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PETITION.

(Filed Sep. 22, 1927.)

IN CHANCERY OF NEW JERSEY.

*To his Honor, Edwin Robert Walker, Chancellor of
the State of New Jersey:*

10

Ethel Segal, now residing in the City of Baltimore and State of Maryland, complains and says that:

1. On January 28th, 1922, she was lawfully married to her present husband, Joseph Segal, at Baltimore, in the State of Maryland, by Rabbi Adolph Coblentz.

2. After her said marriage your petitioner and the defendant, her said husband, went to reside at Baltimore in the State of Maryland, where they resided until October, 1922; then they removed to Frederick, Maryland, where they resided until October of 1924. In October, 1924, your petitioner and the defendant, her husband, removed to Baltimore, Maryland, residing together until August of 1925, when the defendant, Joseph Segal, left your petitioner, saying that he was going to Atlantic City, New Jersey, where his people resided; since which time the said defendant, Joseph Segal, has failed, refused and neglected to cohabit with or provide for your petitioner and has abandoned her.

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30

3. Your petitioner shows that sometime after her marriage, she became ill; that various portions of

her body became paralyzed, and that by reason of her illness she was not able to perform the duties of the household in the same measure as heretofore; that this condition caused the defendant to lose his affection and regard for your petitioner, his wife, and he frequently told your petitioner that he would leave her and that he would not come back; that after the defendant left your petitioner, as he said, for Atlantic City, she was unable to trace the whereabouts of her husband for several months after his leaving her; that sometime in the early portion of this year, she learned that the defendant was in Atlantic City, living with his parents and working in a fruit store conducted by defendant's brother.

10
20 4. Your petitioner charges that ever since August, 1925, aforesaid, the defendant has abandoned your petitioner without justifiable cause, and still does refuse and neglect to maintain and provide for her.

5. Your petitioner further shows that she is now dependent for the support of herself upon her own exertions.

30 6. Your petitioner charges that the defendant is now employed in a fruit store conducted by defendant's brother in Atlantic City, New Jersey; that he is making upwards of \$50.00 per week in and about the same; that defendant is 31 years of age, and that defendant is abundantly able to maintain and support your petitioner.

Your petitioner is without adequate remedy in the courts of law, and, therefore, prays:

1. That Joseph Segal, the defendant to this suit,

may answer this bill of complaint and each statement therein made.

2. That he may be ordered and decreed to provide such suitable support and maintenance to be paid and provided by him, or made out of his property, for your petitioner, and for such times as the nature of the case and the circumstances of the parties render suitable and proper.

3. That the said defendant may be compelled to give reasonable security for such maintenance and allowance and to pay the same from time to time under the compulsory orders of this Honorable Court, as provided by statute. 10

4. That the defendant may be required to pay to your petitioner a proper amount for counsel fees and that she may have such further relief as in the premises shall seem meet.

5. That a writ of subpoena may issue commanding the said defendant to answer this bill of complaint and to abide by such decree as this Court may make in the premises. 20

MORRIS BLOOM,
*Solicitor for and of Counsel
with Petitioner.*

STATE OF MARYLAND, }
COUNTY OF BALTIMORE, } ss.

30

ETHEL SEGAL, of full age, being duly sworn, says: I am the petitioner mentioned in the within petition hereto annexed. I have read the said petition and it is true to the best of my information, knowledge and belief.

(MRS.) ETHEL R. SEGAL.

Sworn and subscribed to before me this 17th day
of September, 1927.

(Seal.)

ALMA L. RANDEL,
Notary Public.

ANSWER.

10

(Filed Oct. 14, 1927.)

IN CHANCERY OF NEW JERSEY.

20	Between ETHEL SEGAL, <i>Petitioner,</i> and JOSEPH SEGAL, <i>Defendant.</i>	}	On Petition, &c. Answer.
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The answer of Joseph Segal, defendant, to the
petition of Ethel Segal, petitioner.

1. This defendant admits it to be true that peti-
30 tioner and defendant were married as in said peti-
tion is alleged.

2. This defendant denies paragraph two of the
petition.

3. This defendant denies paragraph three of the
petition.

4. This defendant denies paragraph four of the petition.

5. This defendant denies paragraph five of the petition.

6. This defendant admits paragraph six of the petition.

Defendant further answering says that he left the petitioner in Baltimore, Maryland, on the date alleged as of his desertion, while the petitioner was living with her father in her father's house, and at the request and demand of the father that he leave the house, he left requesting his wife to come with him, which his wife refused and neglected to do. 10

Defendant further answering says that on numerous occasions in the last six months he has requested the petitioner to come to Atlantic City, agreeing to provide her with a suitable home and resume marital relations with the defendant, which petitioner has refused to do. 20

This defendant prays that the petition filed by petitioner may be dismissed, and that he may have such further relief as may be just.

JOSEPH SEGAL,

Defendant.

WM. H. SMATHERS,

*Solicitor for and of Counsel
with Defendant.*

30

REPLY.

(Filed Oct. 18, 1927.)

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IN CHANCERY OF NEW JERSEY.

Between ETHEL SEGAL, <i>Petitioner,</i> and JOSEPH SEGAL, <i>Defendant.</i>	}	On Petition, &c. Reply.
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The petitioner, Ethel Segal, in reply to the answer of the defendant, Joseph Segal, says that:
 She joins issue thereon.

MORRIS BLOOM,
*Solicitor for and of Counsel
 with Petitioner.*

30

TESTIMONY.

IN CHANCERY OF NEW JERSEY.

Between	}	On Petition for Maintenance. Final Hearing.	10
ETHEL SEGAL,			
<i>Petitioner,</i>			
and			
JOSEPH SEGAL,	}		
<i>Defendant.</i>			

Atlantic City, N. J., June 29, 1928.

20

TESTIMONY.

Before HON. R. H. INGERSOLL, Vice-Chancellor.

APPEARANCES:

For the petitioner, MORRIS BLOOM, Esq.

For the defendant, WILLIAM H. SMATHERS, Esq.

30

ETHEL SEGAL, SWORN.

Direct examination.

By Mr. Bloom:

Q. You are married, Mrs. Segal?

A. Yes.

10 Q. Your husband's name is?

A. Joseph Segal.

Q. Where were you married?

A. In Baltimore.

Q. Do you remember when?

A. January 28, 1922.

Q. Now, after that—how long before your marriage did you know Mr. Segal?

A. About two years.

Q. Where did you meet him?

20 A. In Atlantic City.

Q. Now, after your marriage, did you go to live together?

A. Yes, we lived in Baltimore.

Q. What did your husband do in Baltimore?

A. He was in business with my father.

Q. In business with your father?

A. Yes.

Q. Is his place of business there?

A. Yes.

30 Q. How long did you stay in Baltimore?

A. About eight or nine months.

Q. Then where did he go?

A. To Frederick, Maryland.

Q. Did your husband have a business there?

A. Yes.

Q. How long did you stay there?

A. About two and a half years, I think.

Q. Did you become ill in the meantime?

A. Yes, I was pregnant, then I came to have the baby and the baby is dead and six hours afterwards I became paralyzed.

Q. Were you healthy before that time?

A. Very healthy.

Q. And since that time have you been paralyzed?

A. Just what do you mean?

Q. Have you been afflicted as you are now since the birth of the baby?

A. Yes.

10

Q. Has your condition improved considerably since?

A. Yes, considerably.

Q. Now, after you left Frederick, Maryland, where did you go?

A. To Baltimore.

Q. And why did you go to Baltimore?

A. Because I was ill.

Q. And where did you live?

A. Morris Avenue, 3504 Morris Avenue.

20

Q. With your husband?

A. Yes.

Q. How long did you live there?

A. I don't really know, about a year, I guess; more than a year.

Q. Did there come a time when your husband left you?

A. He was sick two weeks and he got up on a Saturday morning and said, "I am going to Atlantic City," and he went to Atlantic City. Of course, I didn't object to him going, and that evening we went to Roanoke, Virginia.

