

1841-040

SOUTHAMPTON Co.
CHANCERY PAPERS

GURLEY'S EXECUTOR VS. FORT et als

10/1841

(Gurley's adm'r vs Fort's curator & al (Judgment))

Other SURNAMES; Barham,
Millar, Griffin

1. not charged that Griffin is
admit. of Joseph Fort.
- 2 the pty is not entitled to the
judgment, it belongs to the
representative of Geo. Gurley the
elder -

Oct. 1811

Peffer Cook

talk	\$14 68
Shff	8 40
Tax	75
Law. fee	5 00
Com.	9 30
	38 33

~~18~~ 9.

Gurley adm: 2^d
v. 3 Papers.

Meller 2^d

Received by the Clerk of the Cov.
Sup. Ct. June 30th 1838

1838 Aug. And of Miller G R 2^d

Dec. Set for hearing -

1839 Apr. Leave to amend bill 2^d

May - amended bill 12th 2^d

Nov. Set for hearing -

1840 Oct. 7 Decree for account

1841 Apr. Remt 2^d

Sept. 20 Report.

Dec. 7 Decree v Miller ad.
Fort.

Gurley }
 Fort } Bill

456

May 22nd 1827 Bill filed—

1827 Aug. or. pub. v Dft Fort to Act
 Court next.

— August 20th 1827 Saml. Barham
 am. filed—

1837 Nov. Leave to amend bill I agree
 sent to the Rules.

1838 Feb. Amended bill &c.

" March. Sp. if.

" June - Ordered to be removed to the
 Cir. Sup. Court &c.

Plaintiffs Costs

Costs.	\$ 5.91
Shff.	2.40
Law & Tax.	5.75
	<u>\$ 14.06</u>

Dft Barham's Costs

Costs.	0.44
Law &c.	5.00
	<u>\$ 5.44</u>

To the worshipful the County Court of Southampton in
Chancery sitting - I humbly Complain sheweth unto
your worship. your orator. George Gurley Esq of George
Gurley dec^d that ~~that~~ at the September term of the County
Court of Southampton in the year 1806 he obtained a
judgment upon motions against Benjamin Millar and
Esq. of Joseph Fort. dec^d for 52.46. & three pence. thirteen
shillings & sixpence & 2.54 cts. Making \$ 68.25. -

That at the Feb Term 1807. the said Millar obtained an
injunction to the said judgment by his bill which was
promptly answered by your orator. and from circumstances
not depending on or connected with the merits of the case
it remained on the motions docket of the Court until
March 1822. when it was disposed at the Complainant's
Costs. which amounting to \$8.70 were decreed to your orator
the defendant in that suit as well as ten percent upon his
Judgment at Law. as damages in lieu of interest. -

That the said Joseph Fort ^{who died intestate} at the time of his death
left a considerable estate which came to the hands of
the said Benjamin Millar his representative: More
than was sufficient to pay all the just Debts of the
said Joseph Fort as your orator believes - That the
said Joseph Fort at his death left one child &
his Set Robert Fort. and a widow. Nancy who
as your orator believes. received the estate of Joseph Fort.
as by law directed after the payment of debts. in their
proper proportions. and to a larger amount than would

be sufficient to satisfy your orator's debt, for which they gave
or ought to have given upstanding bonds. - That the said wife
Nancy intimated with the said Benⁿ Miller and her
servant him. - That the said Benjamin Miller has
sometime since died and his estate is unrepresented, as
your orator believes. - That the said Robert Fort a few years
passed left the County of Southampton & has not been since
heard of, so that he either is dead or probably a non-resident
of the State; and as his absence has not been long enough
to create the presumption of his death, your orator prays
to proceed against him as an absent defendant. -

That a certain Samuel Barkham of the County of
Southampton has been by the Court appointed his
Committee & as such has in his hands property, money
or other funds, as your orator believes, more than suffi-
cient to discharge your orator's debt. -

That upon the deposition of the injunctive there was
no property in the hands of Joseph Fort ^{as he is stated to have}
^{shipped, & no property having come to his hands as it is believed}
after the death of Miller committed to the Court of which your orator
debt could be made. - Your orator has been advised that the
distributors may not at law be made directly responsible for debts
due from their ancestor, yet as they are ultimately responsible
a Court of equity (which abhors circuity of action) will interfere
and decree against them in the first instance to the extent
which they have received, in favour of creditors, by which
they arrive at the justice of the case, and at the same time
avoid a multiplicity of suits. -
To the end therefore, it is prayed that Robert Fort, Samuel Barkham
and a Nancy Miller be made debtors here & that they give

full & perfect answer to the allegations hereof, that the said
Samuel Barkham be required to admit sufficient funds or
render his account as Committee of Robert Fort to this Court.
That your worship decree to your orator the payment of
his debt damages & costs against the said defendants, or such
of them, & in such proportion & in such manner, as to
your worship may seem equitable & just, and that your
worship grant general relief in the premises, and as
in duty your orator will ever pray. -
Mason &
Morrison

This day personally appeared before me, George Guiley
who made oath that the above bill was true as far as he
knew or believed. Given under my hand this ^{day}
of 1827. - Jp

Gulley & Amended Bill
for
Forts Representatives

17 Jan. 1838

To the worshipful the County Court of Southampton
in Chambers sitting.

