place in the presence of the said Thomas S. Casey - that the said Zadok & Thomas then left for the house of one Brays where he stayed all night & without informing sd. Brays of his real object in visiting Marion County pretended that he had come for the purpose of visiting the grave of his father and for no other purpose whatever, and next day set out for his brother-in-law Peter Kings on no other business whatever but to get the matter so arranged as to get your oratrix away from her son-in-laws and thereby taking advantage your oratrixes confidence in him and her ignorance and distressed situation and condition in life to procure a release from her of her interest in her sd. sisters estate and your oratrix avers that altho' she received message

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after message from the said Zadok she would not have gone to said Kings, for she was scarcely able from bodily infirmity to get about had not the said Thomas came for her and told her his father was sick and wanted to see her at Peter Kings thus blinding her as well as her friends, for on her arrival there she did not find the said Zadok so very sick as to have prevented his coming to see her at her son-in-laws, if not on that day, he could have at all events have come on the next, but the truth is he the said Zadok did not want to see her at her son-in-laws, fearing her son-in-law would have counseled with her on the subject and led her into the light of the fraud about to be practiced upon her, or at least he would have put her on her guard & had the matter explained to her, your oratrixes said son-in-law having some knowledge of letters, and the said Zadok therefore took advantage of slight indisposition to send for her when she was from home, for the s.d Thomas did not go for her to her son-in-laws, but the s.d Zadok & the s.d Thomas watched their opportunity to send for her when at a neighbors house, unknown to her son-in-law, who would not have allowed her to go to s.d Kings alone if at all & this it was that induced s.d Zadok to send for her so often, on the same day so that he could get her into his power, among his own friends, where he knew there was no one would oppose him in his nefarious scheme of obtaining a release from her, out of respect to him if nothing else, and when on the other hand she had no one to advise with or explain matters to her, and your oratrix does not know that either the s.d King or his family knew much more about the value of s.d Sarah's estate, or the amount of the judgment obtained by s.d Robert against Zadok than she did herself, but

if they had it could not be expected his the s.d Zadoks own sister and brother in-law would have interfered or done anything prejudicial to him, which he the s.d Zadok well knew whilst he the s.d Zadok also well knew that her daughter or son in law would not have permitted him to impose upon her weakness and credulity as he did - and the truth is he the said Zadok had it in his power to come and see her, for he had a horse and buggy then at his brother-in-law's & could have drove to her son-in-laws which was only a few hundred yards off as well as to said Kings & he was well enough to travel next day, and your oratrix does now believe and charge that his the s.d Zadoks sickness at Peter Kings and said Thomas coming for her was all a mere contrivance to get her away from her friends, in order to get her to sign said release.

Your oratrix further sheweth unto your Honor that when she executed said paper at Peter Kings house in 1853, She was in many respects less able to transact any kind of business than when she executed s.d transfer in 1844 - for not only had her memory entirely failed her but she was in her 75th year of her age and was in every respect much more frail and feeble than in 1844, and her circumstances worse and her necessities still greater, for since then her husband had died & she had become a pensioner on the bounty of her son-in-law who was ill able to afford her support, being a very poor man, and your oratrix having no learning her infirmities had crowded so fast upon her that she for some time before she executed s.d release at Peter Kings to the s.d Zadok had no mind of her own, and was in fact incapable of managing her own affairs, and when she had any business at all

to transact, confided in her children and friends for advice, and was entirely governed by those in whom she had confidence, which arose principally from her ignorance of letters and extreme old age and consequent loss of memory. so that may it please your honor as man of the sagacity and intelligence of the s.d Zadok had all advantages in dealing with her for her interest in s.d estate, or in reference to it - he having full knowledge of the value of her interest in her s.d sisters estate, and the certainty of the heirs of the s.d Sarah getting their respective portions of $8714 dollars, the s.d Sarah's share in case the s.d Aarons will was not valid viz $1089 each, and the certainty of the heirs of s.d Sarah getting the whole of it as he had been advised by counsel, and the decisions of the Courts that it was valid, and also knowing all about the reasons why the transfer made by her in 1844 was voidable, having had a suit with s.d Robert W. Casey, who was as ignorant of the true situation and condition of s.d estate as your oratrix in reference to his share of the same estate, he the said Zadok having also obtained a transfer from the said Robert of his share of his aunt, the s.d Sarahs estate about the same time, for about the same amount, and whilst the confidential relations of attorney & client principal and agent cestui que trust and trustee existed between them precisely as in the case of your oratrix, and he the s.d Zadok having made use of the same statements to the s.d Robert and was guilty of making the same kind of false representations to the s.d Robert as he made to her & equally guilty of concealing the truth from the s.d Robert in relation to s.d estate as well from her and of taking advantage of the s.d Roberts ignorance as he did of hers and therefore well knew the principles upon which

the said Robert had succeeded in recovering his share of s.d estate, having the opinion of the Court in his pocket, and having actually deposited the money so recovered by s.d Robert with s.d Johnson, and well knowing that your oratrix was entitled on the same grounds to recover her share he the s.d Robert, who being her nephew and co heir, whilst she was in utter ignorance of the whole of it, having never seen or conversed with the s.d Robert on the subject & having no knowledge of even where he lived or resided at the time, and had in fact as little knowledge of him as she had of her sister Sarah, so that she was in fact under all the circumstances of the case utterly incapable of contracting with s.d Zadok understandingly much less renewing her contract.

And your oratrix charges that the said Zadok having whilst acting without authority from her as her attorney and agent when he obtained from her the transfer in 1844 as afores.d she was entitled in law as well as in equity to all the knowledge he possessed on the subject both as to amounts and opinions of counsel, consulted by him as to the rights of her and her co-heirs & that his the s.d Zadoks concealing the same from her was a constructive fraud upon her, and palpable breach of trust in him the s.d Zadok, and that his again obtaining from her said release in 1853, without giving her all the information he possessed as to her rights of recovery against him, and the amount recoverable by her on account of his fraudulent conduct is under the circumstances hereinbefore mentioned also a constructive fraud upon her, and breach of trust, she not having been aware that he ever acted or ceased to act as her attorney, and she charges that as trustee or quasi trustee he is liable in equity and good conscience to refund

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the whole of her share of s.d Sarahs estate amounting to $1928 or thereabouts subject to costs and charges of administration, with interest from the first day of May 1845. about which time he received the same or perhaps before then. That allowing him the said Zadok, what he gave her when she signed the first transfer and the time she executed said release to be $250. tho' it was only $200 in fact - & allowing $100 for her share of the expense of administration and it did not exceed that, she is still entitled to $1578 with interest up to the present time, or the filing of this her amended bill amounting to $24.30 at 6 per cent interest, which she had a right to recover of the s.d Zadok at the time she made said release in 1853 & which as she best recollects, was in the month of April or May 1853 aforesaid. That when she executed s.d release in 1853 she made her mark & did not write her name, so illiterate was she, for in fact she could not read or write & she never knew as before stated the contents of either paper, and the s.d Zadok did at no time truly state to her the contents, nor did he the said Zadok ever from first to last disclose to her that he had been acting as her attorney or agent before she made said transfer in 1844 without her authority or consent and had been consulting and employing counsel and she therefore charges that when the s.d Zadok obtained from her the last instrument in writing as well as when he obtained the first, the confidential relation of Attorney & client, principal and cestui trust and trustee still existed and was in full force between them and she your orator was not a condition to deal with said Zadok on that account as well as on account of her own situation and condition in life & incapacity to transact business.