30

Q. This trip to Roanoke, Virginia, was that discussed with your husband before taking?

A. Yes.

Q. Did he know you were going to Roanoke?

A. No. He knew I had been wanting to go to Roanoke, but he didn't know when.

Q. How long did you stay in Roanoke?

A. About six weeks.

Q. Just a visit?

A. Yes.

Q. Now, you say your husband left you, left the home in Baltimore and said he was going to Atlantic City?

10 A. Yes, to get well.

Q. Did he say how long he was going to stay?

A. No, he didn't. He didn't say but I understood he was to stay about a week or two.

Q. Now, shortly after you arrived in Roanoke, did you get a letter from him?

A. Yes, I got one letter and then I got another where he said he was going to leave me.

Q. You have that letter?

20 A. No, I don't. I sent both letters to my father and my father destroyed them.

Q. Was that the first intimation you had that he intended to leave you?

A. Yes.

Q. When you got that letter, what did you do?

A. I tried to get him on the phone, in fact, once I heard him speak and I answered real quick and told him that I wanted to know why I received that letter and he hung up the receiver.

30 Mr. Smathers: May I ask to know the date when she received that letter?

Q. Can you fix the date of the receipt of that letter or the time?

A. It was some time the latter part of July but the exact date I don't know.

Q. Of what year?

A. Of 1925, I guess.

Q. Now, after that attempt to get him on the telephone, did you make other attempts?

A. Yes, two or three times and never could get him.

Q. Did you write him any letters?

A. I wrote him a letter and received it back with his niece's writing on the letter, she wrote, "Joe has gone away. I don't know where," or something like that. 10

Q. From July of 1925, until what time did you hear from your husband?

A. Not until one letter I received from him and that was this year.

Q. I show you a letter, registered letter, and ask you if this is the one that you refer to?

A. Yes, that is the one.

(Letter and envelope offered, received in evidence 20 and marked Exhibits P1 and 2.)

Q. I understand you to say that prior to the birth of the baby you were in normal health?

A. Yes.

Q. And since that time you have been ill?

A. Yes.

Q. What is the nature of your illness?

A. Paralyzed, I guess; I don't know any other name for it. 30

Q. What part of your body is paralyzed?

A. My whole right side, my leg and arm.

Q. Your right arm and your right leg?

A. Yes.

Q. Was your face affected as well?

A. Yes, my mouth was away over here.

Q. Has that condition improved?

A. Yes, quite a bit.

Q. What means have you taken to cure yourself?

A. I have taken every means possible; I have had every doctor that is imaginable, and went even to Harrisburg to a doctor, and I went over there to doctors, in fact, the water over there, to Palestine, and all the doctors in Baltimore and Roanoke that I could think of I have had.

10 Q. Who has advanced you the money you have expended?

A. My brothers, my furniture and silverware and those kind of things. My brothers have given me all the money.

Q. Have you any idea how much money you have actually spent for doctor bills?

A. About three or four thousand dollars.

Q. Aside from your living expenses?

A. Yes.

20 Q. Now, this home on Morris Avenue in Baltimore, how long did you maintain that home after your husband left?

A. About two months, I guess, maybe a month; I don't know.

Q. Then what did you do?

A. I just went to Morris and told him ——

Q. What did you do with the furniture?

A. The furniture I sold.

Q. Sold it?

A. Yes, furniture and silverware.

30

Q. Where are you living?

A. With my mother and father.

Q. Have you been living there since?

A. Yes.

Cross-examination.

By Mr. Smathers:

Q. Mrs. Segal, you say you live with your father?

A. And mother.

Q. And your father is a very wealthy man, isn't he?

A. He is, but I don't get a thing from him.

Q. Now, in July of 1925, you say your husband 10
was sick for a couple of weeks?

A. Yes, had yellow jaundice.

Q. And then he got up and came to Atlantic City?

A. He got up out of bed on Saturday morning and told me he was going to Atlantic City.

Q. You consented to his coming to Atlantic City?

A. Yes.

Q. As a matter of fact, you called a taxi for him, didn't you?

A. Yes.

20

Q. Was there any fight or quarrel between you and he and your mother and he before he left?

A. My mother and father I know nothing about them, what kind of fights or anything else they may have had, I know nothing at all about it.

Q. As a matter of fact, at the time Mr. Segal was sick in bed, didn't you tell him that he wasn't sick and he either had to get up and go to work or he could get out and go back to Atlantic City?

A. No.

30

Q. Did your mother tell him that in your presence?

A. No.

Q. Are you willing to come to Atlantic City and resume marital relations with your husband?

A. Not any more, no.

Q. Well, you don't charge him with adultery or cruelty or anything like that, do you?

A. What do you mean, adultery?

Q. You don't charge him with having been unfaithful to his marriage vows?

A. Don't know anything about it.

Q. Why won't you resume marital relations?

A. Because I waited for a year for him to come back and he didn't come back and I don't care to resume relations with him again.

10 Q. You were in Atlantic City last Easter, weren't you?

A. Yes.

Q. Walking on the Boardwalk?

A. Yes.

Q. Did you let your husband know you were in the city?

A. No, I didn't.

20 Q. After Mr. Segal left the home in Baltimore with your consent, you sent him some clothing, didn't you?

A. Yes, I did.

Q. After you went to Roanoke, Virginia, you say you received a letter from him about the latter part of July saying that he was through and he wouldn't live with you?

A. Yes.

Q. And that the letters you wrote him were returned to you unopened?

30 A. One letter returned.

Q. Did you only write him one letter?

A. No, I wrote him two or three.

Q. Wrote him two letters?

A. I don't know; I think about three or four.

Q. Did you ever tell him that you were sorry for having said what you said to him when he left Baltimore?

A. I never said anything to him.

Q. Did you ever tell him that you were sorry for what your mother said to him?

A. I never did; I don't even know my mother said anything to him.

Q. I show you what purports to be an envelope stamped Roanoke, Virginia, dated the fourth day of August, 1925, and directed to Mr. Joseph Segal, Ventnor City, New Jersey, and ask you is that your handwriting?

10

A. Yes.

Q. Is that the letter you wrote him?

A. Oh, yes; my husband did say that he wanted to have a doctor.

Q. Did you write him that letter?

A. I did.

Q. Is that your signature, "Lovingly, Ethel?"

A. Yes.

(Letter offered, admitted in evidence and marked 20 Exhibits D1 and 2.)

Q. In this letter dated August fourth, a week or ten days after you say you received the letter from him in which he said he was through with you, what did you mean when you said, "I received your letter last night and I have been thinking over what I said to you before you left and I am sorry?"

A. Yes, I recall that, the morning that he left I had spoken to Joe Segal about something my father and mother had said to him that he didn't like, he has spoken to me about, I don't know, I just can't recall—it is three years and I can't recall those things now, but the letter, he did want a hundred dollars a week and I don't really recall anything my father said —

30

Q. What did you mean in the letter when you said: "Now, I want to tell you, you have the wrong opinion of mother, because she didn't mean a thing by it, that night you were so angry with them all?"

A. I don't know.

Q. Don't know what you meant by that?

A. No, I don't recall that letter at all.

Q. What do you mean in the letter when you say: "Ask Dad for a hundred dollars and stick to it in
10 case Dad says seventy-five, you say, 'I am living with my wife, as I haven't got a penny you will have to clothe her?'"

A. I guess I wrote that because I was in —

Q. You say you wrote it; I ask you what did you mean by it?

A. I don't know.

Q. Don't know what you meant by it?

A. No.

Q. Now, Mr. Segal, after writing you a letter and
20 asking you to resume marital relations with him, sent his brother down to Baltimore to see you, didn't he?

A. Yes, that was after two years.

Q. And his brother came down?

A. Yes.

Q. And his brother said to you that —

A. I didn't speak to his brother at all.

Q. You were at the head of the steps and your mother was down in the hall?

30 A. Yes.

Q. And his brother said that your husband wanted you to come to Atlantic City and resume marital relations with him, did he?

A. Yes.

Q. And what did you say?

A. I said, "Tell him to go to hell. That is all."

Q. "Tell him to go to hell. That is all."

- A. Yes.
Q. And at that time you hadn't started proceedings for support, had you?
A. Yes. I had started proceedings.
Q. Your petition had not been filed?
A. Hadn't it? I don't know. I think it had.

HARRY ROSENBLOOM, SWORN.

10

Direct examination.