Humbly complaining sheweth
unto your worships your orator John M. Gurley
Adm^r & B^r of George Gurley Dec. that his Father George
Gurley (who was Es^r of George Gurley Dec. his grandfather
at the September term of the County Court of Southampton
in the year 1806 acting in the capacity of Es^r obtained
a judgement upon Motion against Benjamin
Millar Adm^r of Joseph Fort Dec. for \$52.46/- & three pence
nineteen shillings and sixpence and \$2.54 cents costs
making \$68.25-

That at the February Term 1807 the said Millar
obtained an injunction to the said judgement by his
Bill which was promptly answered by ^{George Gurley Es^r} ~~your orator~~
of George Gurley
and upon circumstances not depending on or con-
nected with the merits of the case, it remained on
the motion docket of the Court until March 1822
when it was disposed at Complainant's costs, which
amounting to \$8.70 were decreed to George Gurley Es^r
as aforesaid the Defendant in that suit as well
as ten per cent upon his judgement at Law, as
damages in lieu of interest.

That the said Joseph Fort at his death left
one child and heir, to wit, Robert Fort, and a widow
Nancy Fort who as your orator believes receive the
estate of Joseph Fort as by law directed in their proper
proportions after the payment of his debts, and to a larger
amount than would be sufficient to satisfy your
orator's debt for which they gave or ought to have
given refunding bonds. That the said widow Nancy
Fort intermarried with the said Benjamin Millar & has
survived him, and that the said Robert Fort many
years since left the County of Southampton, and was
proceeded against as an absent Defendant in this
suit, his estate being at the same time committed
by the Court of this County to one Samuel Barkham

his committee who as such received funds as your
orator believes more than sufficient for the payment
of this debt, all of which facts will appear more
fully by reference to the original Bill, of which
this is prayed to be considered as a part -

After ~~before~~ the death of Benjamin Miller, the estate of
Joseph Fort was committed to Coen Darden at that
time acting shff of this county, and upon the dissolution
of the injunction it was found that no property or funds
of any kind had come to his hands out of which
your orators debt could ~~be~~ be made -

Your orator has been advised that though distributees
may not at law be made directly responsible
for debts due from their ancestor, yet as they are
ultimately responsible, a court of Equity will in-
terfere and decree against them in the first in-
stance to the amount which they have received
in favour of creditors, by which they arrive at the
justice of the case and at the same time avoid
a multiplicity of suits -

Your orator would further state, that the conti-
nued absence of Robert Fort, the only child of the said
Joseph Fort, and the fact that nothing has been heard
of him, has created in law a presumption of his
death, and in consequence of it Nancy Miller his
mother has qualified as adm^{or} of his estate, a cer-
tificate of which qualification is herewith filed and
prayed to be taken as a part of this Bill - and
that as adm^{or} of Robt Fort property to a considera-
ble amount has come into her hands, more as your
orator believes than is sufficient to discharge his
claim, and that she be required to admit the same
or render an account of her administration on Robt
Fort's estate before a Master Commissioner -

To the end therefore &c Your orator prays that Samuel
Barkham curator as apprais^r of Robt Fort, Nancy Miller
adm^{or} of Robt Fort and Nancy Miller in her own right
Benjamin Griffin shff & Rep. of Benjamin Miller dec, and

Benjamin Griffin as shff and Rep. of Joseph Fort dec.
may each be made shffs to this Bill and perfect and
true answers make to all the allegations thereof as tho'
they were specially interrogated as to each - And
that your worships would decree to your orator
the payment of his debt damages and costs against
the said shffs, or such of them, and in such manner
as to you shall seem most conducive to equity
and justice - and that your worships ~~shall~~ grant
such other further and general relief in the premises
as to you shall seem requisite - And for this
they ^{will} ~~ever~~ pray &c as in duty &c -

Rem^d

Quincy
vs 3 In Chancery
Facts Rep

Amended Bill

April 29/1829.

To the Hon. Richard H. Bather Judge of
the circuit Superior Court of Law and
Chancery for the County of Southampton

Having ^{by amendment to his original Bill} been complaining sheweth unto your
Honor ~~your~~ Orator John M. Gurley, admr. J. B. M.
of George Gurley dec. the elder, that his Father George
Gurley, who was executor of George Gurley the
elder, at the September term of the County Court
of Southampton in the year 1806, acting in the ca-
-pacity of Exr obtained a judgement upon motion
against Benjamin Miller admr. of Joseph Fort
dec. for \$52.46 and three pence, nineteen Sil-
-lings and six pence, and \$2.54 its costs making
\$68.25-

That at the February Term 1807 the said
Miller obtained an injunction to the said judgement
by his Bill which was promptly answered by
George Gurley Exr. of George Gurley the elder, and
from circumstances not depending on, or con-
-nected with the merits of the case, it remained
on the motion docket of the Court until March
1822, when it was disposed at complainant's costs, which
amounting to \$8.70 were decreed to George Gurley, the
defendant in that suit as well as ten per cent
upon his judgement at Law, as damages
in lieu of interest-