Your oratrix charges that the Power of Attorney or transfer made by her in the Spring of 1844 which he thinks was in the month of September, is frandulent on the face of it, at least she has been so advised and informed & she calls upon the sd Zadok to produce it or a copy of it - she also charges that the release or receipt which the sd Zadok obtained from her in 1853 is, as she has been informed and advised frandulent on the face of it, & likewise calls upon him to produce it - tho' your oratrix is free to admit she never did know the contents of either instrument and does not in fact know how they are drawn or what they pirport to be, and she does not know whether sd release shows that said Zadok had a suit with Robert W. Casey, and lost it by false swearing or not, or whether it contains all or any of the representations made by sd Zadok when she signed it with her mark, but she charges if they do that he the sd Zadok did not lose his said suit with sd Robert by false swearing or any thing of the kind but lost it as well on account of the confidential relation existing between as on account of his frandulent conduct, and that on the testimony of good and honest men - tho' she did believe that lies had been sworn against sd Zadok when she signed said release for she recollects he said so at the time she signed the same, but what the suit was about she did not know, nor did he the sd Zadok tell her at any time.

That the transfer made by sd Robert was set aside because it was obtained by fraud, but more especially was said transfer so obtained by the sd Zadok declared frandulent, on account of his the said Zadok's having been acting as the agent and attorney of the said Robert at the time he obtained sd transfer and whilst entain-

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ing that relation taking advantage of his the s.d Roberts ignorance, and his own knowledge and suppressing the truth in regard to the situation of s.d estate, which s.d Judgment was afterwards affirmed in the Supreme Court of the State of Illinois.

And your oratrix charges that the said Thomas & Casey as well as the said Zadok was well appriezed of all the foregoing facts in relation to the first transfer made by her to the s.d Zadok, having been fraudulently obtained by him the said Zadok and was therefore voidable at her election both on account of the relation then existing between the parties as well for actual fraud in the obtaining thereof, and that the transfer made by s.d Robert to said Zadok had been decreed fraudulent on the same grounds, and that he the said Zadok when he left home in company with the s.d Thomas left for the express purpose of procuring releases from your oratrix and the other heirs & for no other purpose, whatever, and that said releases were written & made out before he the s.d Zadok and Thomas left the town of Mt Vernon aforesaid in the Spring of 1852 by skillful counsel so as that the same should wear the appearance of being strictly legal on the face of it, and that the whole matter had been satisfactorily explained to her before she signed the same as she has been advised and informed since she executed the same as above stated, and that the whole matter was not only kept a profound secret from your oratrix and her friends from the time they started from Jefferson County Illinois until they induced her to execute said release by taking her by surprise & obtaining what they wanted before she could consult any body or find out something about it.

And your oratrix charges that the said Thomas knew full well when he came for her to go to Peter Kings, that he had come for her for the express purpose of getting her there, to sign said receipt and that his stating his father the s.d Zadok was sick was for the purpose of inducing her the more readily to come then - and concealed from her the true object of his coming for her - and she charges that he the s.d Thomas with full knowledge of the s.d Zadoks purpose afores.d came for her as afores.d at his the Zadoks request - and pursuant to an arrangement and understanding to that effect entered into between them - and she does charge that the s.d Zadok and the s.d Thomas did with divers other persons unknown to your oratrix, combine collude and confederate together to procure her to come to the s.d Peter Kings house in manner hereinbefore stated for the purpose and with the fraudulent intention of by that means as well as by taking advantage of her age, imbecility of mind, ignorance of letters and poverty when they got her away from her friends among their own relations where she had no body to advise or consult in reference to the matter, to execute said release to him the s.d Zadok, and your oratrix charges and avers that whilst the s.d Zadok and Thomas were fully aware of the value of the s.d Sarahs estate and all that was material for them to know, she your oratrix was wholly ignorant thereof at the time she executed said release and every thing it was material for her to know.

And she further charges and avers that the said Zadok and Thomas were fully aware of the fraud that was practiced upon her when she executed

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the transfer in 1844 and that the same was not only null and void or at least at her election void able but knew all the grounds upon which said judgment in favor of s.d Robert was rendered against him s.d Zadok and wholly concealed the same from your oratrix before and at the time she executed said release and not only were they aware of all the foregoing facts but she your oratrix in fact charges, that the amount of s.d Judgment so recovered by s.d Robert against s.d Zadok was actually in the hands of one John W. Johnson at Mt Vernon Ills aforesd ready to be paid over to the s.d Robert whenever an execution was issued against him the s.d Zadok, and amounted to the sum principal and interest included of $1840 and upwards and wholly concealed the same from your oratrix - and your oratrix further charges and avers that when the said Zadok prevailed upon her to execute said release she your oratrix from the haste and precipitancy with which he urged it upon her and the manner in which he the said Zadok talked did not know what lawsuit he alluded to much less the grounds of such suit, and from what the s.d Zadok stated did not know whether it was the lawsuit he talked about when he obtained the transfer in 1844 or a suit he had with some person about the estate in New York or elsewhere since then - as he said he either had or would lose it by false swearing - and also stated that he would give her one hundred dollars to renew her contract altho' she was entitled to nothing by law, and she your oratrix did actually suppose at the time the said Zadok was just giving her that amount out of sympathy for her aged and impoverished condition and a kind remembrance of her

connected with some incidents of early life, which had perhaps made a kind of impression upon his heart not so easy to be effaced by the lapse of time - but never supposed for one moment she could have recovered the same by law, or that he the said Zadok was fleecing her out of $2500. & upwards

And your oratrix does charge that there was then actually due her in cash amount of her share of her sister's estate which was worth at the time she executed said release $2500 at least, clear of all deductions and that the consideration paid her therefor was grossly inadequate to the amount assumed and released to the s.d Zadok thereby. Your oratrixes interest in said estate of said Sarah, which she then had a right to compel the said Zadok to refund & pay over to her and to recover of him by law in case he failed to pay over the same, being at least 25 times greater than the amount she received therefor,