By Mr. Bloom:

Q. Mr. Rosenbloom, you are a brother of Mrs. Segal?

A. Yes, sir.

Q. Were you present at her marriage to Mr. Segal?

20

A. Yes, sir.

Q. Do you know about their marriage affairs, about their businesses and things?

A. Yes, sir.

Q. Now, were you in Roanoke in the month of August of 1925, when your sister received a letter from her husband?

A. Yes, sir.

Q. Did you see the letter?

A. Yes, sir.

30

Q. Do you know what became of it?

A. No, sir, I don't. It was forwarded to S. Rosenbloom in Baltimore and, I believe, destroyed, S. Rosenbloom not liking unpleasant things of that kind, being of the old school, he immediately destroyed it.

Q. S. Rosenbloom is your father?

A. Yes, sir.

Q. Do you remember what that letter said?

A. Well, as I remember, the letter said that, "I was leaving you," which, of course, had reference to my sister, Mrs. Segal, "and I am going away," I believe, "to shift for myself," to the best of my recollection.

10 Q. You were there when your sister received that letter?

A. Yes, sir, I was.

Q. What was the effect on her?

A. Disastrous, in the sense of the word, she had partly recovered and was paying us a visit, pretty much at my expense.

Mr. Smathers: Your Honor, please, the opinion and the effect upon her is speculative.

20 The Court: Yes, what happened I will admit.

Q. Just tell us what happened at that time when she received that letter?

A. The only way I can phrase that is that my sister went to pieces. I called my family physician in; he immediately had us call a specialist, it affected her entire side and mind, sir.

Q. She became ill?

A. Yes, sir, very much so.

30 Q. Was she under a doctor's care?

A. Yes, sir; I have the receipts for the invoices.

Q. Were you there when she tried to get her husband on the telephone?

A. Yes, sir, I believe that I can locate the bills from the Chesapeake and Atlantic Telephone Company in my town where I paid for the calls.

Q. Was the call made from your home?

A. Yes, sir, from my home.

Q. Do you know whether Mrs. Segal did get her husband on the phone?

A. She did the first time but without any reply of any kind that would be satisfactory to her, to help her in any way at all.

Q. Did she subsequently try on the phone?

A. Yes, sir.

Q. Did she get him then?

A. No, sir.

10

Cross-examination.

By Mr. Smathers:

Q. You say that was the latter part of July?

A. Yes, sir, to the best of my recollection.

Q. Don't you think it singular that a wife like your sister, after receiving such a letter as you have testified to, wrote to her husband in which she said: "Dearest Joe: I received your letter last night and I have been thinking over what I said to you before you left and I am sorry?"

20

A. Not singular at all in my sister's condition. She was doing everything in the world to regain her husband.

30

MRS. EDNA ROSENBLOOM, SWORN.

Direct examination.

By Mr. Bloom:

- Q. Are you the wife of Mr. Rosenbloom, who was
just on the stand?
- 10 A. I am.
- Q. How are you related to Mrs. Segal?
- A. Sister-in-law.
- Q. Were you present in Roanoke at the time in
the month of August when Mrs. Segal received a
letter from her husband?
- A. May I say this, first, I was with Mrs. —

The Court: Just answer the questions at the
present time.

20

- Q. Were you there?
- A. Yes, I was.
- Q. You recall the incident of the receiving of that
letter?
- A. Yes, I do.
- Q. Did you see the letter?
- A. I did.
- Q. Do you remember what it said?
- A. I do.
- 30 Q. Will you state it?
- A. It said: "Ethel, I am through with you. I
am going out for myself, also your folks, Joe."
- Q. When that letter was received by Mrs. Segal,
do you know how it affected her?
- A. Yes, she was put to bed right away and also a
specialist and our family physician called in.

Q. Do you know whether she tried to get her husband on the telephone right away?

A. She did and she got him.

Q. Do you know what she said on the telephone?

A. Yes, she said: "Joe, I don't understand what you mean by this letter and why don't you come back?" and he hung up.

Q. Did she try subsequently to get hold of him?

A. She tried three or four evenings after that.

Q. Did she get him?

A. No.

10

Cross-examination.

By Mr. Smathers:

Q. Do you know what she said to him in Baltimore when he left?

A. The only thing I do know, I was at the —

Q. Please say yes or no?

A. No.

Q. Don't you think it singular after receiving that letter that she wrote him and said that "that night you left I was very angry and thought you were real mean and didn't care anything about me. That is why I told you what I did. I am sorry I did it."

A. I didn't see that letter.

Q. That is all.

20

PETITIONER RESTS.

30

JOSEPH SEGAL, SWORN.

Direct examination.

By Mr. Smathers:

Q. Mr. Segal, you are a brother of William I. Segal, of Atlantic City, in the produce business?

10 A. Yes, sir.

Q. And the first lady on the witness stand is your wife?

A. Yes, sir.

Q. You and she were living together in Baltimore in July of 1925?

A. Yes, sir.

Q. Did you separate there?

A. Yes, sir.

20 Q. Will you state to the Court the circumstances under which you separated?

30 A. I was sick in bed when my wife, her mother and father were in the house and got fussing and I said to them that they got to stop all the time nagging me and I am sick and tired of it, so they answered right back, "Now, if it don't suit you, get up and go to work and go back to where you came from," so I said, "I will," and my wife said, "Well, why don't you?" I said, "I will," so the next morning I got up out of a sick bed and I told her that I was going back to Atlantic City and asked her whether she was going to come along with me. She said, "No, I am not," so I started to get dressed and she called a taxicab for me, so I could make the train and I went back to Atlantic City.

Q. Now, after you returned to Atlantic City, did you communicate with your wife either by letter or telephone?

A. Yes, sir, I did.

Q. And the result of the communication, did she send you some clothing?

A. Yes, she sent me a suit and two shirts.

Q. Did your wife advise you to tell your father that you were going to leave her unless he gave you a hundred dollars a month?

A. Yes, that is what she told me.

Q. Did your father-in-law ever offer you a hundred dollars a week, I mean, to run the shop down there? 10

A. No, he never did.

Q. Have you made any efforts to prevail upon your wife to resume marital relations with you?

A. Yes, I did, twice.

Q. When?

A. First time was in September of 1925.

Q. What did you do then?

A. I wrote to her to ask her whether she is coming back to live with me here in Atlantic City, that I expected to stay here. 20

Q. Did she answer the letter?

A. No, never got any answer and then some time later I wrote to her and told her that I received a letter from Lawyer Bloom asking me for support, and I told her I was very much surprised to see that, that inasmuch as I had wrote to her before and asking her to come back to live with me and she should now ask me for support and I am willing for her to come back to live with me here in Atlantic City and I will do the best I can to provide for her. 30

Q. You received an answer to that?

A. No, I didn't.

Q. Did you do anything after that to try to prevail upon her to come back to live with you?

A. I sent my brother Jake down to see her and he went down there.

Q. Do you know what date that was, about when?

A. October the twelfth.

Mr. Bloom: 1927?

A. 1927.

Q. At that time when you sent your brother to Baltimore to see your wife, had there been any papers served on you in this court?

10 A. Nothing at all.

Q. Are you willing and do you want your wife to come to Atlantic City to live with you today?

A. I am willing to have her come back to live with me here in Atlantic City.

Q. And will you provide a home for her?

A. Provide a home for her.

Q. You work for your brother?

A. Yes, I work for my brother.

Q. How much does he pay you?

20 A. Forty dollars a week.

Cross-examination.

By Mr. Bloom:

Q. When you left your wife in Baltimore in July or August of 1925, where did you go?

A. I went here to Atlantic City.

Q. How long did you stay here?

30 A. I stayed here about three weeks.

Q. Then where did you go?

A. I went out to my brother in Indiana.

Q. How long did you stay there?

A. I stayed there about three or four weeks.

Q. Then where did you go?

A. I came back to Atlantic City.

Q. Have you remained here ever since?

A. No, I was down in Florida for six weeks.

Q. Then where did you go?

A. Then I came back here to Atlantic City and been here ever since.

Q. In other words, you have been in Atlantic City, with the exception of those three and six weeks' trips, you were away once to Florida and once to Indiana and the other two, where was the other place?

