

1818-003

SOUTHAMPTON COUNTY
CHANCERY PAPERS

BENDALL and Wife VS. FOSTER et al 12/1818

other surnames: Waller

Bendall's wife

My

Forter & Co -

Bill & Answer

Letter of 18/18 per answer
JL

To the worshipful Court of Southampton in Chancery sitting
Humbly complaining shew unto your worship your orator
and oratrix Isaac Wendall and Harriot his wife late Harriot
Foster widow and relict of Nathaniel Foster died. That the said
Nathl Foster departed this life sometime in the year
having first made and published his last will and testament
that your oratrix renounce all benefit under the said will
in legal form, preferring to accept such provision as the
law of the land made for her. That the said Nathl
Foster left an only child Arthur Thomas Foster his
sole heir and legatee. That the executors appointed
by the testator refused to act, and a certain Deering
Waller took out letters of administration with the
will annexed of said Nathl Foster. That the said Nathl
Foster died possessed of several slaves, some of which have
been sold for the payment of debts and but that there
are yet remaining thirteen viz Cain, George, Sam,
Nancy, Lucy, Cary, Nanny and her child Roddy, Fanny
Lizzy, Emma, and Tom which it is believed will not
be required for the purpose of paying debts. That your
oratrix is entitled to one third of said slaves for her natural
under the act of the General Assembly in such cases made
and provided, but she is advised that the same cannot
be allotted to her without the aid of a Court of Equity -
In tender consideration whereof and in as much as
your complainants are without remedy save in a
Court of Chancery where matters of this sort are properly
cognizable. They pray that the said Arthur T Foster
who is an infant of tender years may be made a

defendant huts by some friend to be appointed by the Court to defend him in this behalf and that the said Drury Waller agree with the will annexed as aforesaid may also be made a defendant huts, and that they be full true and perfect answer to make to all and singular the allegations herein contained fully and unreservedly. They further pray that ~~the~~ third of the aforesaid slaves having regard to value be allotted to your complainants in right of your estate for and during the term of the natural life of the said complainant Harriot. And finally they pray that any other or further order or decree in the premises may be made which this Court may deem right and just, and as in duty bound they will ever pray &c -

To the worshipful Court of Southampton in Chancery sitting
The joint and Separate answers of Arthur T Fortes and infant by his next friend Drury Waller - appointed by the Court to defend him in this behalf, and Drury Waller agree with the will annexed of Nathl Fortes decd. to the bill of Complaint exhibited against them by Isaac Rendall and Harriot his wife, late Harriot Fortes widow and relict of Nathl Fortes decd.

These respondents now and at all times saving and reserving to themselves all benefit of exception to any errors or imperfections in the complainants bill contained, for answer to so much thereof as they and advised is material and necessary for them to answer, say that they believe the material allegations contained in the bill are true, and they are willing to abide by

such decree in the premises as this Court may deem it right and just to pronounce, and having answered, they pray to be heard dismissed &c -

Drury Waller

Rough Decree

Isaac Bendall and Harriet his wife
late Harriet Forter widow and relict *Plffs*
of Nathl Forter and - - - -

vs

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3 In Chy

Arthur Thomas Forter an infant his
and legatee of said Nathl Forter and *Plff*
his next friend *Plff*
appointed by the Court to defend him in
this behalf, and Denny Waller administrator
of the will annexed of said Nathl Forter and

This Cause was this day docketed by consent of the parties
and argued of the Court, and was heard on the bill and answers
and arguments of counsel, whereupon and after due consider-
ation thereof had the Court doth adjudge order and decree
that Robert Nicholson, Chasman Nicholson, Benjamin
Applegate, John P. H. Westbrook and Thomas Fitzhugh
or any three of them do set apart and allow to the *Plffs*
in right of the *Plff* Harriet one third of the slaves mentioned
in the bill to wit (here insert the names of the slaves)
having regard to value for and securing the natural
life of the said Harriet, ^{when they executing a life interest} and ^{bound to the admi-} ~~and they~~ or such of them
as may act do make a report to this Court of their
proceedings herein in order to a final decree.

Birney's wife
to
Waller to p. 3

copy

Decr 21st 1818 Refd Recd
Official record by Court

Southampton Sept Court 1818

Isaac Bensall and Harriet his wife
late Harriett Foster widow and relict of Nathl Foster and Cornfells
against

Arthur Thomas Foster an infant him and legatee
of said Nathl Foster decd by Drury Waller his
next friend appointed by the Court to defend him
in this behalf & Drury Waller admr with the
will annexed of said Nathl Foster deceased — Defendants

de Bensall

This Cause was this day docketed by consent of the
parties and agents of the Court, and was heard on the bill and
answer and arguments of counsel, whereupon and after due
consideration thereof has, the Court doth adjudge order and decree
that Robt Nicholson, Chaseman Nicholson, Benjamin Applewhite
John P H Westbrook, and Thomas Fitzhugh or any three of them
do set apart and allot to the Plaintiffs in right of the Plaintiff
Harriet one third of the Slaves mentioned in the bill (to wit)
Barnes, George, Sam, Nancy, Lucy, Mary, Nancy and her child
Nooy, Fanny, Lizzy, Emma and Tom having regard to value
for and during the natural life of the said Harriett upon them
executing a refunding bond to the administrator, and that they
or such of them as may act do make a report to this Court
of their proceedings herein in order to a final decree —

at test

A. Middleton D.C.

In Audience to the honourable County Court
of Southampton here to meet on the Commission
have proceeded and made the valuation
of the within named Negroes and divided the
proceeds by giving one third thereof to the
S^r. Bendale and Harriot his wife
By the S^d. Alphons paying twenty five Dollars
in cash to the S^d. Bendale and wife
Given under our hands this 31st day of October
1878.

J. J. Westbrook

Chasmon Nicholas

Thomas Fitzhugh

Ben. A. Applegate

Commissioners

81205

~~\$4125.00~~

me
J

8137500

4
Col. James Lizvan

Southampton

A list of the Names of Negroes belonging
To the Estate of Nathl Foster who to
be divided between the Widow and the
Negatees (Lay) Father Thomas Foster
Names. Cain, George, Sam, Nancy, Lucy,
Clay, Fanny, ^{Child} & Loddy Fanny, Lizzie,
Emma, & Tom,

Praying a bill & answer
of the Court of Southampton
County -

Isaac Bendall