Your oratrix charges that s.d Thomas when he came for her to get her to go along with him to Peter Kings was bound in equity and good conscience to have communicated to her what the said Zadok really wanted of her - and both he the said Zadok and the said Thomas ought to have informed her when they coaxed her to sign said release at Peter Kings in 1853 as aforesaid, that in the first place ~~s.d Aaron's will~~ her sisters estate was worth in case s.d Aarons will had not been valid, viz $1089 clear of all deductions. Secondly what her share was worth, the will being valid or how much he had received under the transfer made by her in 1844 - Thirdly - that he the said Zadok had deceived and defrauded her in the first contract or whatever it was by stating what was untrue, or what he did not know to be true

and concealing from her what he knew to be true — Fourthly, that the said transfer made by her to the s.d Zadok in the year 1844 was absolutely of no effect and at her election voidable from the fact that he the said, had been and was acting as her attorney without her knowledge or consent at the time she made said transfer, and that she had consequently a right to recover the amount of her share of s.d Sarah Pigot's est.t of him the s.d Zadok by law for the reasons afores.d — and Fifthly — he the said Zadok ought to have fully apprized her of the nature of the suit b'r't by said Robert W. Casey against him, and the amount recovered by him the s.d Robert & that the same amounting to $1840 as aforesaid was actually paid over or deposited with John N. Johnson to be paid over, or in other words he ought to have informed her of the amount he was bound to pay to him the said Robert, and why he was bound to pay that amount to him, or why the Court had held him liable to pay that amount to said Robert as one of the heirs of said Sarah Pigot — Sixthly, and lastly he the said Zadok was bound in equity and good conscience to have informed her that the said contract he wanted her to renew was not binding on her, and that the Court had so decided in the case of her co heir against him the said Zadok, but on the contrary thereof concealed it all from her and kept her so much in the dark about the real facts of the case, and talked so ambiguously that she knew no more about what she had released to him or the extent of her interest in the s.d Sarah's estate, or what amount she had a right to recover of him, than an utter stranger to the whole transaction, and she avers that she was and hath been by means of the

premises defrauded and over reached by him the said Zadok out of her interest in her said sisters estate which amounts to at least $2500 clear of all deductions and she charges and avers that she ought in equity and good conscience to recover of the said Zadok the full amount of her share of her deceased sisters estate clear of all deductions excepting costs of administration he the said having made large profits out of s.d Sarahs Estate and speculated upon the money belonging to your oratrix as well as the other heirs and has had the use of your oratrixes money for 9 years and upwards as can be made to appear, and she also contends that she ought to recover her legacy or share of her s.d sisters estate, out of which she has been kept for so long a time with ten per cent per annum interest thereon, from the time he received the same the interest to be added to the principal at the end of every year and interest at the end of every year to be computed upon principal and interest from year to year up to a final hearing of this cause - he the s.d Zadok having made double that amount out of her share of s.d estate by speculations on and using it - And he having besides twice over attempted by the most unfair and fraudulent means to wrong her out of it, and the last time he attempted so to do by prevailing upon her to execute said release - having got her into his power away from her son in-law's house to the house of his own sister and where he knew from her age and mental imbecility she was unable to transact business, or protect herself and that she could be induced by any person in whom she had confidence to do any thing they would ask or tell her to do, and when he knew that in her extremely poor condition he could get her to do anything for him respectable and wealthy and

related as he was - and that in her indigent circumstances the small sum of one hundred dollars offered to her by him, when at the same time he made her believe she had no right to receive it would have induced her to execute any paper he could have presented to her no matter what without further inquiry unless put upon her guard by some means not knowing what she as doing & believing that she was in the hands of her friends. And your oratrix does believe and charge that had the said Zadok called upon her to execute said release at her son in-law where she resided at the time, he could never have got her to execute said release and charges that he the said Thomas came for her as aforesaid for no other reason whatever but because they the said Zadok and Thomas feared that your oratrixes son-in law might read the paper to her before she executed it and explain the nature of it to her - and call upon the said Zadok to give his reasons for calling upon her a second time to sign a paper of that nature, and she charges that the said Zadok in thus by artifice and contrivance procuring a release from her of her share of her s.d sisters estate was and is guilty of actual as well as constructive fraud, and procured the same by the fraud and circumvention of them the s.d Zadok & Thomas, and that she neither did consent thereto or was capable of consenting thereto for the reasons hereinbefore stated and was wholly overreached and taken by surprise when she executed the same.

She further charges that first contract made by her with the said Zadok referred to by the s.d Zadok when he wished her to sign s.d release was voidable

by her on the ground of actual and constructive fraud, and she had a right to rescind and avoid the same at any time when she was apprized of the nature and extent of the fraud practiced upon her, and that before he the said Zadok could make a valid contract with her a second time in reference to her share of her sisters estate he was bound in equity and good conscience to have fully apprized her before she executed said release in 1853, that she had the power to rescind and avoid her first contract, and he ought also to have read and explained to her said contract he wished her to renew as well as read and explained to her the contents of the paper he requested her to execute and which she did execute in 1853 as aforesd. that he had been and was acting as her attorney when sd. first contract was made and that he had ceased to act as such when she executed the second paper or release all of which she charges he failed to do in any particular whatever.

That after the said Zadok obtained the first transfer in 1844 he went on to the city of New York and took possession and disposed of the whole of the said Sarah Pigots estate, and after putting $12000 or thereabouts in his own pocket & paying the expenses of administration, disposed of the balance amongst the heirs of said Aaron Pigot giving one Joseph Pigot some $2500 and others of said Aaron's heirs various other sums besides giving the said John A. Kane a considerable bonus for his services, all of which was done by the said Zadok for the purpose as your oratrix charges and believes of keeping them in good humor and preventing them from informing the non-resident heirs of the said Sarah of the game

that he the said Zadok had been playing off on them.
Your oratrix further charges that there was not one
cent allowed by order the surrogate Court of New
York to any of the heirs of the s.d Aaron nor had any
one of them or any one else any claim allowed or proved
as a valid claim against said Aarons estate, before
said Court of surrogate for neither the said Aaron
nor the s.d Sarah owed anything at the time of their death
nor did your oratrix at the time the said Zadok set-
tled up said estate consent in any manner whatever
that he the said Zadok should give one dollar to the
said Joseph Pigot or any one else, and she charges
that he had no right to do so either in law or
equity, and that he is bound to pay over to her her dis-
tribution of her sisters estate, without any deduction
whatever excepting the legal and necessary expenses of
administration or settling the estate. And she fur-
ther charges that the said Zadoks interfering with said
estate was unwarrantable and unnecessary and that
the executors of the s.d Aarons will Nicholas Everett
and Thomas M.c Farlane residents of the city of New
York would have done and had done all that was
necessary in order to wind up and settle the same -
the Laws of the State of New York, authorizing them to
employ counsel which they did employ and which your
oratrix and her co-heirs would have been willing
and are bound to allow them, and that had the s.d
Zadok informed them of all he knew about the estate
of the said Sarah at first without grasping after it
himself, they would all now having been enjoying
their respective legacies and living comfortable & happy
and she charges that the whole of the s.d Zadoks con-
duct from first to last, exhibits the most avaricious
disposition to acquire the whole of the said Sarah's