A. No, twice.

10

Q. Just two trips?

A. Two trips.

Q. With the exception of those two trips you have been in Atlantic City ever since July of 1925?

A. Yes, sir.

Q. And your brothers have known it?

A. Yes, have known I went away on this trip to Indiana.

Q. What say?

A. On this trip to Indiana.

20

Q. And they knew that you were in Florida?

A. Yes, some time later.

Q. Where were you in October of 1926?

A. October, 1926? I think I was in—I don't recall now, I think that was the time I was down in Florida.

Q. You were there six weeks?

A. About that.

Q. I show you a letter addressed to Joseph Segal, dated October nineteenth, envelope, rather, still sealed, October 19, 1926, and ask you if you ever saw that letter? Look at it?

30

A. No, I never saw that letter.

Q. I show you another envelope, dated October 22, 1926, post-marked Atlantic City, and ask you if you ever saw that envelope?

A. Yes, sir, saw this.

Q. Is that your writing?

A. Yes, sir, that it my writing.

Q. The letter that I have first shown you was returned in the second envelope and mailed back to Baltimore, wasn't it?

A. Yes.

Q. And that is in your writing.

10 (Two envelopes offered, received in evidence and marked Exhibits P3 and 4.)

Q. Do you know your brother, Jacob Segal's handwriting, when you see it?

A. I think so.

Q. I show you a letter signed by Jacob S. Segal under date of August 14, 1925, addressed to Mr. Rosenbloom and ask you if that is Jacob Segal's handwriting?

20 A. That is his handwriting.

Q. Where were you in August of 1925?

A. I was here and then I was out to Lafayette, Indiana.

Q. Did your brother, Jacob Segal, know where you were?

A. No, not at that time he didn't know.

Q. Now, you say that you wrote a letter to your wife in September of 1925, asking her to come to Atlantic City, is that correct?

30 A. Yes.

Q. You have a copy of that letter?

A. No, I haven't.

Q. Did you write it in your own handwriting?

A. I did, yes.

Q. And you mailed it?

A. Yes.

Mr. Smathers: I object to the introduction of that letter, can't bind this defendant by some letter written by his brother, saying he don't know where this defendant was. He was out West somewhere.

The Court: Yes, how is that relevant, Mr. Bloom?

Mr. Bloom: First, his testimony, your Honor, was his brothers knew where he was. This letter 10 was written in August, 1925, which is about the time that all this trouble occurred. The importance of this letter is that I want to show to the Court that his own brothers didn't know where he was and that he was either running away or hiding, to contest, to offset his testimony that he wasn't running away and that he went away with our consent and knowledge.

A. I didn't go around telling all my brothers that 20 I was away.

Mr. Smathers: His wife, if your Honor please, admits he went away with her consent.

The Court: I will sustain the objection at the present time. It may be marked for identification.

(Letter marked P3 for identification.)

30

Q. In this letter of September, 1925, you asked her to come back to you?

A. Yes.

Q. The next request that you made to her to come back to you was two years later?

A. No, I wrote her once before that.

- Q. How many times did you write to her?
A. Twice.
- Q. When was the first time?
A. First time was somewhere, I think, around October, some time, September or October, I just don't remember.
- Q. Of 1925?
A. 1925, yes.
- Q. Then you wrote her in August of 1927?
10 A. That is right.
- Q. And you didn't write her or communicate with her from September, 1925, until August of 1927?
A. No, I didn't.
- Q. You knew where she was?
A. Yes, and she knew where I was.
- Q. Does this letter of August first, 1927, say in it, as you have testified, that you have previously asked her to come back to you?
20 A. I am surprised at this time you want support from me. That is in answer to the other letter, I should think.
- Q. That is what that means, you had previously asked her to come back to you?
A. Yes.
- Q. Have you sent your wife any money since you left in July or August of 1925?
A. No, but I told her to continue drawing out of the factory.
- 30 Q. Did you send her any money since July or August, 1925?
A. No.

Mr. Bloom: If the Court please, there were some depositions of a witness in Baltimore. I forgot to offer it, and I ask permission at this time.

Mr. Smathers: There is a great portion of it, your Honor please, that I consider the question is improper and the answer is improper, on irrelevant matters.

The Court: Suppose you note your objection as it is read.

The deposition of Mary Elizabeth Wilhelm was 10
then read by Mr. Bloom as follows:

"Q. State your full name.

"A. Mary Elizabeth Wilhelm.

"Q. Where do you live?

"A. 2911 Northway Parkway, Hamilton, Baltimore, Md.

"Q. Mrs. Wilhelm, is Mrs. Harry Rosenbloom related to you? If so, how?

"A. She is my daughter. 20

"Q. Where does your daughter now live?

"A. Roanoke, Virginia.

"Q. How long has she been living there?

"A. About four years.

"Q. Do you know Mr. and Mrs. Joseph Segal?

"A. Yes.

"Q. How long have you known them?

"A. Three and a half years.

"Q. What relation, if any, is Mrs. Joseph Segal to Mr. Harry Rosenbloom, your son-in-law? 30

"A. Sister.

"Q. Mrs. Wilhelm, state whether or not you visited your daughter, Mrs. Harry Rosenbloom and her husband at Roanoke, Virginia, in the summer of 1925?

"A. I did.

“Q. State, as well as you can recall, about when in the summer of 1925 you visited your daughter?

“A. About the third week in July.

“Q. Were you living in Baltimore then?

“A. Yes, I was living in Baltimore.

“Q. Did anyone go with you to Roanoke, Virginia, at that time?

“A. Mrs. Joseph Segal went with me.

10 “Q. Whom did Mrs. Joseph Segal visit at Roanoke, Virginia?

“A. My daughter, Mrs. Harry Rosenbloom.

“Q. Do you know from your own knowledge, whether or not Mrs. Joseph Segal received a letter from her husband, Joseph Segal?

“A. She did.

“Q. How long after you had been in Roanoke was this letter received?

“A. This letter was received about the second or third day after we arrived at Roanoke.

20 “Q. Were you present when the letter was handed to Mrs. Joseph Segal?

“A. Yes.

“Q. Were you present when it was read by her?

“A. Yes.

“Q. Did anything then occur that attracted your attention?

30 “A. Yes, she started to cry and I asked her what the trouble was and, of course, I not being near to her as her brother, she hesitated, then I asked her to tell me and finally she gave me this letter to read and on the middle of the first page, her husband told her that he was through with her; that he was going away and not coming back to Baltimore and that she could have the apartment and also the business; that he would never live with her again nor be connected with her people.

“Q. State whether this letter was read at that time by anyone else?

“A. Yes, my daughter, Mrs. Harry Rosenbloom, also read the letter at that time.

“Q. Did you see the envelope in which this letter came?

“A. Yes.

“Q. Do you know how it was stamped?

“A. It was stamped ‘Atlantic City, New Jersey.’

“Q. State whether or not the letter itself indicated where it was from? 10

“A. It did.

“Q. Where?

“A. Atlantic City.

“Q. Who was present at the time Mrs. Segal received and read the letter and at the time you read part of the letter?

“A. My little boy and girl, and my daughter, Mrs. Harry Rosenbloom, and Mrs. Segal.

“Q. What time of the day did this happen? 20

“A. It came in the first mail, which was 10:30 o'clock A. M.

“Q. Did Mrs. Joseph Segal seem much surprised and distressed after reading the letter from her husband?”

Mr. Smathers: I object.

The Court: I will hear the answer.

30

“A. Very much so.

“Q. State how Mrs. Joseph Segal was affected after reading the letter from her husband?”

Mr. Smathers: That is another question I object to.

The Court: I will permit it.

“A. She became hysterical and we had to put her to bed and call a doctor.

“Q. Did she, or not, seem surprised after reading the letter?

“A. Yes, she was very much surprised.

“Q. Mrs. Wilhelm, what, if anything, did Mrs. Segal do after she had received the letter from her husband?
10

“A. Later in the day, she asked me what she should do—should she write. I said, ‘No, I would get him on the long-distance ’phone,’ and she called him on the long-distance ’phone that evening and talked with her husband.’”

The Court: That portion of the testimony which indicates that the reply is a conclusion of the witness will be stricken. That part which indicates a statement of fact will be admitted.
20

“Q. Were you present during the conversation?

“A. I was.

“Q. Did you hear what Mrs. Segal told her husband on the ’phone?

“A. Yes, I did.