That the sd. Joseph Fort at his
death, left one child and heir, to wit Robert Fort, and
a widow Nancy Fort who as your Orator believes

received the estate of Joseph Fort as by Law directed in their proper proportions, after the payment of his debts and to a larger amount than would be sufficient to satisfy your orators debt for which they gave, or ought to have given repending bonds - That the said widow Nancy Fort intermarried with Benjamin Millar and has survived him, and that the said Robt. Fort many years since left the County of Southampton and was proceeded against as an absent Defendant in this suit his estate being at the same time committed by the Court of this County to one Samuel Barden his Committee, who as such received funds as your orator believes more than sufficient for the payment of this debt, all of which facts will appear more fully by reference to the original Bill of which this is prayed to be considered as a part after the death of Benjamin Millar, the estate of Joseph Fort was committed to Carr Barden at that time acting Sheriff of this County, and upon the dissolution of the injunction it was found that no property or funds of any kind had come to his hands out of which your orators debt could be made -

Your brother has been advised, that though dis-tributors may not at Law be made directly respon-sible for debts due from their ancestor, yet as they are ultimately responsible, a court of Equity will interpose and decree against them in the first instance to the amount which they have received in favour of creditors, by which they arrive at the justice of the case, and at the same time avoid a multiplicity of suits -

Your Orator would further state, that the continued absence of Robt. Fort the only child of the said Joseph Fort, and the fact, that nothing has been heard of him, has created in Law a presumption of his death, and in consequence of it, Nancy Millan his mother has qualified ^{as} ~~an~~ ^{an} adm^r of his estate a certificate of which qualification is herewith filed and prayed to be taken as a part of this Bill - and that as adm^r of Robt. Fort's property to a considerable amount has come into her hands, more as your Orator believes, than is sufficient to discharge his claims, and that she be required to admit the same or render an account of her administration on Robert Fort's estate before a master commissioner.

To the end therefore &c your Orator prays
that Samuel Barham Curator as aforesaid
of Robt. Fort Nancy Millar, ^{who is} admr. of Robt
Fort and Nancy Millar in her own right
Benjamin Griffin Shff. who is the representative
of Benjamin Millar dec. and Benjamin Griffin
Shff. and also Representative of Joseph Fort dec.
may each be made defendants to this Bill, and perpetuate
answers make to all the allegations thereof as tho' they were
specially interrogated as to each. And that yr. Honor
would decree to your Orator the payment of his
debt damages, and costs, against the sd. defts, or such
of them, and in such manner as to you shall seem most con-
sistent to equity and justice, and that your Honor
grant such other further and general relief in
the premises as to you shall seem requisite And for
this they will ever pray &c

Barham Court of Fab
etc & Cus
Farley's error.

To the worshipful the County Court of South-
ampton sitting in Chff.

The separate answer of Saml.
Buckham Comtee of Robt Fort to the Bill of complaint
exhibited against him & others by Geo. Garbey Esq
& Geo: Garbey senr.

This respondent owing to himself
all benefit of exceptions to the many errors &
defects & mistatements in the said Bill contained
for answer to so much thereof as he is advised
is material for him to answer says that he
protests against the want of proper parties & the
entire absence of equity on the face of the
said Bill to the same extent as if those defen-
ces were here regularly presented by plea &
demurrer. — And for his answer he says
that it is true that this respondent is Comtee
of the said Robt Fort & has in that character
in hand property more than equal to the
claim in controversy. But that he is advised
that the same cannot justly be recovered in
these proceedings. This respondent knows
nothing of the recovery of the judgment exhibi-
ted by the Compt. or of the accompanying
circumstances which he alleges, & therefore
requires strict proof of the whole. This
respondent relies on the stateness of the transaction
& is advised that if the present claims depended on
a bond instead of a judgment or a summary testator
that a Court of law or equity would be called on
after this lapse of time to presume it paid. That
this presumption should not be rebutted by the

pendency of the proceedings on the Injunction ad-
-verted to, inasmuch as this respondent is the
individual whose interests he represents and
neither parties to that proceeding - & that the very
fact of that case being permitted to lie dormant
so many years, is auxiliary to the same conclu-
-sion, that the case had been settled during
the life of Miller's Mortgage. Your respondent
next contends that if refunding bonds have been
or ought to have been given for charges in the
Bill, that the only remedy of the Comptroller if
any as against these parties, would be one
in a Court of Law & not Chancery. And also
that Miller's security on the Injunction Bond
afford an obvious remedy under the facts detail-
-ed by the Comptroller, if he has recited them cor-
-rectly. That in a Court of Chancery even
were it otherwise that there could be no
recovery against these debtors until the estates
of the said Messrs Fab & Perry & Miller were
before the Court in this suit and on a careful
-taken of the administration of each.

And this respondent having now
fully answered prays to be hence dismissed
Saml. Parkman
Produce

Southampton County

Personally appeared before
me James W. Barker a Justice of the
Peace for the said ^{County} Saml. Parkman, who made
oath that the facts stated in the foregoing are
true to the best of his knowledge and
belief. Given under my hand this 20th Aug.
1827.

James W. Barker Jp

The separate action
of Nancy Millar
in her own right &
a story of the Fort. to
the complete bill -

Gurley Gro
v } And
Fort of }

July 17/1858.

The Separate Answer of Nancy Miller to a bill of Complaint & libel against her in her own right and as Adtrix of Ruth Fork, by Geo M. Gurley adtr D. B. D. of George Gurley decd.