estate without regard to the principles, good faith or the rights of others, in order to accomplish which he has resorted to all sorts of artifice and chicanery and fraud to carry out his designs to the great impoverishment and injury of your oratrix. all of which actings and doings of the said Zadok are contrary to equity and good conscience and tend to the manifest injury of your oratrix - and for as much as she is wholly without remedy save in this honorable Court frauds upon heirs and expectants over-reaching, catching of bargains and breaches of trust and confidence of this nature are peculiarly relievable and cognizable - she humbly prays the aid thereof and to these ends that the said Zadok and Thomas may be made defendants to this bill and may true and perfect answers make to all and singular the allegations herein contained paragraph by paragraph without being sworn, your oratrix hereby expressly waiving their answering upon oath, and may also answer the annexed interrogatories without being sworn, and that upon proofs of the material allegations herein contained, or the same not been traversed or denied being true - or admitted or taken for confessed - that the sd. release so obtained by the sd Zadok at the house of the said Peter King in the year 1853 may be by decree of this Honorable Court be adjudged fraudulent and void as against your oratrix, and also that the sd. transfer and power of Attorney obtained from your oratrix in the year 1844 be likewise declared void and fraudulent and ordered to be given up and canceled - and your oratrix further prays that the sd. Defendants or one of them be ordered to pay over to your oratrix the sum of $1,928 aforesaid the same being the full

amount of her share of ye. Sarahs estate with interest and rests as hereinbefore contended for, deducting the legal expenses of administration aforesd. and that she may recover Judgment against the sd. Defendants or one of them for that amount.

She further prays that process of subpœna in chancery may issue &c against the defendants commanding them &c to appear and answer this Bill at &c and for such other and further relief in the premises as to your Honor may seem just and equitable and she will ever pray as in duty bound &c.

R. J. Nelson Solr. for Complt

Endorsed "Filed December 30 1854. J. S. Bogan clerk"

Interrogatories propounded to Zadok Casey and Thomas S. Casey defendants in the foregoing Bill.

Inty 1st to Zadok Casey

1st Now dont you know I never would have signed the paper for you at Peter Kings, if you had not been the man you were, as I thought, at the time?

2nd Dont you know I would have believed, any thing you would have told me, or done anything you asked me that day at Peter Kings because I had all confidence in you?

3rd Was not my husband John Dotson and myself both a pair of old ignorant creatures when you got the first transfer from us in the year of 1844, and is it not true that we were no match for you in trading?

4th Were we ever in the State of New York, or in Illinois when Robert Casey was lawing you, and dont you know I was entirely ignorant of the things decided in said suit, when I put my mark to that ~~paper~~ paper you brot for me to sign?

5th Did I know what my share of my sisters estate was worth in 1844 when you got the transfer or power of attorney or that I was entitled to $1089 anyhow whether the will of Aaron Pigot was broke or not, and if the will was a valid will wasn't I entitled to some 8 or 900 dollars more and didn't you conceal all of this from me when you got me to sign the paper in 1844 as well as the receipt in 1853?

6 Now dont you know I would never have executed any transfer to you in 1844 or receipt or release to you in 1853 if I had known what I was doing or how much I was entitled to? and did you not

kept the object of your visit to Macon County a secret from me and all my friends from the time you left home with your son Thomas S. Casey, until you got me to Peter Kings, and did you not send me 2 or 3 messages directly after you got there in quick succession to come and see you, pretending you were too sick to come & see me?

7th Did you not in a short time leave Macon County after you got me to sign said release or paper at Kings & was not all you wanted of me, to get me to sign said paper? and is said King not your sisters husband? How far is said Kings from my son in laws? Could you not have come to my son in laws as well as send for me to Kings? and were you not as well able to come and see me as I was to go and see you? how far is it from Kings to my son in laws?

8th Was Sarah Pigot not entitled to $8714 out of her husbands estate if the will had been set aside clear of all costs and deductions whatever, and did you not conceal that fact from me both when I signed the transfer in 1844 as well as the receipt in 1853? Did you tell me that my share of Sarah Pigots estate was worth $1089 clear of all deductions? and was it not worth that amount, will or no will?

9th If Aaron Pigots will had not been declared invalid would myself and my co-heirs have not been entitled to receive $1089 each without your agency or any assistance from you - and did Joseph Pigot or the heirs ever pretend to claim more than $8714 or the balance after our shares were taken out? did you ever tell me this when you traded either the first time in 1844, or when you got me to sign a release in 1853 - on the contrary did you not in the first

occasion represent to me that it all depended on the pretended lawsuit being gained & that it would all be lost if the will was broke?

10th. Did not the Executors of the will of Aaron Pigot employ counsel, independent of you on behalf of the heirs & Did you tell me that when you obtained the transfer in 1844, and what did you then employ counsel for? Tell if you can.

11th. Did you not consult counsel and act as agent without the knowledge or consent of the heirs, and did your counsel not tell you that s.d will was a valid will? If yes did you tell me so when you traded for my share of my sisters estate, that my counsel, or the counsel you consulted was of that opinion?

12th Did you not tell me the issue of said law-suit about the will was doubtful? and did the counsel you consulted, not tell you the very reverse?

13th Did you not make the same representations to me that you did to Robert H. Casey - my co-heir when you traded for his share of said estate in the fall of 1844, or did you make different representations to myself and the said Robert?

14. Was s.d Robert not my co-heir and nephew of s.d Sarah and were not our rights the same under said Aaron's will, and did you not obtain transfers from both of us in the fall or summer of 1844, of our shares in said Sarahs estate upon the same identical representations - and whilst the relation of principal and agent existed between you and me, and between the s.d Robert and you?

15. If you obtained said transfer from me in 1844 by representing matters differently to me than you did to said Robert, please state the difference,

or what you said to him and what you said to me about the value condition and situation of said Sarah's estate and the worth of each share.

16. Did the s.d Robert not bring a suit against you to rescind said transfer made by him in the Circuit Court of Jefferson County Illinois and did the s.d Robert not recover a Judgment against you for his share in s.d Court, which was affirmed in the Supreme Court, because whilst you were acting as his attorney or agent, you prevailed upon him to transfer his share of said Sarah's estate, and also because you made false representations to him about the situation & condition of s.d estate of s.d Sarah and the value of the shares, and also because you knew what the said Sarahs estate was worth and fraudulently concealed it from s.d Robert & got his share thereby for $100?

17th Was it not said decision of the Circuit and Supreme Court, what caused you to come all the way to Marion County in 1853, and send for me to your brother in laws to get me to sign a release?

18th Did you tell me what amount I was entitled to recover of you, or that I was entitled to recover any amount of you at all, by law, when I came to Peter Kings? or did you tell me for what amount Robert Vs Casey got Judgment?

19th Did you explain or tell me that the Supreme Court had decided the transfer said Robert made to you was fraudulent - because you were his attorney and agent at the time and had been acting as such without his knowledge or consent - and because you purchased his share of him for the trifling sum of $75. by making false statements to him about the value and situation of s.d Sarahs estate and concealed from him

the truth in regard to it, or what it was worth?

20th. Do you not know that I am and was an old illiterate and weak minded old woman, and that I did not understand the business we were on, when you got me to sign the paper at Peter Kings in 1853 for one hundred dollars - and did you not tell me I was not entitled to it by law, but you would give that much to me, and did you tell me what my interest or share in my sister's estate was worth and what I had a right to recover of you before I executed said release or what it was?

