

1909-023
Nansmond Co (Suffolk)

Chancery Causes: Mary Irma Weston vs James C Weston

Rogers, Cuthrell, Clifford

In the circuit court of Nansemond County, Virginia,

April 26, 1909,

Mary Irma Weston-----Complainant
vs. } Divorce
James C. Weston-----Defendant

MEMORANDUM

The clerk will issue process against the defendant, directed to the sergeant of the city of Roanoke, Virginia, summoning the defendant to answer a bill in chancery exhibited against him by the complainant.

Returnable 1st May Rules 1909.

The defendant can probably be found at the Norfolk & Western shops; he is a machinist.

Robt. W. Withers

P.4.

Writ Tax \$1.50 paid.

218 Glascoe St Port
Alani Leigh City Port
Mailed May 7th.

Capt: Please mail these notices to the sergeant of Roanoke with instructions to serve at the same time he executes the writ, sending his bill for all to me. Yrs Robt. W. Withers p.g.

Mary Imma Weston
vs } Memorandum
James C Weston

CHANCERY SUMMONS

THE COMMONWEALTH OF VIRGINIA,
Sergeant the City of Portsmouth
 TO THE ~~SHERIFF~~ OF ~~NANSEMOND COUNTY~~—Greeting:

YOU ARE HEREBY COMMANDED ~~TO SUMMON~~ *as you have*
been commanded to summon
James C Weston

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be
 held for the said Court, on the *Third* Monday in *May 1909*, to answer
 ----- *a* Bill in Chancery, exhibited against *him*
 in the said Court by *Mary Irma Weston*

And have then and there this summons.

Witness, R. R. SMITH, Clerk of our said Court, at his office, this *7th* day of
May, 19*09*, in the 13*th* year of the Commonwealth.

A copy.—Teste : } Teste :
 -----, CLERK. } *R. R. Smith*, CLERK.
By A. B. Gomer D.C.

R W Withers, p. q.

Mary Imma Weston

vs.

}

IN CHANCERY.

James C Weston

1909--

May

Rules.

Third

Monday.

NANSEMOND CIRCUIT COURT.

Process Book No. 3

Page 70

Send bill to Reviewers
attorney -

Executed in the City of Portsmouth Virginia this
10th day of May 1909 By delivering a true copy
hereof to James C. Weston in person,
Williamson Smith sergt of Portsmouth V^h.

Recd 50¢ fee for service
Wm. G. Smith

To James C. Weston.;

Take notice , that on the ¹⁹⁰⁹12th day of May, at the office of D. S. Phlegar, Law Building, Norfolk, Va. , between the hours of 9 o'clock A. M., and 6 o'clock, P.M., of that day, I shall proceed to take depositions of Virgie Clifford and others, to be read in evidence in my behalf in the suit in equity depending in the circuit court of Nansemond county, in which I am plaintiff and you are defendant; and if from any cause the taking of the said depositions be not commenced on that day, or if commenced, if they be not completed on that day, the taking of the said depositions will be adjourned and continued from time to time at the same place and between the same hours until they are completed.

Respectfully,

Mary Anna Weston
~~Mary Anna Weston~~

By counsel

April 26th 1909.

Executed in the City of Portsmouth Virginia
this 10th day of May 1909 by delivering a true
copy of the within notice to James C. Weston in person
Williamson Smith sergt of Portsmouth Va

Recd 50¢ fee for service
Winifred Smith

"

R. W. Withers p.g.

Mary Irma Weston
vs } notice to take
depositions

James C. Weston

~~James C. Weston, the
within named
defendant, not
found in my
bailiwick of~~

~~P. d. Thumato~~

~~For J. R. Sillith~~
~~J. C. R.~~

~~Fact^s not ^{to} herewith
over~~

STENOGRAPHER'S MINUTES.

Circuit Court of Nansemond County, Virginia.

Mary Irma Weston,

vs.

James C. Weston.

Before

D. S. Phlegar, a Commissioner

in Chancery for the Circuit

Court of the City of Norfolk.

May 12, 1909.

INDEX.

WITNESSES.	DIRECT.	CROSS.	RE-DIRECT.	RE-CROSS.
W. E. Cuthrell,	2			
Virgie Clifford,	4			
C. M. Rogers,	6			

MONTROSS & CLARKE CO., 51 NASSAU ST., N. Y.