“Q. Did Mrs. Segal, in talking with her husband on the ’phone express her great surprise that he had left Baltimore and their home at Baltimore?
30

“A. Yes, she expressed her great surprise that he left Baltimore and her surprise that he felt that way toward her. She did not know what the trouble was, since she had last seen him.

“Q. State whether or not Mrs. Segal, in your presence, had any other talks on the long-distance

'phone with her husband while you and Mrs. Segal were visiting at Roanoke?

"A. Yes, she called three or four times, but was unable ever to get him again.

"Q. State whether or not, from your own knowledge, Mrs. Segal wrote one or more letters to her husband while you and Mrs. Segal were visiting at Roanoke?

"A. Yes, she wrote several letters and they were returned unopened. 10

"Q. When did you return to Baltimore from Roanoke?

"A. I was in Roanoke about a month and then returned to Baltimore.

"Q. When you and Mrs. Segal went to Roanoke together in July, 1925, did Mrs. Segal indicate in any way to you that she was having any trouble with her husband?

"A. She did not.

"Q. Did she indicate that she knew her husband contemplated deserting her? 20

"A. She did not.

"Q. Did they appear to be living together happily?

"A. Yes, just the day before, Mrs. Segal told me how happy they were living together and for this reason, I was greatly surprised at the contents of the letter from her husband.

"Q. Was it or not a surprise to you when you learned, in reading the letter from Mr. Segal to his wife, that he had left his wife and did not intend ever to return to her? 30

"A. I was very much surprised.

"No cross-examination."

JOSEPH SEGAL, recalled.

Direct examination.

By Mr. Smathers:

Q. Mr. Segal, did you ever write a letter to your wife in Roanoke, Virginia?

10 A. Yes, sir, I did.

Q. Did you tell her in the letter that you were through with her and that you would never live with her again?

A. I never did.

Q. What did you say in the letter?

A. I told her that I was through living with her people in Baltimore because they were always around my house, my apartment, that is all I stated. I never stated that I was through living with her.

20

Cross-examination.

By Mr. Bloom:

Q. Are you now intending to say that you resided with your wife's parents?

A. I didn't say that I resided with my wife's parents.

30 Q. Well, did you ever reside with your wife's parents?

A. No, they were around my house all the time.

Q. They were around your house all the time?

A. Yes.

Q. But in fact you had a separate home of your own, didn't you?

A. Yes.

Q. And you had had from the time you were married?

A. Yes.

Q. And during most of that period you were working for your father-in-law?

A. No, not all the time.

Q. How much of the time?

A. Parts of it I was, well, was under his supervision, the paper-box factory.

Q. And for the first eight or nine months of your married life you were working for him, weren't you? 10

A. Yes.

By Mr. Smathers:

Q. How far was the house in which you lived with your wife from the house in which your father and mother-in-law lived?

A. About a block.

20

JACOB SEGAL, SWORN.

Direct examination.

By Mr. Smathers:

Q. You are a brother of the defendant here? 30

A. Yes, sir.

Q. Did you go to Baltimore at his instance to see his wife?

A. Yes, sir.

Q. Did you see her?

A. Why, yes, I seen her at the top of the stairs.

Q. What did you say to her or say in her presence?

A. I didn't say anything, after her mother approached the subject that Joe wants you to come back to live in Atlantic City with him, and she said no —

10 Mr. Bloom: Just a moment. Was Mrs. Segal there?

A. She was at the top of the stairs; yes, sir.

Q. Mrs. Segal is the one that said what you are about to relate now?

A. Yes.

Q. All right.

A. She says, "Joe can go to hell," then I said, "Ethel, that isn't very nice," and her mother after that says, "Ethel, you shouldn't have said that."

20 Cross-examination.

By Mr. Bloom:

Q. That was in October of 1927?

A. That was October, 1927.

Q. That was more than two years after your brother had left his wife?

30 A. About his relationship I really don't know just when it is because he and I never talked much about his wife or my wife, so I really don't know anything about it.

Q. You knew he came to Atlantic City in August, 1925, didn't you?

A. Well, now, you are getting on something that really didn't concern me.

Q. You say you remember or don't remember?

A. Well, I can't say that I do remember, because I just told you that his relationship and mine has never interested each other.

Q. Did you write that letter?

Mr. Smathers: Wasn't that letter ruled out of the evidence?

The Court: Marked for identification.

10

A. Yes, I wrote this letter. This letter was addressed to me, wasn't addressed to me, but it was addressed to my business, my store.

Q. What letter was addressed to your store?

A. There was a letter came to my store marked "Mr. J. Segal," I think it was, 1314 Atlantic Avenue. I had a shoe store over there, and I didn't know whether it was Joe Segal or Jack Segal, because both marked with the first initial, I can't say whether I opened the letter —

20

Q. Did the envelope on this letter indicate where it was, from whom the letter came?

A. That I can't say, because I tell you I used to get so many letters, bills, rather, and advertisements, that I didn't take notice just where it came from until I opened it.

Q. But before you wrote this letter you learned that letter was from Mr. Rosenbloom, didn't you?

A. Before I wrote it?

Q. Yes.

30

A. Yes, I think I did.

Q. You opened that letter?

A. I opened it by mistake.

Q. And you read it?

A. Well, I probably have read it, yes.

Q. And you knew that they were interested, the

Rosenblooms were interested in your brother's whereabouts, didn't you?

A. Yes, sir.

Q. Still you say that you did not know that your brother was having some difficulties with his wife?

A. Positively not.

Q. Were you present in Baltimore when some lawyer came there this last summer?

A. No, sir.

10 Q. Do you know whether your brother sent a lawyer to Baltimore?

A. I don't know anything about my brother's relationship, what happened in Baltimore at any time.

Q. Did you come to Baltimore to ask Mrs. Segal to agree to a divorce?

A. I went to Baltimore to ask Mrs. Segal —

Q. You can answer that, yes or no.

(Question repeated.)

20

A. I did not.

Q. Did your brother, in his conversation with you, ask you to find out whether Mrs. Segal would take a divorce?

A. He has never asked me that, no.

Q. Never discussed that with you?

A. No, sir.

30 Mr. Smathers: I would like to read into the record, with the consent of Mr. Bloom, copy of a letter from his corresponding attorneys in Baltimore, copy of the letter I mean to Mr. Bloom, letter from Bartlett, Poe & Claggett, under date of August 16, 1927, addressed to Mr. Morris Bloom of Atlantic City.

"In re Segal versus Segal," reads as follows:

“You will kindly get in touch with Judge Smathers on the 'phone and ask him the direct question whether or not his client will consider entering into an amicable agreement to pay Mrs. Segal some stipulated amount to be agreed upon toward her support. If he is so disposed then, as heretofore suggested in our letters, we can arrange for a conference at your office to take up the question of the amount and its payment.”

And the letter signed by me and addressed to Mr. Morris Bloom, dated August 19th, 1927, which reads as follows: 10

“I have before me a copy of your letter addressed to you from Bartlett, Poe & Claggett, attorneys in this matter requesting a conference to be arranged in your office in the Segal matter. If you will advise your corresponding attorneys in Baltimore to have Mrs. Segal come with them to your office, I will bring Mr. Segal along and we will have a conference at which time we no doubt could be able to come to some solution in the Segal matter. If you will arrange for a conference for next week and advise me of the date, I will arrange to have Mr. Segal present. In view of the fact that Mr. Segal has written to Mrs. Segal and requested her to come here and resume marital relations with him, to which letter he has had no response, we insist that she be present at the conference in your office. Awaiting your further advice, very truly yours.” 20

DEFENDANT RESTS.

30

JOSEPH SEGAL, recalled.

Direct examination.

By Mr. Bloom:

Q. Mr. Segal, did you send some lawyer to Baltimore to consult Mrs. Segal about a divorce?

10 A. Sent him down there to see if he can't come to some agreement.

Q. Who was the man you sent down?

A. Was a Mr. Bosh.

Q. Resident of Atlantic City?

A. No, resident of New York.

Q. You authorized him to mention divorce?

A. I told him to go down there, I thought that —

Q. Will you answer the question?

A. Yes, I did.

20

Cross-examination.