This Respondent saving to herself all benefit of just exception to the Comptts bill, for answer to so much thereof as she is advised it is at all material for her to answer, says, That it is true as stated in the Comptts bill, ~~that~~ she intermarried with Benjamin Miller, who has since departed this life, that she also qualified as Adtrix of Robert Forkin that charge to possess herself of the estate of D Fork, which is still in her possession, She states, that she knows nothing of the Judgment sought to be recovered by the Comptt. that she is also ignorant of all the circumstances referred to in connection with said Judgment. She therefore cannot answer specifically to all the allegations in the Comptts bill contained.

She prays the Court, however to adopt & regard the answer of Samuel Backham Comtr of Ruth Fork heretofore filed in answer to the original bill, as a part of this answer, and making no other admissions that those above set forth, she insists on strict proof of all the allegations of the bill. and prays the court to protect her in all of her legal rights & forms. and having answered prays same to be dismissed with her cost in this behalf expended -

Truly for sd, D.

Southampton County, to wit: &

This day Nancy Miller personally appeared before me, a J. P. for the County of Southampton and made oath to the truth of the above answer, so far as the facts are stated on her own knowledge & her belief, of them so far as they are derived from others.

July 11th " 38

Thos Kidley J. P.

a copy posted at the ex-
honor 2000. at August &
Sep. Court 1827.

At Rules holden in the Clerks Office of Southampton County Court on Monday
the 6th day of August 1827.

George Gurley Executor of George Gurley deceased. Plaintiff
against
Nancy Mellar late Fort widow of Joseph Fort deceased
Robert Fort and Samuel Barham
In Chancery
Shofts

The defendant Robert Fort not having entered his appearance and given
Security according to the Act of Assembly and the rules of this Court and it
appearing by Satisfactory evidence that he is not an inhabitant of this Common-
wealth. On the motion of the plaintiff by his Attorney it is ordered that the
said defendant do appear here and answer the plaintiffs bill on the third
Monday in October next and that a Copy of this order be forthwith inserted
in some newspaper published in the Town of Petersburg for two months succe-
ssively and posted at the front door of the Courthouse of this County -

Notes for Bureau.

To be entered.

R. H. B.

Gundry
vs
Forts Reps.

This day this cause came on to be
heard on the ^{original and amended bill,} ~~Bills~~, Answers, exhibits filed,
and argument of counsel, ^{on consideration whereof} ~~whereupon~~ the Court
doth adjudge, order, and decree, That Nancy Miller
settle before ~~Master~~ ^{the} Commissioners of this Court
her Administrations on Robert Fort's Estate, that
Samuel Barham do render before the same
Commissioners an account of his Transactions
as Committee of Robert Fort, That Benj. Griffin
or ^{or agent} ~~Thff. & Rep.~~ of Joseph Fort Sec. do render an account
before the same Court of his transactions, admin-
istration on Joseph Fort's Estate - and that the also ~~also~~
~~same~~ ^{same} ~~make up & report a distribution acc. showing the~~
~~before same Commission. an account of his ad-~~
~~ministration on the Estate of Benj. Miller Sec.~~
~~Robert Fort, which said several accounts appeared, com- & is~~
~~made that each make report to the Court~~
~~ordered to require state and settle & to the court report~~
~~to be further decided~~
with any matters specially stated deemed pertinent by him-
self or required by the parties to be so stated -

x of the defendants Saml. Barham comm. of Rob. Fort to the vid
original Bill and the answer of Nancy Miller in her
own right and as admof of Rob. Fort decd.

11111
Gurleys adm?

as } Copy @ once
 } & notes
 3

Millers adm for

Aug^t 17th 1841

1

We Acknowledge the service of this notice

July 19/1841

" " "

Thos. M. Girding

Bay Guffin

July 23/1841

" 30 "

Stacy Hilbar

Sam B. Asham

Southampton Circuit Superior Court. Octo. the 31st 1840.

John M. Gentry administrator de bonis non of George Gentry D.^{ce} Pff
against

Samuel Barham Curator of the estate of Robert Fort. Nancy Miller
administration of Robert Fort ac^{ce} and the said Nancy Miller in her
own right. Benja. Griffin Sheriff and administrator of Joseph
Fort ac^{ce}, and the said Benja. Griffin Sheriff and administrator
of Benjamin Miller dec^d. Dfts }

This day, this cause came on to be heard on the original and amended
bill, answer of the defendant Sam^l Barham Com^r. Robert Fort to the
said original bill and of Nancy Miller in her own right and as ad-
ministratrix of Robt Fort dec^d. exhibits files and argument of Coun-
sel, on consideration whereof the Court doth adjudge, order and decree
that Nancy Miller settle before the commissioners of this Court
her administration on Robt Fort estate, that Sam^l Barham do un-
der before the same commissioners an account of his transactions
as committee of Robt Fort. That Benja Griffin Sheriff & adm^r of
Joseph Fort dec^d, under an act before the same commissioners of
his administration on Joseph Fort estate. and that the same
commissioners make up and report a distribution account, show-
ing the amt respectively paid to and received by the widow and only
child of the said Robt Fort, which said several acts, the said com-
missioners is directed to examine, state and settle and to the Co-
urt report with any matter specially stated deemed pertinent
by himself or required by the parties to be so stated -

A. C. py

Wm. L. R. Edwards. C. C.