21st. How much was Sarah Pigot's estate worth just as you ascertained it to be clear of all deductions or costs whatever? Please give it in figures as near as you can? Was it not worth all assets included, $15,429 at the time of her death?

22nd. How much did Joseph & his co heirs get in all? Please state it in figures. I want no explanation but a plain answer & if you cannot state it exactly state it as near as you can?

23rd. What s.d Sarah's estate principal and interest worth when you settled the estate. Please state the amount in figures as near as you can & I want this question answered without any explanation in figures. Was it not worth over $16000? I mean all the assets of every description.

24th. Now state what the costs and expenses of settling Aaron Pigot's estate and of administration on Sarah Pigot's estate amounted to. Come as near to it as you can, without any explanation, all I want is the figures - without including any expense incurred by yourself. Did it altogether exceed $800 or $100 to the share?

25. Did I ever authorize you to give away my property or any portion of it to Joseph Pigot or any one else?

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26th Was there ever any claim allowed by the Court of Surrogate of New York against Aaron or Sarah Pigots estate to any of Aaron Pigots heirs? I dont want what you allowed, but what was allowed by the Court.

27. Did either Aaron or Sarah Pigot owe one cent to any one at the time of their respective deaths, or was there any claim whatever allowed by the Court of Surrogate against their estates?

28th Did you not know long before any account was taken or inventory made out, that said Sarah's estate was worth $12000 at least in Cash, and did you know this when you obtained the transfer from me in 1844?

29th Were you not aware of all the matters enquired of by me in the 21st 22d 23d 24th and 28th interrogatories, when you came and got the release from me in 1853? and did you conceal the whole of it from me? if not what did you tell me about it?

30th Did you tell me what amount Robert W. Casey had recovered against you when I executed the release in 1853?

31st Now you never told me before and now I will ask you how much did you get yourself, in actual cash deducting what you gave Joseph or what Joseph and his Co-heirs got and the costs and expenses of winding up both sd estates - and without including anything you spent yourself when you were trying to get hold of sd estate without our knowledge or consent?

Interrogatories to Thomas S. Casey

1 Did you not know what your father wanted of me when you came for me to Marshs & told he wanted to see me but was so sick he could not

come himself? and was I sent for twice and failed to come until you came for me?

2. Were you not in a great hurry to get me to Peter Kings & was there not three messages sent for me in quick succession urging me to come to see your father at Peter Kings?

3 Why did you and your father not come to my son in laws to see me instead of sending for me? had you not a horse and buggy & would it have made your father any sicker to have come to where I lived as he used to do when a young and poor man?

4 Did you not keep the object of your visit a secret from me when you came for me to Marsh's, and did you not know that all I was wanted for at Kings was to get a release or receipt from me?

5th Did you and your father not both start from home for the express purpose of getting releases from the remaining heirs of Sarah Pigot, for fear they would sue for their shares of the said Sarah's estate and did you not come for me at last self to go to Kings fearing for my friends would get the news about Robert W. Casey gaining his suit and getting a Judgment against your father for $1840 or thereabouts?

6th Did you or your father not get the papers all drawn ready before you started for Macon County Tennessee for me to sign, and were they not drawn by your fathers lawyer? and was not the paper I signed already drawn in a skillful manner by some lawyer before you and your father started to Macon County Tennessee?

7th Dont you know I would not have signed o^d paper at Kings if I knew that your father had cheated me when he got the power of attorney and transfer from me - and did you not hear Brandon

[6427-20]

tell him in plain terms, he had swindled me out of my legacy - and was it not your father Brandon alluded to? and did your father deny it?

8th When did your father leave Peter Kings, or the County of Marion? That is, how long did he stay in the County after I signed the release?

9th Could your father not have waited until the day he started for home and then have called on me at my place of residence to get said paper signed? how long would it have taken him to get it signed? how long did it take him Peter Kings to get me sign away my right to $2500 for $100?

10th Could he not have got me to sign the paper, deceiving me as he did, for $10 as easy as one hundred.

Endorsed "Filed 1st Jany 1855 - John S. Bogan clerk."

Order of Court. May Term Jefferson Circuit Court
Monday May 7th 1855.

Nancy Dotson
vs
Zadok Casey &
Thomas S. Casey
} Bill in Chancery

On this day come the Complainant by Nelson her Solicitor and the Defts by Davis & Wingate their Solicitors, and Nelson, solicitor for Complainant suggests to the Court the death of sd Complt.

Jeffn Circuit Court
Tuesday May 8. 1855.

Nancy Dotson
vs
Zadok Casey &
Thomas S. Casey
} Bill in Chancery

Came again on this day the Complainant by R. S. Nelson and the Defendants in person and by their Solicitors, Davis & Wingate.

Whereupon, Defendant, by counsel submitted a motion that this suit abate by the death of the Compt. Cross-motion by R. S. Nelson to amend Compts Bill and make personal representatives parties (not knowing at this time who they are) and that this cause stand continued for that purpose. Proofs and arguments having been heard and the Court being fully advised in the premises it is considered by the Court that said motion by compts counsel be overruled, and that this cause stand abated, and Defendants motion to abate suit, sustained.

State of Illinois
Jefferson County } vs. I, John S. Bogan
Clerk of the Circuit Court within and for the County of Jefferson and State of Illinois do hereby certify that the foregoing are true copies of the Summons, order, Bill, & orders of Court in sd. cause as they respectively appear of record in my office.

Given under my hand and the Official Seal of said Court at Mt. Vernon this 14th day of October A.D. 1858.

Clerk Circuit Court
Jeffn. Co. Ills.

[8427-20A]

State of Illinois, Supreme Court Nov. Term 1858 1st Grand Division

William K. Carr pltff in Error

vs.

Zadoc Casey & Thomas S. Casey defts in Error

Came this day the pltff by his Attorney & says that the Circuit Court of Jefferson County Erred in rendering Judgt for the defendants whereas the Judgment ought to have been rendered for the pltff by the Law of the Land and for assigning Errors specially the pltff avers that the Circuit Court erred in refusing leave to amend Bill to make proper representations of the Nancy a party or parties complainant in said Suit of Law the Nancy & in overruling Motion to amend & to Continue Cause for that purpose & in adjudging that said Suit of Law that said Nancy be and stand abated and this the said pltff is ready to verify & whereupon the pltff prays that the Judgment & decree be reversed

H. S. Nelson for pltff in error

Filed Nov. 10. 1858.
[illegible] Johnston Clk

Filed October 19. 1858.
[illegible] Johnston Clk
Docketed $5.00

Nancy Lotton
vs.
Zadoc Casey &
Thomas S. Casey

Copy of Record

Abstract by Geo. A. Gauch Dec. 10. 1858 - Geo. Gaffney for Geo. 43

STATE OF ILLINOIS, } ss. First Grand Division.
SUPREME COURT. }

THE PEOPLE OF THE STATE OF ILLINOIS,

To the Sheriff of Jefferson County,

Because in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the Circuit Court of Jefferson — — County, before the judge thereof, between Mary Dotson - Plaintiff, and Gadah Casey and Thomas S. Casey — — — — — — — — — defendant, it is said that manifest error hath intervened to the injury of ~~said~~ William K. Carr - Administrator of the estate of Mary Dotson Deceased, as we are informed by his complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mt. Vernon, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said Gadah Casey and Thomas S. Casey — — — — — — — — that they be and appear before the Justices of our said Supreme Court, on the first day of the next term of said Court, to be holden at Mount Vernon, in said State, on the ~~Second~~ First Tuesday after the Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if they shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said Gadah Casey & Thomas S. Casey notice, together with this writ.