By Mr. Smathers:

Q. When was the date of this?

A. This was about a year ago.

By Mr. Bloom:

30 Q. Was that before or after you wrote this letter which is dated August 1st, 1927?

A. That was during that time.

By Mr. Smathers:

Q. Had she made a demand on you for support at that time?

A. No.

By Mr. Bloom:

Q. Don't you recall coming into my office in response to a letter I wrote to you prior to August 1st?

A. I just don't recollect that.

MRS. ETHEL SEGAL, recalled.

10

Direct examination.

By Mr. Bloom:

Q. Did you ever receive a letter from your husband in September of 1925 asking you to come back to him?

A. No.

Q. Did you receive any letters from him from the time that he left you in July of 1925 until the letter of August 1st, 1927?

A. No.

JOSEPH SEGAL, recalled.

Direct examination.

By Mr. Smathers:

Q. This lawyer you say you sent to Baltimore, will you tell the Court exactly what directions you gave him? 30

A. I explained my case to him and then I asked him to see one way or the other to find out whether she wouldn't come back to live with me or else give me a divorce.

TESTIMONY CLOSED.

DEPOSITION OF MRS. MARY ELIZABETH WILHELM.

(Filed, Nov. 1, 1928.)

IN CHANCERY OF NEW JERSEY.

10

Between
ETHEL SEGAL,
Complainant,
and
JOSEPH SEGAL,
Defendant. } On Petition, etc.

20

Deposition of Mrs. Mary Elizabeth Wilhelm, taken pursuant to and in accordance with the stipulation hereto attached, on behalf of the complainant in the above-stated case, before me, Alma L. Randel, a notary public of the City of Baltimore, State of Maryland, and an officer authorized by law of the State of Maryland to attest deeds and take acknowledgments, at the office of Bartlett, Poe and Claggett, Room 34, U. S. F. & G. Building, S. W. corner Calvert and Redwood Streets, in the City of Baltimore, State of Maryland, on June 25th, 1928, at 11:00 o'clock A. M.

THERE WAS PRESENT:

L. B. KEENE CLAGGETT of BARTLETT, POE AND CLAGGETT, attorneys for Mrs. Joseph Segal.

Q. Were you living in Baltimore then?

A. Yes, I was living in Baltimore.

Q. Did anyone go with you to Roanoke, Virginia, at that time?

A. Mrs. Joseph Segal went with me.

Q. Whom did Mrs. Joseph Segal visit at Roanoke, Virginia?

A. My daughter, Mrs. Harry Rosenbloom.

Q. Do you know from your own knowledge, 10 whether or not Mrs. Joseph Segal received a letter from her husband, Joseph Segal?

A. She did.

Q. How long after you had been in Roanoke was this letter received?

A. This letter was received about the second or third day after we arrived at Roanoke.

Q. Were you present when the letter was handed to Mrs. Joseph Segal?

A. Yes. 20

Q. Were you present when it was read by her?

A. Yes.

Q. Did anything then occur that attracted your attention?

A. Yes, she started to cry and I asked her what the trouble was and, of course, I not being near to her as her brother, she hesitated, then I asked her to tell me and finally she gave me this letter to read and on the middle of the first page, her husband told her that he was through with her; that he was going 30 away and not coming back to Baltimore and that she could have the apartment and also the business; that he would never live with her again nor be connected with her people.

Q. State whether this letter was read at that time by anyone else?

do—should she write? I said, “No, I would get him on the long-distance ’phone,” and she called him on the long-distance ’phone that evening and talked with her husband.

Q. Were you present during the conversation?

A. I was.

Q. Did you hear what Mrs. Segal told her husband on the ’phone?

A. Yes, I did.

10

Q. Did Mrs. Segal, in talking with her husband on the phone express her great surprise that he had left Baltimore and their home at Baltimore?

A. Yes, she expressed her great surprise that he left Baltimore and her surprise that he felt that way toward her. She did not know what the trouble was, since she had last seen him.

Q. State whether or not Mrs. Segal, in your presence, had any other talks on the long-distance ’phone with her husband while you and Mrs. Segal were 20 visiting at Roanoke?

A. Yes, she called three or four times, but was unable ever to get him again.

Q. State whether or not, from your own knowledge, Mrs. Segal wrote one or more letters to her husband while you and Mrs. Segal were visiting at Roanoke?

A. Yes, she wrote several letters and they were returned unopened.

Q. When did you return to Baltimore from 30 Roanoke?

A. I was in Roanoke about a month and then returned to Baltimore.

Q. When you and Mrs. Segal went to Roanoke together in July, 1925, did Mrs. Segal indicate in any way to you that she was having any trouble with her husband?

CERTIFICATE.

STATE OF MARYLAND, }
CITY OF BALTIMORE, } ss.

I, Alma L. Randel, a notary public in and for the City and State aforesaid, duly commissioned and qualified, do hereby certify that the above-named Mary Elizabeth Wilhelm was by me first sworn to testify the truth, the whole truth and nothing but the truth and that the deposition by her subscribed as above set forth was reduced to writing by Miss M. Y. Kriete, she being a proper person and not interested in the action, in my presence, and in the presence of the witness, and was subscribed by said witness, in my presence and was taken at the time and place in the annexed stipulation specified.

I do further certify that I am not a relative or attorney of either party or otherwise interested in the event of this action.

In witness whereof, I have hereunto set my hand and seal of office this 25th day of June, 1928.

ALMA L. RANDEL,
Notary Public.
Baltimore, Md.,
June 25, 1928.

(Seal)

Miss Alma L. Randel,
34 U. S. Fidelity & Guaranty Bldg.,
Baltimore, Maryland. 30

Services of Notary in re deposition of Mary Elizabeth Wilhelm	\$7.50
Services of Stenographer (8 pages at 50¢ per page)	4.00
	<hr/>
	\$11.50

CONCLUSIONS.

(Filed September 19, 1928.)

IN CHANCERY OF NEW JERSEY.

10

Between ETHEL SEGAL, <i>Complainant,</i> and JOSEPH SEGAL, <i>Defendant.</i>	}	On Petition, &c. Conclusions.
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20

These conclusions are not to be published in the official or unofficial reports.

MR. MORRIS BLOOM, for the complainant.
 MR. WILLIAM H. SMATHERS, for the defendant.

30 *INGERSOLL, V. C.*

The physical condition of the wife is such that the sympathy of the Court is bound to go out to her. Her condition is such that, unless she has by her own actions prevented it, the Court would be very prone to order support. That condition is such that a husband would be constrained by his love toward

her, his honor and the sense of his duties as a husband, rather than by a normal resumption of marital duties, to request her return to him.

I am convinced, however, that the husband has made bona fide efforts to have the marital relations resumed. Her testimony is conclusive that she did not desire to return to him.

The petition will be dismissed.

10

DECREE OF DISMISSAL.

(Filed Nov. 1, 1928.)

IN CHANCERY OF NEW JERSEY.

Between

ETHEL SEGAL,

Complainant,

and

JOSEPH SEGAL,

Defendant.

} On Petition, &c.
Decree of Dismissal.

20

This cause coming on to be heard in the presence of Morris Bloom, of counsel with the petitioner, 30 and William H. Smathers, of counsel with the defendant, on petition, answer, and oral proofs taken in open court; whereupon, and upon duly considering the said pleadings and proofs, and hearing and considering the arguments of counsel; and it appearing to the Court that the petitioner has not sus-

tained the truth of the allegations of her petition, and is not entitled to the relief therein prayed;

It is thereupon, on this 18th day of October, nineteen hundred and twenty-eight, ordered, adjudged and decreed, that the petitioner's petition be, and the same is, hereby dismissed.

E. R. WALKER,
C.

10 Respectfully advised,
R. H. INGERSOLL,
V. C.

NOTICE OF APPEAL.

(Filed November 17, 1928:)

20 IN CHANCERY OF NEW JERSEY.

<p>Between ETHEL SEGAL, <i>Petitioner,</i> and JOSEPH SEGAL, <i>Defendant.</i></p>	}	<p>On Petition for Maintenance. Notice of Appeal.</p>
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30

The petitioner, Ethel Segal, hereby appeals from the final decree made in the above-entitled cause on October 16th, 1928, and from the whole and every part thereof to the Court of Errors and Appeals in

the last resort in all causes. The said decree was made by the Chancellor on the advice of Vice-Chancellor R. H. Ingersoll.