Court Office June 28th 1841

I have again appointed Tuesday the 17th day of August
next to take up the accounts directed by the above order of the Court,
at which time the parties interested are required to attend ^{at the Court House} by Ten o'clock
A. M. with their vouchers and evidence for examination and
settlement

Wm. L. R. Edwards C. C.

Gurleys adm

v } Copy Deere

Millers adm &c

notice to augt 17th 1841

Southampton Circuit Superior Court. October the 31st. 1840.

John M. Gurley administrator de bonis mort of George Gurley dec^d. Plff
against

Samuel Burkhard Curator of the estate of Robert Fort. Nancy Miller
administratrix of Robert Fort dec^d and the said Nancy Miller in her
own right. Benjamin Griffin Sheriff and administrator of Joseph
Fort dec^d and the said Benjamin Griffin Sheriff and administrator
of Benjamin Miller dec^d. Defts

This day this cause came on to be heard on the original and amended bill answer of
the defendant Samuel Burkhard bornⁿ Robert Fort to the said original bill and of
Nancy Miller in her own right and as administrator of Robert Fort dec^d. exhibits filed
and argument of Counsel in consideration whereof the Court doth adjudge order and
decree that Nancy Miller settle before the Commissioners of this Court her administration
on Robert Fort's estate that Samuel Burkhard do render before the same Commissioners
an account of his transactions, as Curator of Robert Fort. that Benjamin Griffin
Shff & admor of Joseph Fort dec^d render an account before the same Commissioners of
his administration on Joseph Fort's estate. and that the same Commissioners make
up and Report a distributive account showing the amount respectively paid to and
received by the widow and only child of the said Robert Fort which said several
accounts the said Commissioners is directed to examine state and settle and to the
Court report with any matter specially stated deemed pertinent by himself or
required by the parties to be so stated.

Attest

Teste.

L. R. Edwards Clk

Notes for
series

To be returned
R.H.B.

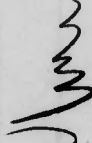
Gurley
vs
Forts Rep.

The subp.^{ns} on the amended bill, having been ~~and more~~
than two months and the said def.^s ~~except Nancy Miller~~
~~who has~~ still failing to answer the same the are
latter for confessed ag.^t the said defts except Nancy Miller
who has filed her answer to the said first amended
bill and the cause coming on to be heard

This day this cause ~~came on to be heard~~
on the original and Amended Bills, answers
of the said Sarah Barkham Committee of
Robt. Fort to the sd original Bill, and
of Nancy Miller in her own right, and
as advised of Robert Fort be & Exhibits
and upon ~~the order of this Court at~~
~~the argument of the plff. dated~~
~~the April term 1841 directing sd~~
Nancy Miller to settle before the Court
of this Court her transactions as advised
of Robert Fort, and was argued by counsel
On ~~consideration~~ where^t and it appearing
to the Court that the sd. Nancy Miller has
failed to appear before the Court of this Court
after having been twice summoned to do
so, and the sd. Nancy Miller having ad-
mitted in her answer apts. sufficient
to discharge the debt of Plff. The Court
doth further order adjudge and decree
that Nancy Miller pay over to Geo. M. Gurley
advr. D.M. of Geo. Gurley the Elder the sum
of \$177.70 with interest on \$~~88.25~~^{55.71} part
thereof from March 15. 1822 till paid
and his costs in this suit expensed =

^{rel}
* The waiving for the present his right to have the decree
entered herein on the 31.st day of Octr. 1840 carried into
effect, but reserving to himself the liberty to ask
his. after ~~by~~ deemed needful for the settlement of any
account or accounts which may be necessary for
his relief or for any other or further decree of
the said Nancy Miller individually or as representative
of Robert Fort or against any one or more of the
other defts.

A

Gurley's adm^r Comm^r
no  Report
Millers adm^r

Filed Sep. 20/1846

Garley admr

vs.

Millers admr

In Chancery

The Comr. issued notice to the parties a second time in this case which was returned duly executed, and is herewith filed, and the plaintiff Garley attended. As neither of the defts. Miller or Parham attended, the Comr. could not comply with the order of the Court by reporting Nancy Millers transactions as admr of Robt Fort-de. or of Samuel Parhams transactions as Committee of the said Fort.-.

He therefore can only make a statement shewing the amount of the plaintiffs demand; and if the Court should concur with the Comr., a decree should be entered up against Nancy Miller admr of Robt Fort-de. for the sum of \$177.70 with Interest on \$68.25 part thereof from March 15th 1822 till paid, agreeably to the following statement

Debt due Sept. term say 15 th 1806	\$52.46
" also £3.19.6	13.25
Costs	2.34
	68.25

Interest from Sept 1806 to February 1807	\$1.64
10 ^{cts} damages in lieu of interest from	
February 1807 to March 1822 - 15yrs 1 mo.	99.11
Costs	8.70
	109.45

with amount of plffs demand
with Interest on ~~\$68.25~~ ^{\$65.71} part thereof from March 15/1822 till paid

Respectfully Submitted
Jas. G. M. Comr

Comr for attending notice 1840. 3 Hrs.
" do 1841. 3 "
avg 18th 3.5

\$9.50

Jas. Ludkins for executing
notices \$2.00

Jeremiah Cobb made oath before me to the justness of the above fee bill. Given under my hand this day of 1841

Thos

Copy of Notice
of Judge against
Miller admr D.B.N.