D. S. PHLEGAR,
SHORTHAND REPORTER
532-533 LAW BLDG., NORFOLK, VA.
BELL PHONE 504

Innthe Circuit Court of Nansemond County,
Virginia.

----oCo----

MARY IRMA WESTON,

vs.

JAMES C. WESTON.

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:
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In Chancery.

The depositions of witnesses taken before me,
D. S. PHLEGAR, a Commissioner in Chancery for the Cir-
cuit Court of the City of Norfolk, Virginia, pursuant to
notice hereto annexed, at the office of D. S. Phlegar,
Law Building, Norfolk, Virginia, between the hours of nine
o'clock A. M., and six o'clock P. M. May 12, 1909, to be
read as evidence on behalf of the complainant in the above
entitled cause pending in the Circuit Court of Nansemond
County, Virginia.

PRESENT: Hon. R. W. Withers, for the plaintiff.

No appearance for the defendant.

1 W. E. CUTHRELL, being duly sworn, testified as follows:-

2 Examined by Mr. Withers:-

3 Q. State your name, age, residence and occupation, and if
4 you know James C. Weston? A. W. E. Cuthrell, age 32,
5 residence Port Norfolk, occupation carpenter. I know the
6 party mentioned.

7 Q. Please tell in your own way what occurred on the night
8 of April 16th, ¹⁹⁰⁹/I mean state fully what Mr. Weston did on
9 that night? A. I met him around at the Carnival,
10 and after talking a while we went around to 101 Avon Street,
11 Norfolk, Virginia, and he went upstairs with a woman named
12 Mamie.

13 Q. On what night was this? A. April 16, 1909.

14 Q. About what time of night? A. Between 9 and 9:30.

15 Q. What is 101 Avon Street, Norfolk?

16 A. A fast house.

17 Q. Who is the mistress of this house? A. Mabel Adams.

18 Q. And you went with Mr. Weston to this bawdy house and he
19 went upstairs with a woman named Mamie. Did he go to her bed
20 room? A. Yes, sir.

21 Q. For what purpose did he go there? A. To satisfy his
22 passion.

23 Q. That was the object of his visit to this house, was it
24 not? A. Yes, sir.

25 Q. Where were you when he went to Mamie's room?

26 A. I went to another room.

1 Q. State how near the room in which you were was to Mamie's
2 room? A. Just the wall between. They were on the

3 third floor and I was on the second,- the room under them.

4 Q. State what, if any, noises you heard in Mamie's room
5 while he was in there with the woman?

6 A. I heard bowls rattling and I heard them pouring water,
7 and I heard them get off the bed. I heard him get off the
8 bed before using the water.

9 Q. Did you see him immediately after he came out of her
10 room? A. Yes, sir, he came in the room I was in.

11 Q. What did he say when he came in? A. He said that
12 he got satisfaction,- all that was coming to him.

13 Q. And further this deponent saith not.

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15 W. E. Gauthrell

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1 VIRGIE CLIFFORD, being duly sworn, testified as follows:-

2 Examined by Mr. Withers:-

3 Q. A re you the woman in whose room Mr. Cuthrell, the wit-
4 ness who has just testified, was in on the night of April
5 16, 1909, at about half past nine o'clock?

6 A. I am.

7 Q. Please tell in your own way just what occurred that
8 night in that house? A. I was at that time house-
9 keeper for Mabel Adams, Between 9 and 9:30 Mr. Cuthrell and
10 Mr. Weston came in. I was called to the parlor, and as I
11 knew Mr. Cuthrell we got to joking. Mamie went over to Mr.
12 Weston and as she is a very business woman asked him to go
13 upstairs. He said he had no money. I sat myself on Billie's
14 lap to joke, and I said "Willie, lend your friend some money".
15 He loaned him two silver dollars, and I remarked to Billie
16 "Am I not in this". He said "Well, I'll go for Weston to
17 have his fun". I said "Well, I'll make the first move". Mr.
18 Cuthrell and I went up stairs, went in my room; Mamie and
19 Mr. Weston followed. They went to their room and went to bed.
20 We heard them when they got up. I made the remark to Billie
21 that he was no man but Weston was. After they got through
22 they came down in my room, and he sat in a rocking chair
23 by the window with Mamie on his lap. He caressed her, stat-
24 ing that she was about his ^{wife's} size. I says "Your wife?" and
25 he says "Yes, I have just been married three months", and I
26