MORRIS BLOOM,
*Solicitor for and of Counsel
with Petitioner.*

I conceive there is good cause for appeal in the 10 above-entitled cause.

MORRIS BLOOM,
Of Counsel with Petitioner.

[ENDORSED.]

Due and legal service acknowledged
this 15th day of November, 1928.

W. H. SMATHERS,
Attorney for Defendant.

20

30

PETITION OF APPEAL.

(Filed November 17, 1928.)

NEW JERSEY COURT OF ERRORS
AND APPEALS.

10

Between

ETHEL SEGAL,

Plaintiff-Appellant,

and

JOSEPH SEGAL,

Defendant-Respondent.} On Appeal from the
Court of Chancery.
Petition of Appeal.

20

*To the Honorable the Court of Errors and Appeals
in the Last Resort in All Causes:*The petition of Ethel Segal, the appellant in the
above-entitled cause, respectfully shows that:

1. Petitioner finds herself aggrieved by the order
of dismissal made in the Court of Chancery by his
Honor Edwin Robert Walker, Chancellor of the
30 State of New Jersey, bearing date of the sixteenth
day of October, 1928, in a certain cause in said
Court of Chancery entitled, "Between Ethel Segal,
petitioner, and Joseph Segal, defendant," in this
respect, to wit: that the said order adjudges that
the petition filed by petitioner in said cause, seeking
to compel one Joseph Segal to maintain and support

his wife, Ethel Segal, be, and the said petition was, thereby dismissed, and the relief therein prayed for by the petitioner was denied.

And the petitioner appeals from the order of the Chancellor which decrees as aforesaid upon the ground that the same is erroneous in that:

1. The Chancellor should have decreed that the said defendant, Joseph Segal, maintain and support his wife. 10

2. The said decree was based upon the finding by the Chancellor that the appellant had not sustained the truth of the allegations of her petitioner, whereas the Chancellor should have found and held that the petitioner had sustained the truth of the allegations of her petition.

Petitioner therefore prays that the said order of the said Chancellor may be wholly reversed, set aside and for nothing holden, and that petitioner may have such further and other relief in the premises as to this Court shall seem proper. 20

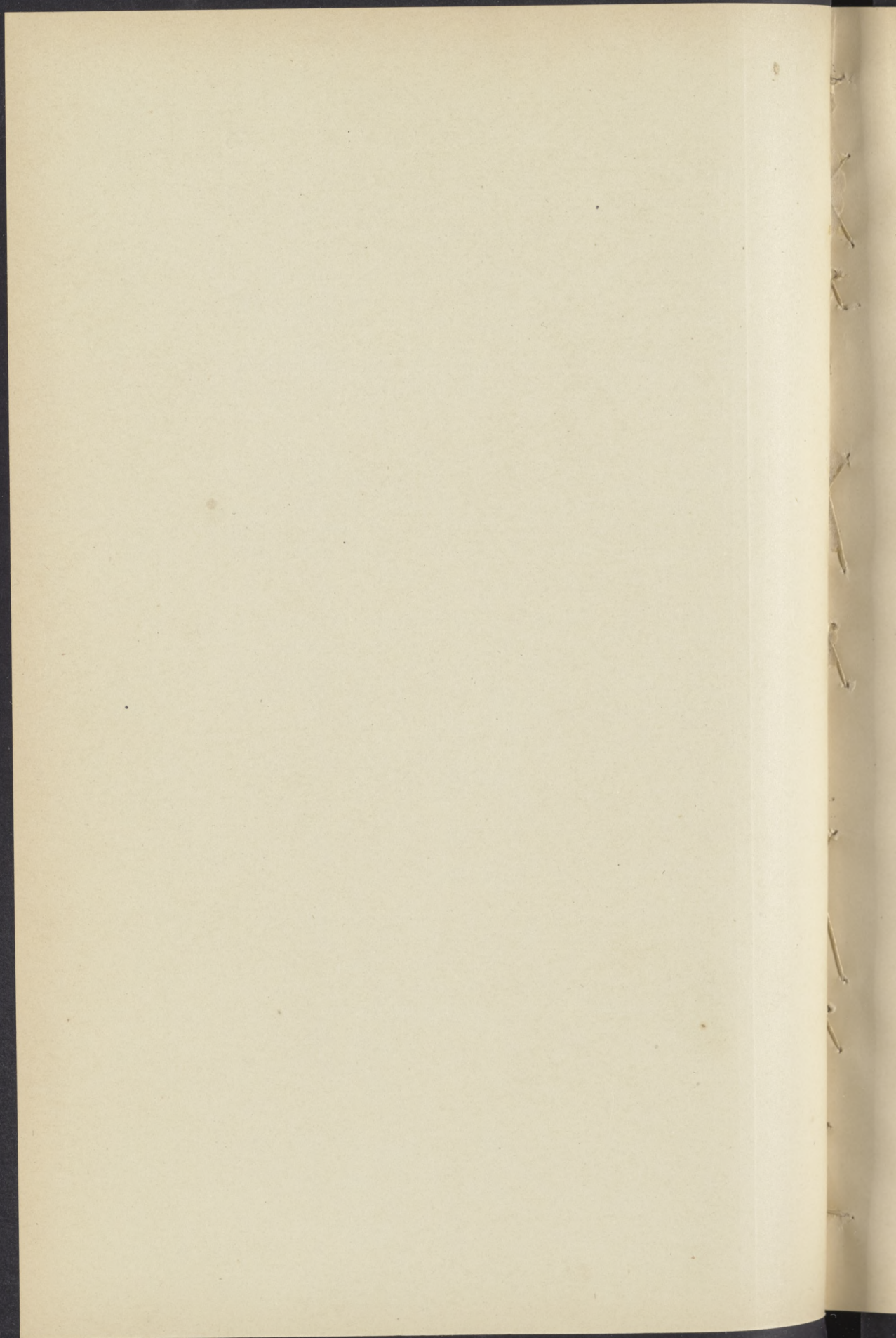
MORRIS BLOOM,
*Solicitor for and of Counsel
with Appellant.*

[ENDORSED.]

30

Due and legal service acknowledged
this 15th day of November, 1928.

W. H. SMATHERS,
*Attorney for Defendant-
Respondent.*



NEW JERSEY COURT OF ERRORS
AND APPEALS.

Between
ETHEL SEGAL,
Complainant-Appellant,
and
JOSEPH SEGAL,
Defendant-Respondent.

ON BILL FOR MAINTENANCE.

APPEAL FROM CHANCERY, R. H. INGERSOLL, V. C.

BRIEF OF COMPLAINANT-APPELLANT.

Mrs. Ethel Segal exhibits a bill against her husband, Joseph Segal, for maintenance, under Section 26 of the Divorce Act. The parties were married on January, 1922, and lived together until August, 1925, when Segal left his home in Baltimore, Maryland and came to Atlantic City, New Jersey.

Shortly after he left his wife, Segal wrote her that he was through with her and would not return and since August, 1925, he has not returned to his wife nor has he supported her.

Segal contends that he left with his wife's consent and that he has made repeated efforts to get her back, without result. He admits that he has not supported her.

I.

Concerning his contention that he left his wife, with her consent, it was only necessary to refer to two points in the testimony. The first is, that he himself produced a letter, written by his wife to him (Testimony, page 15, Exhibits D1 and 2) in which Mrs. Segal wrote on August 4, 1925:

“I received your letter last night and I have been thinking over what I said to you before you left and I am sorry —”
It is signed, “Lovingly, Ethel.”

Secondly, it is testified to by complainant and corroborated by three witnesses that the defendant wrote her a letter in August, 1925, saying that he was through with her and would not return (testimony of complainant, page 10, testimony of Harry Rosenbloom, page 17, testimony of Edna Rosenbloom, page 20, testimony of Mrs. Elizabeth Wilhelm, page 30.) This testimony also discloses various attempts to get defendant on the telephone, without result, and further discloses (bottom of page 25 and page 26) that the defendant in October, 1926, returned to his wife unopened, a letter which he received.

II.

Concerning defendant's contention that he made *bona fide* efforts to have the marital relations re-

sumed, we refer to defendant's direct testimony (page 23 about the middle of the page):

“Q. Have you made any efforts to prevail upon your wife to resume marital relations with you?