Mr. Benj^r. Miller adm^r. D.B. in Joseph Fort dec^d

Take notice that I shall by my attorney on third Monday in September next bring before Court day move the justices then sitting for a judgment and award of execution against you as adm^r aforesaid for the sum of fifty two dollars & forty six cents, it being the amount of an execution which issued on a fine imposed against my testator, and was paid by him for not returning an execution Porter ag^t Little, which was placed in your intestates hands (who was his deputy) to execute - also the further sum of £ 3. 19. 8. being the amount of another fine for for not returning an execution Porter ag^t Little, which said execution was also placed in your intestates hands to execute and return.

Soton Aug^t 18th 1806

Geo. Gurley adm^r of
Geo. Gurley

Southampton Sept^r Court 1806.

Geo Gurley ex^r of George Gurley dec^d pl^{ffs} against

Benj^r. Millar adm^r. D.B. N. of Jos^r Fort dec^d } Motⁿ

Motion for having paid money - notice proved & judgment for fifty two dollars and forty six cents, also three pounds nineteen shillings & 8 pence & costs &c

\$ 2.54 cents costs.

A Copy Teste.

James Rockwell C

Copies Teste

J R Edwards

Executed on all except Robert Fort
who is ex Inhabitant

Cyrus F. Dillard Secy of
Thomas Hunt Liff

Wm. L. Dillard Secy
of the
Chillicothe Co.
Ohio

Wm. L. Dillard Secy
of the
Chillicothe Co.
Ohio

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of *Supry* County—Greeting:

WE command you to summon *Nancy McIlwain late Fort widow of Joseph Fort decd Robert Fort*
and *Samuel Barham*

to appear before the *Jurors* of our *County* Court of *Southampton* at the
Courthouse, on the *first* day of *June* term next, to testify and the truth to speak ~~on~~
~~behalf of answer a bill in chancery filed against them~~ in a certain matter of con-
troversy, now depending and undetermined between *by George Surley Executor of George Surley decd*
~~Plaintiff and~~

~~Defendant~~ ;

and this ~~shall in no wise avail, under the penalty of \$100~~ And have then there this writ.

Witness, *James Rochelle* Clerk of our said Court, at his Office, the *25th* day of
April 1827, in the *57th* year of the Commonwealth.

James Rochelle C.

Smiley ^{CH} Esq

vs

Moileau & Co

Spa in

ch

To June County Court
1827-

THE COMMONWEALTH OF VIRGINIA.

To the Sheriff of Southampton County—Greeting;

WE command you to summon *Nancy McLean, late Fort widow of Joseph Fort decd.*
Robert Fort & Samual Barham

to appear before the *Justices* of our *county* Court of *Southampton* at the
Courthouse on the *first* day of *June* term next, to ~~testify and the truth to speak on~~
~~behalf of~~ *answer a bill in chancery exhibited against them in a certain matter of con-*
troversy, now depending and undetermined between *by George Linley Executor of George Linley decd.*
Plaintiff and

Defendant;

~~and this~~ ~~shall in no wise omit, under the penalty of 400~~—And have then there this writ.

Witness, *James Rochelle* Clerk of our said Court, at his Office, the *25th* day of

April 1827, in the *57th* year of the Commonwealth.

James Rochelle C.

Gurley's atom

as } Sp. in Chy

Herts atom of ad

1838 April Rules

Executed on Saml
Barkham by deliver-
ing a true copy
March 31/1838. on
Stancy Miller by
delivering a true
copy March 22/1838

D W Dromgoole Deputy
of J D Massenburg. Shff.
Executed on Bng
Griffin March 19/1838
M L Selville Deputy of
J D Massenburg Shff.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon Samuel Barham Curator of Robert Fort
Nancy Miller administratrix of Robert Fort dec^d. Nancy Miller in her
own right, Benjamin Griffin Sheriff & admor. of Benjamin Miller dec^d
and Benjamin Griffin Shff & admor. Joseph Fort dec^d.

to appear at the Clerk's Office of our ~~Circuit Superior Court of Law and Chancery~~ for the County
of Southampton, at the Rules to be holden for the said Court on the first Monday in April
next, to answer ^{an amended} Bill in Chancery exhibited against them in the said Court by John
M Gurley admor. De bonis non of George Gurley dec^d.

And unless they shall answer the said Bill within four months thereafter, the Court will take
the same for confessed, and decree accordingly. And this they shall in no wise omit, under
the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk
of our said Court, at the Court-house, the 5th day of March 1838, in the
62^d. year of the Commonwealth.

L R Edwards Clk

[One Copy to be delivered each Defendant.]

Gurley's Exor

2 3/4 Sp^a in Chy

Miller & Co

To June Rules 1839

Executed

D. H. Dringwood, Deputy

J. B. Maglenburg, Secy

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *Samuel Barham Curator & of*
Robert Fort Nancy Miller admo. of Robert Fort dec. and the
said Nancy Miller in her own right. Benjamin Griffin Sheriff &
representative of Joseph Fort dec. and Benjamin Griffin Shiff
& representative of Benjamin Miller dec.

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County
of Southampton, at the Rules to be holden for the said Court on the first Monday in *June*
next, to answer ^{*an amended*} Bill in Chancery exhibited against *them* in the said Court by

John M Gurley admo. & of George Gurley the elder dec.