1 says "What are you going away from her". He says "Well, my
2 wife is visitng her people in Whaleyville, Virginia", and I
3 says "You are rather early in going out". He says "That's
4 nothing, I slept with a woman by the name of Davis on East
5 Main Street last night and the night before all night. Mamie
6 says "Dearie, are you coming back to see me". He says "You
7 bet I am, and I am going to stay all night, too. Its the
8 finest I ever had". So then Mr. Cuthrell got tired and I
9 told him he was a true man, so then they left. I presume they
10 were in the house about an hour and a half; and on going out
11 the door, Mr. Weston remarked to Mr. Cuthrell "I wonder
12 where the party is we left down at the grounds"- I suppose
13 meaning the Carnival grounds. That's all I know of it.

14 And further this deponent saith not.

15 Virgin Clifford
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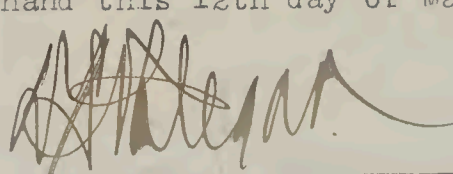
L. M. Rogers

VIRGINIA,

City of Norfolk, to-wit:-

I, D. S. PHLEGAR, a Commissioner in Chancery for the Circuit Court of the City of Norfolk, Virginia, do certify that the foregoing depositions of W. E. Cuthrell, Virgie Clifford and C. M. Rogers were duly taken, sworn to and subscribed before me, at the time and place and for the purpose in the caption mentioned.

GIVEN under my hand this 12th day of May, A. D.
1909.



Commissioner in Chancery for the
Circuit Court of the City of
Norfolk, Virginia.

STENOGRAPHER'S TRANSCRIPT.

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In the Circuit Court of Nansemond County, Virginia,
July Term, 1909.

Mary Irma Weston-----Complainant
vs.) Divorce.
James C. Weston-----Defendant.

DECREE.

This cause came on this day to be heard upon the complainant's bill and exhibits; proof of legal service of proper process on the defendant, James C. Weston, in person, who has failed and still fails to appear, plead, demur, or answer the said bill, ~~which is taken for confessed as to him~~; and the depositions of witnesses taken before a commissioner in chancery, after due notice to the defendant, and filed in behalf of the complainant, and was argued by counsel.

On consideration whereof, and it appearing to the court independently of admissions of the parties in the pleadings or *has resided in the County of Nansemond more than twelve months next before the institution of this suit* otherwise, that the complainant is entitled to a divorce from the bond of matrimony from the said defendant, the court doth adjudge, order, and decree that said Mary Irma Weston and the said James C. Weston be divorced from the bond of matrimony which was created by their former marriage and the said marriage be and the same is hereby dissolved and annulled and the said defendant shall pay to the complainant her costs by her expended; and nothing further remaining to be done in this cause it is ordered to be stricken from the docket.

Huston

or

Huston

Final Decree

Enter July 13/1909

Miss M. L. Moore

Entered in Chy. Order
Book No. 4, Page 347

In the circuit court of Nansemond County, Virginia,
First May Rules 1909.

Mary Irma Weston-----Complainant
)
vs. Divorce.
)
James C. Weston-----Defendant.

BILL

To Hon. James L. McLemore, Judge,

Humbly complaining, your oratrix, Mary Irma Weston showeth
unto your honor the following facts:-

(1) That on the 24th day of December 1908, your oratrix,
whose maiden name was Mary Irma Rogers, was lawfully married at
Whaleyville in the county of Nansemond in the state of Virginia to
James C. Weston.

(2) That from the date of said marriage until the 27th
day of March 1909 your oratrix and the said James C. Weston lived
together as husband and wife, partly in Rocky Mount in the State of
North Carolina where they had made a temporary visit and partly at
Whaleyville in Virginia.