A. Yes, I did, twice.

Q. When?

A. The first time was in September, 1925.

Q. What did you do then?

A. I wrote to her to ask her whether she is coming back to live with me here in Atlantic City, that I expected to stay here.

Q. Did she answer the letter?

A. No, never got any answer and then some time later I wrote to her and told her that I received a letter from Lawyer Bloom asking me for support, and I told her I was very much surprised to see that, that inasmuch as I have wrote to her before and asking her to come back to live with me and she should now ask me for support and I am willing for her to come back to live with me here in Atlantic City and I will do the best I can to provide for her.”

There is testimony (page 35) that defendant sent his brother to Baltimore in October, 1927, asking complainant to return and there is also testimony (page 40) that in August, 1927, that defendant sent a New York lawyer called Bosh, to talk divorce.

The complainant denies ever having received any letters from defendant asking her to return to him and according to his own testimony made no effort to see his wife nor communicate with her with a view toward resuming marital relations from September, 1925, until the month of August, 1927, and then only after a demand had been made upon him for maintenance.

Under these circumstances the petitioner is not required to fall into her husband's arms upon his slightest gesture and is privileged to insist that he go further than ask her to return and ask for some genuine token of good faith therein.

We urge that the formal gesture made by defendant lacks all the elements of good faith especially in view of the fact that for two years he failed in any respect to recognize his obligations. (*Bates v. Bates*, 2 Misc. R. 400.)

III.

The testimony discloses that the parties lived happily together from the time of their marriage, that sometime after the marriage, complainant became pregnant, that the baby was born dead, and that six hours after the birth complainant became paralyzed and has remained so.

There is convincing evidence that this condition caused defendant to lose his affection for his wife and that is the reason why the defendant left his wife and has at no time had any real intention to return to her. The bitterness caused by her husband's cruel desertion broke out, involuntarily, when defendant's brother came to see complainant on her husband's behalf and her words then used, and regretted since, merely gave expression to her thought that she had been cruelly wronged and thrown aside at a time when it was her husband's duty and obligation to extend to her his greatest measure of affection and sympathy.

The decree denying relief should be reversed.

MORRIS BLOOM,

Solicitor of Complainant-Appellant.

New Jersey Court of Errors and Appeals

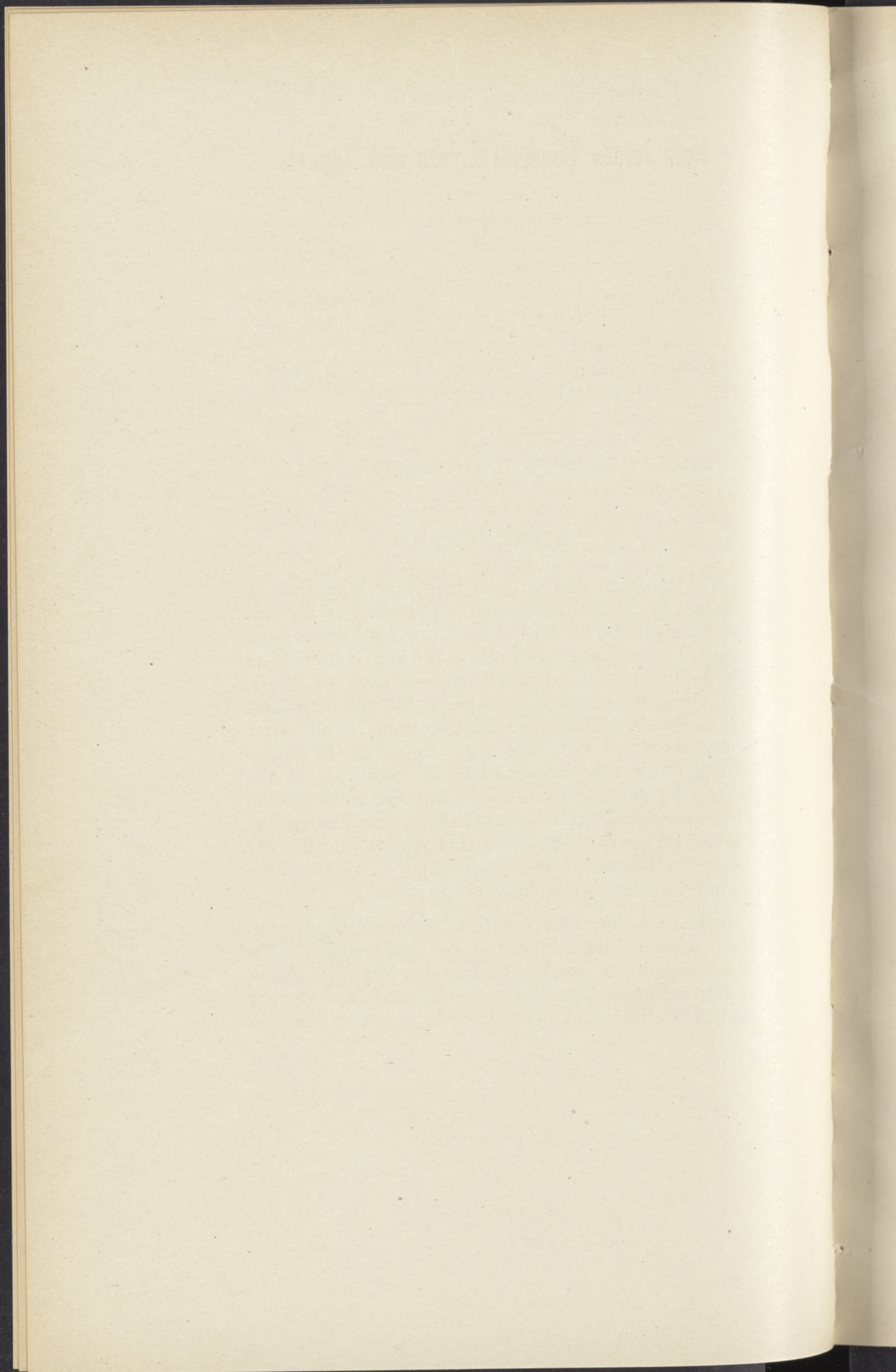
Between ETHEL SEGAL, <i>Plaintiff-Appellant,</i> and JOSEPH SEGAL, <i>Defendant-Respondent.</i>	}	On Petition for Maintenance ON APPEAL
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BRIEF FOR DEFENDANT-RESPONDENT

STATEMENT

The husband and wife in this case separated by consent, by mutual agreement. This fact is testified to by the wife on page 13 of the transcript, where complainant admits she called a taxi for him, consented to his coming to Atlantic City, and on page 14 of the transcript, the complainant admits that the defendant left the home in Baltimore with her consent, and after his leaving, she sent him some clothing. It is also admitted by the complainant, on page 14 of the transcript, that shortly after the separation, by mutual agreement, she was in Atlantic City over Easter and did not let her husband know that she was in the City where her husband was then residing. Therefore, desertion by either party could not arise.

It was the duty of the wife to resume marital relations upon an honest request by the husband. The defendant, after writing and asking his wife for a reconciliation, to which he had no response, and fearing that the complainant's father would have him arrested



if he went to Baltimore himself, sent his brother down to Baltimore; Maryland, to ask his wife if she would resume marital relations with him. These honest efforts on the part of the husband, were made in good faith, and before the complainant had filed a bill for support. Let us see how the complainant meets this request from her husband to resume marital relations with him.

Page 16 of the transcript:

Q. "And his brother said that your husband wanted you to come to Atlantic City and resume marital relations with him, did he?"

A. "Yes."

Q. "And what did you say?"

A. "I said, 'tell him to go to hell'. That is all."

Such a woman, with such nerve, coming into the Chancery Court to do her gold-digging in such an attitude, commits an affront to, a travesty upon the fair name of the Court of Equity.

The Vice-Chancellor in the Court below found as a fact that the husband had made a bona fide effort to have the marital relations resumed. This finding of fact is fully supported by the testimony of the complainant herself, without even considering the testimony of the defense. Such a finding of fact, supported as it is by both the testimony of complainant and defendant, should certainly not be disturbed on appeal. It is respectfully submitted that the opinion of the Vice Chancellor should be affirmed.

Respectfully submitted,

WM. H. SMATHERS,
*Attorney for Defendant-
Respondent*