And unless *they* shall answer the said Bill within four months thereafter, the Court will take
the same for confessed, and decree accordingly. And this *they* shall in no wise omit, under
the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk
of our said Court, at the Court-house, the *6th* day of *April* 183*9*, in the
63rd year of the Commonwealth.

L.R. Edwards Clk

[One Copy to be delivered each Defendant.]

Gurley

in } Pinf. pub.

Miller Jr

filed Oct 30. 1827.

At Rules holden in the Clerk's Office of the
County Court of Southampton, on Monday
the 6th day of August, 1827.

George Gurley, Ex'or of George Gurley, dec.

Plf.
AGAINST

Nancy Millar, late Fort, widow of Joseph
Fort, dec. Robert Fort and Samuel Bar-
ham, Defs.

IN CHANCERY.

THE Defendant, Robert Fort, not having
appeared at his appearance and given secu-
rity according to the Act of Assembly, and the
Rules of the Court, and appearing by sa-
tisfactory evidence that he is not an inhabitant
of this Commonwealth, on motion of the Pitt.
by his Attorney, this Order is made, That the said
Defendant do appear here at the said
Plaintiff's Bill, on the third Monday in Oc-
tober next—And that a copy of this order be
forthwith inserted in some Newspaper pub-
lished in the town of Petersburg, for two
months successively, and posted at the front
door of the Courthouse of this county.

A Copy—Feste,

Aug 21

JAS. ROCHELLE, c. c.

Town of Petersburg. To Wit:

This day personally ap-
peared before me, an Alderman
of said Town, Seth E. Burston, Editor
of the Petersburg Intelligencer,
who made oath, that the annexed
order hath been published the
time required by law. Given
under my hand this 13th day
of Oct. 1827. Thos. Wallace Atty

Henry Leon^{ch}
27 3 Copy sent.
Lent. ad. 3 H.C.

Southampton September Term 1806

George Bunley ^{Exor} of George Bunley dec. P^{lt}

against

Benj^l Moileau ^{adm} D^{ist} of Jos: Fort dec. D^{ist}

M^{ot}

Motion for having paid money - notice proved & Judgment for fifty
Two Dollars & forty six cents also three pounds nineteen Shillings & 8 pence & costs &c.
£2: 54 cents costs

Atopy Teste James Rochelle &c.
(H)

Southampton March County Court 1802

Benjamin Moileau ^{adm} D^{ist} of Josph Fort dec. P^{lt}

against

George Bunley ^{Exor} of George Bunley dec.

upon an Injunction

On the motion of the defendant by his attorney it is decreed and ordered that the In-
junction awarded the plaintiff in this case be dissolved as the same is hereby dissolved
with Damages and costs according to Law.

£8: 70 cents costs

Atopy Teste James Rochelle &c.
(H)

Gurley & Co
No 3
Fort St

Southampton County Court - March 18th 1828.

On the motion of John M Gurley
who made oath and together with Thomas R Gray his security entered into and acknowledg-
ed a bond in the penalty of Two thousand dollars Conditioned as the law directs,
Certificate is granted him for obtaining letters of administration cum de bonis non on the
estate of George Gurley (the elder) deceased with his will annexed in due form.

Attest Teste J. R. Edwards Ck

Gurley's com

" } Exhibits with
amended bill.

Forb. acc.

Southampton County Court November 24th 1837.

Ordered that the estate of Benjamin Miller dec. be committed to the hands of Benjamin Griffin Sheriff of this County for administration according to Law

Teste J. R. Edwards *clerk*

Southampton County Court - May 10th 1830.

On the motion of Nancy Miller who made oath and together with Skipwith Oliver & James McGlunn her Sureties entered into and acknowledged a bond in the penalty of Sixteen thousand dollars conditioned as The Law directs certificate is granted her for obtaining letters of administration on the estate of Robert Fort dec^d. in due form

Teste J. R. Edwards *clerk*

Defendant Bachmans Coals 10 mts

Clerks. \$0.44

Law: 5.00

\$ 5.44

At Copy

Test. L.R. Edwards C.C.

Burleys ad

" } Copy Rules of

Fort of

Received by the Clerk of the

Cir. Sup. Ct. June 30 1938-

In Southampton County Court.

Be it remembered, that on the 25th day of April 1827 George Gurley Executor of George Gurley deceased, sued out of the Clerks Office of the County Court of Southampton Subpoenas in Chancery against Nancy Miller, late Fort, widow of Joseph Fort deceased, Robert Fort and Samuel Barham, returnable to the first day of the June Term then next ensuing.

Afterwards. At Rules held in the Clerks Office aforesaid, on the first Monday in July 1827. Came the plaintiff by his Counsel and filed his bill against the Defendants.

Afterwards. At Rules held as aforesaid on the first Monday in August 1827.

The defendant Robert Fort not having entered his appearance and given security according to the Act of Assembly and the rules of this Court, and it appearing by satisfactory evidence that he is not an inhabitant of this Commonwealth, on motion of the plaintiff by his attorney, it is ordered that the said defendant do appear here and answer the plaintiffs bill on the third Monday in October next, and that a copy of this order be forthwith inserted in some newspaper published in the Town of Petersburg for two months successively and posted at the front door of the Courthouse of this County.