(3) That the said James C. Weston has, since the aforesaid
marriage, committed adultery; that is to say, on the 16th day of
April 1909 about 9:25 o'clock P. M., the said James C. Weston entered
a certain bawdy house in the city of Norfolk known as No. 101 Avon
street and kept by a woman known as Mabel Adams; that the said
James C. Weston did then and there take one Mamie (whose sir name
is unknown to your oratrix) into one of the upstairs third floor rooms
of said house, and did then and there have carnal, illicit intere
course with the said Mamie.

(4) That on the _____ day of April 1909 your oratrix who
was then on a visit at the home of her father in Whaleyville Virginia
heard for the first time of the committing of said adultery by her

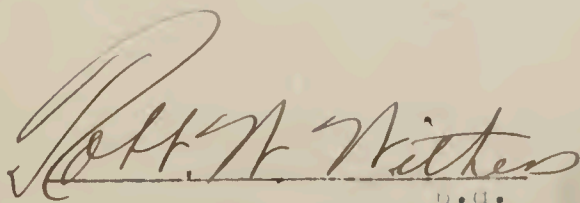
said husband; that she has not cohabited with him since obtaining knowledge of the fact of said adultery; that upon obtaining said knowledge she remained at her fathers home and has since that time lived with her father, C. M. Rogers at Whaleyville, Nansemond county Virginia and has refused to return to and live with the said defendant.

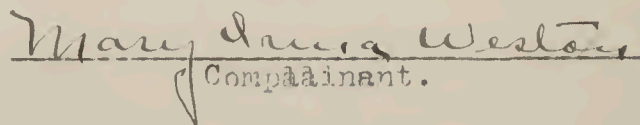
(5) That at the time of the institution of this suit it had not been five years since the said adultery occurred and that it was not committed by the procurement or connivance of your oratrix.

(6) That both your oratrix and the said James C. Weston have been domiciled in Virginia for more than one year preceeding the institution of this suit; your oratrix is now domiciled in Nansemond county and the defendant is domiciled in the city of Roanoke, Virginia

(7) That since the hearing of the aforesaid act of adultery committed by her husband your oratrix has learned of other similar acts of infidelity with other women ~~and~~ at other times preceeding the 16th day of April 1909, and she charges that said defendant has repeatedly committed acts of adultery during his marriage with her.

Intender consideration whereof and for as much as your oratrix is remediless in the premises save by the aid of a court of equity where alone such matters are properly cognizable, she prays that the said James C. Weston may be made a party defendant to this bill and required to answer the same, but not under oath, the oath being waived; that a divorce from the bond of matrimony which was created by the aforesaid marriage may be decreed her; and that your oratrix may have such other, further and general relief in the premises as the nature of her case may require or to equity shall seem meet. And she will ever pray, etc.,


Robert H. Witter


Mary Anna Weston
Complainant.

VIRGINIA, Nansemond county, to-wit:-

Mary Irma Weston, the complainant named in the aforesaid bill, being duly sworn, says that the facts and allegations therein contained are true except so far as they are therein stated to be on information, and that so far as they are therein stated to be on information, she believes them to be true.

Mary Irma Weston
Complainant.

Taken, sworn to and subscribed before me, H. B. Sullivan
a notary public in and for the county and state aforesaid this 1st
day of May 1909.

H. B. Sullivan
Notary Public.

My commission expires on the 4th day of September 1912
~~1909~~.

MARY IRMA WESTON

VS

JAMES C. WESTON

BILL

ROBT. W. WITHERS,

ATTORNEY AT LAW,

SUFFOLK, VA.

PRACTICING IN ALL COURTS IN
FIRST JUDICIAL CIRCUIT.

JEWELL & COMPANY, PHILADELPHIA.

Mary Irma Weston
vs } Chancery
J C Weston

1909 May 7th. Process issued returnable
to May Rules 3rd Monday.

" "

" " 17th Process returned executed
Bill filed and decree
nisi vs said defendant

" June 21st Decree nisi confirmed and
Cause set for hearing

Chancery Notes

Costs
Clerk 3.36
Fay 1.50
Supp 50
Ally 15.00
\$20.36

Robt W Weston 1891

Mary Emma Weston

vs Chancery

James C Weston

1909

July 13th

Final Decree