Witness, the Hon. ~~Samuel H. Treat,~~ John D. Caton Chief Justice of our said Court, and the seal thereof, at Mount Vernon, this Nineteenth day of October in the year of our Lord, one thousand eight hundred and fifty-eight.

Noah Johnston
Clerk of Supreme Court.

Executed by Reading this writ of Summons to Jadock Casey and Thomas S Casey This the 19th day of octob A D 1858

Serving Summons on 2	1.00
Returning Summons	.10
	$1.10

James Westcott
Sheriff
Ills

William H. Carr
Plaintiff
vs
Jadock Casey et al
Defendants in error

Jadock Casey et al
vs
Thomas S. Casey
Defts in error

38

William R. Carr
administrator of
~~Jadoc Cary~~
Mary Dotson
vs
Jadoc Cary
& Thomas J. Cary

} pltff in error
~~Bill in Equity~~
defts in error

The Clerk of Supreme Court will please issue a Summons or Scire facias in the above Cause for the defendant to hear errors

Nelson for pltff in error

Case docketted in Court below as follows

Mary Dotson Compltff
vs
Jadoc Cary & Thomas J. Cary — defts

38

Wm. H. Landon
Appellee &
Thomas S. Clay
Appellant

Filed 19th Oct. 1858.
A. Johnston Clk

38

William K. Carr - Adm
of Mary Dotson

Pltff in Error

vs

Judith Casey & Thomas
S. Casey, Defts in Error

1836

Error to Jefferson

Dismissed by Pltff in Error
and Rules entered
by Leave of Court

Radcliff Casey &
Thomas Casey
vs
William K Carr
administrator of
the Estate of Nancy
Dotson deceased

} Error to the County
of Jefferson

In the Supreme Court
for the First Grand Division
of the State of Illinois held
at Mt Vernon in the County
of Jefferson in said State
Nov Term A D 1858

And the said defendants by Davis
& Wingate their attorneys come and
pray judgment of the said Writ
of Error issued herein, because they
say, that before the suing out
of the said Writ of Error herein by
the said plaintiffs as the administra=
trator of the said Nancy Dotson
deceased, the said Nancy Dotson
the said plaintiffs intestate in her
life-time, to wit on the 28th day of
August 1854 exhibited and filed
her bill in the Circuit Court of
the said County of Jefferson in
the State of Illinois, ~~and~~ on the
Chancery side of the Docket

(8427-24)

thereof against the said defendants which bill was in the words and figures following (here insert the same) and that afterwards and before issuing the said writ of summons to wit on the first day of January 1855 and in the life time of the said Nancy, she the said Nancy by leave of the said Circuit Court for that purpose and in that behalf first had and obtained exhibited and filed her amended bill in said Cause, so instituted by her in said Circuit Court as aforesaid which amended bill was in the words and figures following (here insert the same) which is the same, and not other than the amended bill filed as a part and contained in the record in said Cause in this Court, And the defendants say, that the said Nancy Dotson, afterwards, departed this life intestate and that after the death of the said Nancy, to wit on the 17th day of May 1855 at and during the May term 1855 of the said Circuit Court of said County of Jefferson, the death of the said Nancy was suggested to the said Circuit Court

and such action and proceedings were thereupon to wit on the 8th day of May 1855, had in said Circuit Court that the said suit so instituted in said Circuit Court by said Nancy in her life time, was then, and there by the order and judgment of said Circuit Court abated; And that the said William R Carr the administrator of the Estate of the said Nancy deceased, duly appointed and qualified as such, afterwards to wit on the 12th day of September 1856 and before the sueing-out of the said writ of error issued herein, as such administrator of the Estate of the said Nancy deceased, exhibited and filed his bill of Complaint as such administrator on the Chancery side of the docket of the said Circuit Court against these defendants and one Peter King, of, upon & for the same identical causes, and not other, and different causes of action as those stated set out, and alledged in the said amended bill exhibited, and filed by said Nancy in her life time as hereinbefore stated, which bill of Complaint so filed by said plaintiff is in the words and figures following (here insert the same)

[8427-28]

and that the said plaintiff, afterwards and before suing out the said Writ of Error issued herein, as such administrator as aforesaid to wit on the 29th day of April 1857, by leave of the said Circuit Court for that purpose, and in that behalf first had and obtained, as such administrator exhibited and filed in said Circuit Court an amended bill of complaint in said cause so instituted by him as administrator as aforesaid, in the words & figures following (see insert the same) against these defendants the said Peter King, and one John D King of upon & for the same identical causes and not other and different causes of action as those stated set forth and alleged in the said amended bill of complaint exhibited, and filed by the said Nancy in her life time, herein above set out, and that the said plaintiff afterwards, and before the suing out of the said Writ of Error issued herein, to wit on the 30th day of April 1857 also by leave of the said Circuit Court for that purpose, and in that behalf first had, and obtained, as administrator, ~~as~~ aforesaid, exhibited and filed in said Circuit Court, an other amended bill of complaint in said cause so instituted by him as administrator

aforesaid in the words & figures following (here insert the same) against these defendants alone complaining against them of, upon, and for the same identical causes, and not other and different causes of action as those stated set forth, and alleged in the said amended bill exhibited and filed by the said Nancy deceased above defendant, and which was, as hereinbefore stated by the order and judgment of the said Circuit Court ordered and adjudged to abide, to which amended bill exhibited filed by the plaintiff against these defendants last above mentioned they these defendants have filed their answers (his writing them) and the plff as Court therein has filed their replication thereto and that the said suit so instituted by the plff in said Circuit Court as aforesaid X all of which ~~will more fully appear~~ by the records and proceedings thereof remaining in the said Circuit Court in & for the said County of Jefferson more fully appears;

X is now at issue & stands for trial on the docket of said Circuit Court and was so at issue & stood for trial before & at the time of the issuing out of the said writ of Error in this cause

And that the said Writ of Error sued out herein, was sued out to reverse the order and judgment of the said Circuit Court given and pronounced as aforesaid which will more fully appear from the record on file in this cause.

And the defendants further say the parties in this, and the said former suit so instituted by the said plff herein as the administrator of the Estate of the said Nancy Dotson deceased

are the same, and not other or different persons, And that the supposed Causes of Action in this, and the said former suit instituted by the said pltff as administrator of the said Nancy Dotson deceased, are and each ~~of them~~ and every of them is and are the same and not other, or different Causes of Action; And that the said former suit so brought and prosecuted by the said pltff as administrator of the said Nancy Dotson deceased, against them the defendants by the plaintiff as aforesaid, is still depending in the said Circuit Court of Jefferson County in the State of Illinois

And this the defendants are ready to verify.