Afterwards. At Rules held as aforesaid on the first Monday in September 1827

Came the defendant Samuel Barham by his Counsel and filed his answer to the plaintiffs bill, and the plaintiff by Counsel instantly replied generally thereto.

and thereupon general Commissions were awarded the plaintiff and the said Defendant Barham to examine and take the depositions of their witnesses.

Afterwards. At a Court held held for the County aforesaid on the 20th day of November 1827. On the motion of the plaintiff by Counsel leave was given him to amend his bill and to make new parties, and the cause was sent to the rules for further proceedings therein.

Afterwards. At Rules held in the Clerks Office aforesaid on the first Monday in February 1828. the plaintiff being dead, on the motion of John M Gurley administrator de bonis non with the will annexed of George Gurley dec^d by Counsel it is ordered that this suit be conducted in his name. And thereupon he filed his amended bill.

Afterwards. At Rules held as aforesaid on the first Monday in March in the year 1828. On motion of the plaintiff by Counsel process of Subpoena and decree nisi was awarded against the Defendants named in the amended bill returnable to the then next Rules.

Afterwards. At a Court held for the County aforesaid on the 18th day of June 1828. On the motion of the plaintiff it is ordered that this cause be removed to the Circuit Superior Court of Law and Chancery for this County for trial.

Plaintiffs costs to wit: Clerk \$5.91
Shiff 2.40
Law & Tax: 5.75
\$14.06

Dft: Barham's Coal Court.	alk.	0.44
	Lam.	5.00

5.44.

Copy

Teste L.R. Edwards lb

Gurley's Error

29 } copy Rules &c.

Forth

In Southampton County Court

- Be it remembered, that on the 25th day of April 1827, George Gurley Executor of George Gurley deceased, sued out of the Clerks Office of the County Court of Southampton Subpoenas in Chancery against Nancy Miller late Fort, widow of Joseph Fort deceased, Robert Fort and Samuel Barham returnable to the first day of the June Term then next ensuing -
- Afterwards At Rules held in the Clerks Office aforesaid, on the first Monday in July 1827 Came the plaintiff by his Counsel and filed his bill against the Defendants -
- Afterwards At Rules held as aforesaid on the first Monday in August 1827 The defendant Robert Fort not having entered his appearance and given security according to the Act of Assembly and the rules of this Court and it appearing by satisfactory evidence that he is not an inhabitant of this Commonwealth, on motion of the plaintiff by his attorney, it is ordered that the said defendant do appear here and answer the plaintiffs bill on the third Monday in October next, and that a copy of this order be forthwith inserted in some newspaper published in this Town of Petersburg for two months successively and posted at the front door of the Courthouse of this County.
- Afterwards At Rules held as aforesaid on the first Monday in September 1827, came the defendant Samuel Barham by his Counsel and filed his answer to the plaintiffs bill, and the plaintiff by his Counsel instantor replied generally thereto and thereupon general commissions were awarded the plaintiff and the said defendant Barham to examine and take the depositions of their witnesses -
- Afterwards at a Court held for the County aforesaid on the 20th day of November 1827. On the motion of the plaintiff by Counsel leave was given him to amend his bill and to make new parties and the cause was sent to the rules for further proceedings therein -
- Afterwards At Rules held in the Clerks Office aforesaid on the first Monday in February 1828 the plaintiff being dead, on the motion of John M. Gurley administrator de bonis non with the will annexed of George Gurley dec^d by Counsel it is ordered that this suit be conducted in his name and thereupon he filed his amended bill.
- Afterwards At Rules ^{held} as aforesaid on the first Monday in March in the year 1828. ^{On motion of the plaintiff by Counsel} process of subpoena and decree nisi was awarded against the Defendants named in the amended bill returnable to the then next Rules -
- Afterwards At a Court held for the County aforesaid on the 18th day of June 1828. On the motion of the plaintiff it is ordered that this cause be removed to the Circuit Superior Court of Law & Chancery for this County for trial -

Notes of
case

Oct 31-1841

George Guley Esq of Geo Guley & obtained in the year 1806 in the County Ct of Southampton a judgement vs. Benj. Miller admr. of Jos. Fort which judgement was injoined, and dissolved in 1822 -

Jos. Fort left a widow Nancy who married Benj. Miller and an only child Robert Fort - He also left a good estate, but at the time of the dissolution of the Injunction Benj. Miller admr. of Jos. Fort was dead, and the estate of Fort had been committed to Cass Darden Shff and admr. D. V. R. who had no assets to pay the debt - ~~Therefore~~ This suit was then instituted to make the money out of the estate of Jos. Fort which was held by his widow, and only child Robert - Soon after Robert was of age he left the county, and has never been heard from now more than 20 yrs - His Estate was committed to Saml. Barham Curator, a party to this suit who admits in his answer that he has more than property enough to pay the debt - after Robt. Fort had been absent so long as in Law to cause presumption of death his Mother Nancy Miller qualified on his Est. so that Nancy Miller is now in possession of the whole Est. left by Jos. Fort - The parties against whom we have proceeded, have had ample time, and have been twice summoned to settle their accts. In truth no one is interested but Nancy Miller who will not attend, and as she admits in her answer, the answer of Saml. Barham Admr. of Jos. Fort - it is deemed to be an admission of assets sufficient to pay the debt