

1795-015

SOUTHAMPTON COUNTY
CHANCERY PAPERS

GRIFFIN'S EXTOR VS PHILIPS

3/1795

other SURNAMES: Phillips

Gripping
vs
Philips Ship

By

July 1792

abates def^t. dead.

March 1795 refer'd
to award & ret. of judg^t
accordingly

120.
224
112
9.4
4.8

1.2

3 7/10

To the worshipping The Court of Southampton County in
Chancery Sitting Humbly complaining sheweth unto
your worship your orator Micajah Griffin
Executor of Benjamin Griffin decd, that sometime or
or about the day of there was suit instituted
by Moses Phillips of this county against your orator
upon an account for the sum of

your orator further sheweth that the testator
Benjamin Griffin had an account against the said
Moses Phillips to a greater amount than the same
Philip^s by the said Moses against your orator and which
your orator would have pleaded as a set off against
the account of the said Phillips had he have recollect^{ed}
the suit against him. ~~For~~ your orator begs leave
to suggest in^{ter}ven^t upon that although the writ sub
out by the said Phillips against your orator as ex^{or}
of Benjamin Griffin decd was returned by the Sheriff
Executed yet he does not recollect nor did it ever
occur to him that he had been impleaded by the
said Phillips But so it is may it please your
Worships that suit was brought & Judgment
obtained against your orator for the full
amount of the account exhibited against him your
orator never having employed an attorney to make
a defence or to plead his account as a set off. Your
orator further sheweth that about two years previous
to the said Phillips bringing his suit your orator together
with with Mr. Richard Wells & a certain Lemuel Phillips
^{went} to the residence of the said Moses & then & there had a final
settlement with the said Moses & that the said Moses fell
indebted to your orator your & S^{er}vice or some such trifling sum

All which sayings & doings of the said Moses Philips are
contrary to a guilty & good conscience. In tender consideration
whereof, & for as much as matters of the present nature
are properly cognizable in a court of equity. To the end
therefore that the said Moses Philips may on his oath
full true & perfect answer make to all &
singular the allegations of this bill, as fully as if
they were again set forth & repeated; but more
particularly whether the account on which he
founded his suit was not an open one against
the estate of Benja. Griffin dec. whether
he was not indebted to the said estate any
money, & to what amount; Did your orator
make any defence at the trial of the suit. &
did not he & your orator have ^{a fair & perfect settlement} a settlement
in presence of the gentlemen before set
forth. And that your worship may order
& decree a perpetual injunction directed to the
said Moses Philips to stay proceedings on the
judgment obtained against him, can be fairly
heard in a court of equity is the prayer of your orator,
or that your worship may make such further or
other decree as may appear just & reasonable
is the ~~prayer~~ ^{prayer} of your orator. May it please &c.

The truth of the above allegations
sworn to before me by ^{Benja. New for the Capt.}
Starbuck & Co.

Philips
at
Griffin } answer
—

The answer of Moses Phillips to the bill of complaint exhibited against him by Ellicajah Griffin Esq of the last will and testament of Benjamin Griffin died

This defendant saving ^{to himself} now and at all times hereafter, all and all manner of benefit and advantage of exception to the manifold errors uncertainties imperfections and untruths in the complainants said bill of complaint contained for answer thereto or so much thereof as this defendant is advised or material for him to make answer unto, He saith, That True it is This defendant did institute a suit against the complainant in the Year 1786 in ^{the month of June} on an account agst his testator, that the S^{d} suit remained on the docket ^{above} ~~more~~ two Years was tried in open court & verdict given in favor of this defendant for the sum of $\text{\$} 17^{\text{m}} 7^{\text{c}} 10^{\text{d}}$

for which sum ^{& Costs} an execution issued The record of these proceedings being here annexed the defendant prays may be made part of this his answer by which it will appear that this defendant proceeded in a regular & legal manner & if the complainant had forgotten that a suit was instituted agst him ^{he employed no lawyer to defend him} it was his fault ~~Almond~~ ought not to affect This respondent — This defend^t expressly denies that the complainants testator had a larger account agst him than the one his judgment is founded on (which ever came to his knowledge) neither has he ~~ever~~ seen any account or knows of any demand agst him except what ~~was~~ credited in the a/c hereto annexed This defendant also denies that any settlement was made of the a/c's mentioned in the bill by R^d Kellogg & Lem^l Phillips on his behalf & that he believes the small ~~bad~~ mentioned by the complainant is altogether imaginary — This defendant ^{again} refers to the exhibits hereto annexed in answer to the Complainants interrogatories & prays to be hence discharged with his costs ~~and~~ in his behalf most unjustly sustained &c

Moses Phillips
The above contents of the foregoing answer of the defendant to the bill of complaint of the complainant

The huth of within answer to a bill
against the said Mary Thistleby Giffen
brought to before me this 9 day of July 1749

Edm Tyle