Wherefore they pray judgment of the said writ of Error issued herein, and that the same may be quashed

Davis & Wingate
Attys for the pltff

State of Illinois
Gallatin County } This affiant being duly sworn upon his oath says, that the foregoing plea and, and the facts therein set forth and contained, are true in substance & in fact, as stated and alledged, as affiant

Thos. S. Lowry

Verily believes
Sworn to & subscribed
before me this ~~1st~~ 15th
of Nov 1858

Thos. S. Casey

N. Johnston CM

No 43.

Supreme Court 1st Dist
Nov Term 1858

P. Casey et al
vs

Upon H Carr admr
of Nancy Dolson
deceased

Plea in abate
of Writ of
Error

Filed Nov. 15. 1858.
N. Johnston Clk

William R. Carr
administrator of
Mary Dotson deceased
v.
Sadoc Casey &
Thomas S. Casey

Plff in error

Bill in Equity

Defdts in error

In the Supreme Court
for the Sept. Term Division of the State of Illinois
November Term A.D. 1858

We do hereby enter ourselves
Security for Costs in the above
Cause & do hereby bind ourselves,
to pay a Cause to be paid all
Costs that may accrue herein
either to the opposite party or to
any of the officers of this Court.
Dated this 26th
October 1858

Richard Shelby
Wm Maddox

The Clerk of the Supreme
Court will please issue a writ of
error in the above Cause returnable
to the next term of the Supreme Court
&c

Return per paper in
case

[F127-28]

43

William K. Carr
Administrator of
Nancy Dotson Decd
Pltiff in Error

vs

Judith Casey &
Thomas S. Casey
Defts in Error

Filed October 26. 1858,
N. Johnston Clk

43

William R. Carr
administrator
Mary Dotson
deceased

v.

Judson & Wife
Carey

Motion to strike
plea from
files

Filed Nov. 15. 1858
S. Johnston Clk

William T. Carr administrator of Nancy Dotson deceased

Pltff in error

vs.

Jacob Carey & Thomas S. Carey defendants in error

error to Supreme Court

Deftts in error

In the Supreme Court 1st Grand Division State of Illinois at Vandalia Nov term A.D. 1858

The pltff in error comes and moves this Honorable Court to strike the plea in abatement from the files because the present proceeding is a writ of error sued out by pltff in error to reverse a decree of the Circuit Court of Jefferson County for error in the record filed herein and that the alleged error is in the rendition of a decree in a suit pending in the 1st Circuit Court long before the commencement of the suit referred to in deftts plea, and is not for error in the rendition of any decree made subsequent to the filing of said Bill by ~~complts~~ pltff as administrator of Nancy Dotson deceased as will appear from the record filed in this Cause & from the deftts pretended plea & the affirmative replication which error is sought by the pltff against

the defts in the Cause now pending in this Court by writ of error.

and further the Plffs move to strike s^d plea from the files because s^d plea is allowable at all Could only be pleaded in the Circuit Court of Jefferson County, and these & other reasons apparent from the record filed in this Cause under the s^d pretended plea of defts - plffs pray that the s^d plea be stricken from the files of this Court

R Stratton per pltff
in error

William K Carr
admr. of Nancy
Dolton decd. } Plaintiff in error
vs } Error to Jefferson
Zadoc & Thomas
Casey — } Defendants in error

Supreme Court November Term
Court A.D. 1858. 1st Division

The Demurrer of William K Carr administrator of Nancy Dolton decd. plaintiff to the plea of Zadoc Casey & Thomas S Casey defts in the above styled cause,

The said plaintiff by Protestation not confessing or acknowledging all or any of the matters and things in the said defendants plea to be true, in such manner and form as the same is therein set forth and alleged doth demur thereto, and for cause of demurrer sheweth from the defendants own showing there was no suit whatever either in law or in Equity pending between the said plaintiff and defendants or his intestate Nancy Dolton prior to the filing of the original Bill by the said Nancy in her life time

[8427-31]

against the said defendants for the causes in this Bill of Complaint, and the said amended Bill of her the said Nancy set forth,

And the said Pltiff doth for further cause of demurrer to the said plea of the said defts. ~~doth~~ show that from the said defendants own showing in their said plea at the May term of the Jefferson Circuit Court A.D. 1855 the death of the said Nancy Dotson was suggested and and a Motion was made by R. S. Nelson as Counsel on behalf of the ~~heirs~~ ~~and~~ personal representatives of her the said Nancy, ~~a Motion was made to amend~~ to amend the Complainants Bill and make her personal representatives parties not knowing at that time who they were, and that said cause stand continued for that purpose which said Motion was overruled by said Court, and it was further ordered and adjudged by said Court that the said suit so commenced by the said Nancy Dotson should stand abated whereby the said cause of her the said Nancy so pending in said Court was abated, and

that said Writ of Error was sued out of this Honorable Court to revise said decree of said circuit court in overruling said original and amended Bill of her the said Nancy to be abated and overruling the said Motion for leave to amend said Bill for the purpose of making parties as aforesaid, and refusing to allow said cause to be continued, and not for the purpose of seeking any affirmative relief against the said defendants for the same causes in said plaintiffs Bill subsequently filed by him in the circuit Court of Jefferson County as administrator of the said Nancy Watson dec'd. And this the said plaintiff is ready to verify &c Wherefore he prays Judgment of the plea of the said defendants and whether the said plaintiffs Writ of error ought by reason of any thing therein to be quashed &c

R S Nelson for plts in error

Joinder in demurrer
Davis & Wiggins
Attys for defts

[P 437-32]

No 43

Supreme Court at

Mt Vernon October 1858

Zadock Casey Exor

etc

vs

Wm & Carr admr

of Nancy Dotson

deceased

Demurrer to plea

in abatement

Filed Nov. 15. 1858.

N. Johnston Clk

Zadok Casey and
Thomas O Casey
vs
William R Carr
Admr of Nancy Dotson
deceased

} Error to Jefferson County

The defendants have filed a plea in abatement in the above cause = And the pltff by his Counsel has filed his written motion for certain reasons therein stated, to strike said plea from the files = And has also filed a demurrer to said plea. Now for the purpose of having said questions specially disposed of, it is agreed by the Counsel in the case, that they will submit said motion, & demurrer at the same time, it being under stood that the Plaintiff does not waive his right to make ~~more of his~~ rights, on the motion by reason of filing & submitting his demurrer to the plea at the same time & the motion to have evidence

Davis & Wingate
Attys for Defts

Thos D Walker
for Pltff
in error

No 43

Supreme Court
of Illinois Nov term 1858

Zadoc Casey et al
vs
Wm H Carr admr
of Nancy Dotson
deceased

Agreement to
submit motion
to strike pleas from
files & demurrer at
the same time

Filed Nov. 15. 1858.
N. Johnston Clk

State of Illinois,
SUPREME COURT,
First Grand Division. } SS

The People of the State of Illinois,

To the Sheriff of Jefferson County.

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of Jefferson county, before the Judge thereof between Nancy Datson plaintiff and Gallah Casey and Thomas S. Casey defendant it is said that manifest error hath intervened to the injury of ~~said~~ William K. Carr Administrator of the estate of Nancy Datson deceased as we are informed by his complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mount Vernon, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said Gallah Casey and Thomas S. Casey that they be and appear before the justices of our said Supreme Court; at the next term of said Court, to be holden at **Mount Vernon,** in said State, on the first Tuesday after the second Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if they shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said Gallah Casey & Thomas S. Casey notice together with this writ.

WITNESS, the Hon. John D. Caton Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this twenty sixth day of October in the year of our Lord one thousand eight hundred and fifty eight

Noah Johnston
Clerk of the Supreme Court.

[8427-35]

43

SUPREME COURT.

First Grand Division.

William H. Carr.
Adm'r &c.

Plaintiff in Error,

vs.

Zadoc Casey and
Thomas S. Casey

Defendant in Error.

SCIRE FACIAS.

FILED.

Received the within summons by leaving the same to Zadoc Casey & Thomas S. Casey this the 8th day of October, A.D. 1858

Returning summons 100
Serving summons 100
Fees 1.10

Thomas Charlton
Sheriff of Jefferson
County Ills

Gadok Casey et al
Appts
vs
Elias Adner
of Nancy Datson Dec'd

Error to Jefferson County

R H Wingate for defts

The writ of Error herein was sued out by plff as admr of Nancy Dotson deceased = long after the institution of, and while he in that character had a suit pending in the Circuit Court of Jefferson County Illinois for the same causes of action and between the same parties; the defendants plead an abatement of the writ of Error, such for such suit

Such plea is properly pleadable in this Court — and the plea as plead by defendants is full & in every particular sufficient in law

1 Chitty on Pl 454 & note (1)
2 Johns Cas. 312. Case of Jenkins v Pepoon
As to the 3 Gill 498
13 Ills 494

As to the Sufficiency of the Plea
1 Chty Pl 457
1 Saunders on Pl & Ev
Pages 21 & 22 -

The suing out a writ of Error in this Court is the Commencement of a new suit =

~~4 Gilm 110~~
~~17 Johns 182~~
~~4 Rich 110~~
2 Tidds Practice 1141
14 Ills 303
5 Gilm 20
2 " 381

In the case of Hilman v Buckmaster 3 Gilm 500. it is said ~~that~~ upon authority, that the defendant may however plead the pendency of a writ of Error, which operates as a supersedeas, in abatement of a second action; this is where the writ of Error is pending at the time of the institution of the second suit = in the case before the Court

the writ of Error was sued out after the Commencement of the suit by the pltffs which is plead in abatement of the writ of Error and if a writ of Error may be pleaded in abatement of a second action commenced after suing out such writ of Error, I insist that a suit commenced ~~upon~~ for the same causes of action between the same parties as averred in the plea in this cause may be pleaded in abatement of a writ of error sued out of this Court, ~~subsequent~~ for the same causes of action and between the same parties as averred in the defts plea, where such writ of Error was sued out subsequent to the commencement of such suit as was the case in this instance

R F Wingate for defts

[427-37]

No 43

Supreme Court

Michaelmas Term 1838

Zadoc Casey ux &c

vs

Mary E Cass admrx

&c of Nancy Dotson

deceased

Points and authorities

of R F Wingate

for deft

1858 — No 43 —

Carr — Adm^r

vs

Casey et al

Error to

Jefferson —

~~648~~

8427

Demurrer overruled

and Mt abated

[8427-87]

IN THE SUPREME COURT—STATE OF ILLINOIS—FIRST GRAND DIVISION—TO NOVEMBER TERM, A. D. 1858.

Carr ERROR TO JEFFERSON.

WILLIAM K. [redacted], Administrator of Nancy Dotson, deceased, plaintiff in Error.

vs

ZADOC CASEY & THOMAS S. CASEY, Defendants in Error.

BRIEF OF PLAINTIFF IN ERROR.

The plaintiff's intestate, Nancy Dotson, filed her Bill on the Chancery side of the Jefferson Circuit Court, complaining of the defendants overreaching her in a contract for her share of her sister Sarah Piggot's estate, made with said Zadoc and Thomas, by a fraudulent suppression of the facts, and also, for other reasons stated at length in the Bill.

The complainant, Nancy, died after the filing of the Bill, and at the term of the Jefferson Circuit Court, A. D. 185 , her counsel, who had been employed by her, moved the Court to continue the cause, announcing to the Court the death of his client, the said Nancy, and asking the Court to continue the cause with leave to revive the same in the name of the administrator, when his name should be ascertained. Whereupon the defendants in error entered a cross motion to dismiss the suit. The Court overruled the motion of complainants counsel, and sustained defendants motion, and dismissed the Bill.

The plaintiff in error assigns for error, the order of said Court dismissing Bill and refusing to continue cause with leave to revive the name of the Administrator—also overruling the motion of counsel for complainant, Nancy, and sustaining motion of defendants, and brings the cause into this court by writ of error.

R. S. NELSON, for Plaintiff in Error.

43

Can
vs
Casey

Filed Nov. 10. 1858

A. Johnston Clk

8427

IN THE SUPREME COURT—STATE OF ILLINOIS—FIRST GRAND DIVISION—TO NOVEMBER TERM, A. D. 1858.

ERROR TO JEFFERSON.

WILLIAM K. ~~Case~~ Carr, Administrator of Nancy Dotson, deceased, plaintiff in Error.

vs

ZADOC CASEY & THOMAS S. CASEY, Defendants in Error.

BRIEF OF PLAINTIFF IN ERROR.

The plaintiff's intestate, Nancy Dotson, filed her Bill on the Chancery side of the Jefferson Circuit Court, complaining of the defendants overeaching her in a contract for her share of her sister Sarah Piggot's estate, made with said Zadoc and Thomas, by a fraudulent suppression of the facts, and also, for other reasons stated at length in the Bill.

The complainant, Nancy, died after the filing of the Bill, and at the term of the Jefferson Circuit Court, A. D. 185 , her counsel, who had been employed by her, moved the Court to continue the cause, announcing to the Court the death of his client, the said Nancy, and asking the Court to continue the cause with leave to revive the same in the name of the administrator, when his name should be ascertained. Whereupon the defendants in error entered a cross motion to dismiss the suit. The Court overruled the motion of complainants counsel, and sustained defendants motion, and dismissed the Bill.

The plaintiff in error assigns for error, the order of said Court dismissing Bill and refusing to continue cause with leave to revive the name of the Administrator—also overruling the motion of counsel for complainant, Nancy, and sustaining motion of defendants, and brings the cause into this court by writ of error.

R. S. NELSON, for Plaintiff in Error.

Since the decree Carr admr has commenced a suit in court below for same cause & this is pleaded in abatement which is demurred to here.

Mingo -

3 Gil 498

[8487-48]

43

Carr
vs
Carey

Filed Nov. 10. 1858
N. Johnston Clk