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CAPIAS.

NEW JERSEY, ss.

The State of New Jersey to the
Sheriff of the County of Essex, GREET-
(SEAL) ING:

We command you that you take 10
Oscar Anderson if in your county he
may be found and him safely keep so that you
may have his body before the Circuit Court of
the County of Essex, to be held at Newark, on
the 25th day of March next, to answer unto
Amelia Santos and Joseph Santos in an action at
law wherein the plaintiffs demand \$9,900.

WITNESS, NELSON Y. DUNGAN, Esquire, a Judge
of the Essex County Circuit Court, at Newark,
aforesaid, the 15th day of February, 1927. 20

JOHN H. SCOTT,
Clerk.

MICHAEL J. BRUDER,
Attorney.

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SUMMONS.

The State of New Jersey to Elizabeth Anderson, trading as E. Anderson
 (SEAL) son Construction Co., and Augustus
 L. Friedmann:

10 You and each of you are summoned to answer the annexed complaint of Amelia Santos and Joseph Santos in an action at law in the Essex County Circuit Court. And take notice that unless you file your answer to said complaint with the Clerk of the Essex County Circuit Court, at Newark, within twenty days after service upon you of this writ and the annexed complaint, the plaintiffs may proceed in the suit and judgment may be entered against you.

20 (And see notice endorsed on the back hereof.)

WITNESS, NELSON Y. DUNGAN, Esq., Judge of said Essex County Circuit Court, at Newark, this 15th day of February, 1927.

JOHN H. SCOTT,
 Clerk.

MICHAEL J. BRUDER,
 Attorney.

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COMPLAINT.

Essex County Circuit Court

AMELIA SANTOS and JOSEPH
SANTOS,

Plaintiffs,

vs.

ELIZABETH ANDERSON, trading
as E. Anderson Construction
Co.; OSCAR ANDERSON and
AUGUSTUS L. FRIEDMANN,

Defendants.

10

*Action
at Law.*

Complaint.

Plaintiffs, Amelia Santos and Joseph Santos,
residing at #230 Garside street, in the City of
Newark, County of Essex and State of New
Jersey, say that:

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FIRST COUNT.

1. On or about June 28, 1926, the defendant
Oscar Anderson told the plaintiffs that he was a
contractor and builder and offered to build a
dwelling house for them and to purchase a lot on
which to erect said dwelling house.

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2. On July 8, 1926, the plaintiff, Amelia San-
tos, gave and entrusted to the said Oscar Ander-
son the sum of \$1,000 for the purpose of erect-
ing said dwelling house and of purchasing the
lot on which to erect said dwelling house.

3. On July 12, 1926, the said Oscar Anderson
gave to the said Amelia Santos a contract, a copy
of which is hereto annexed and made a part

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Complaint.

hereof and to which reference is hereby made, which said contract was signed by the E. Anderson Construction Co., per Oscar Anderson, and was also signed by the said Amelia Santos.

10 4. Upon receiving said contract from the said Oscar Anderson the plaintiff, Amelia Santos, on July 12, 1926, gave and entrusted to the said Oscar Anderson the sum of \$2,500 for the purpose of erecting said dwelling house and of purchasing the lot on which to erect the said dwelling house.

20 5. On July 26, 1926, the plaintiff, Amelia Santos, gave and entrusted to the said Oscar Anderson the sum of \$1,000 for the purpose of erecting said dwelling house and of purchasing the lot on which to erect said dwelling house.

30 6. On September 24, 1926, the plaintiff, Amelia Santos, and Joseph Santos executed an assignment of a mortgage held by them on premises known and designated as No. 230 Garside street, Newark, New Jersey, which mortgage is for the sum of \$5,000 and is recorded in Book D-57 of Mortgages in the Essex County Register's office at pages 590 and 591, and which assignment was made to Augustus L. Friedmann and is recorded in Book 182 of Assignments in the Essex County Register's office at page 567.

7. Said assignment was made at the request of the said Oscar Anderson.

8. Plaintiffs believed that they were making said assignment to the said Oscar Anderson and did not know that the defendant Augustus L. Friedmann was the assignee therein named.

40 9. Plaintiffs were fraudulently induced to make said assignment to the said Augustus L.

Complaint.

Friedmann, believing that they were making the same to the said Oscar Anderson, as was represented to them, and having no intention of executing the same to the said Augustus L. Friedmann.

10. Plaintiffs have received no consideration whatsoever from the said Augustus L. Friedmann for said assignment. 10

11. Said assignment was made for the purpose of enabling the said Oscar Anderson to erect said dwelling house and to purchase the lot on which to erect said dwelling house.

12. Said assignment was accepted by the said Oscar Anderson as a payment for the purpose of erecting a dwelling house for the plaintiff Amelia Santos and of purchasing a lot on which to erect said dwelling house. 20

13. On January 4, 1927, the plaintiff Amelia Santos gave and entrusted to the said Oscar Anderson the sum of \$50 for the purpose of erecting said dwelling house and of purchasing the lot on which to erect said dwelling house.

14. On January 5, 1927, the plaintiff Amelia Santos gave and entrusted to the said Oscar Anderson the sum of \$50 for the purpose of erecting said dwelling house and of purchasing the lot on which to erect said dwelling house. 30

15. The total sums of money given and entrusted to the said Oscar Anderson, including the aforementioned assignment of mortgage, total \$9,900.

16. On or about June 28, 1926, the plaintiff Amelia Santos pointed out, showed and indicated to the said Oscar Anderson the lot on which said 40

Complaint.

dwelling house was to be erected, which lot the said Oscar Anderson agreed to purchase for said plaintiff, and on which he agreed to erect said dwelling house, which lot is known and designated as Nos. 414-416 Clifton avenue, Newark, N. J.

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17. The said Oscar Anderson promises to purchase said lot for the plaintiff Amelia Santos, and to erect a dwelling house on the same for her before November 1, 1926, but to date has purchased no lot and has erected no dwelling house for said plaintiff.

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18. The said Oscar Anderson has converted said sums of money and said assignment of mortgage entrusted to him to his own use and refuses to return same to the plaintiffs.

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19. The said Oscar Anderson has not employed said sums of money and said assignment of mortgage entrusted to him for the use and benefit of the plaintiffs and has not employed same for the purpose for which same was given and entrusted to him by the plaintiffs, namely, the erection of said dwelling house and the purchase of the lot on which to erect said dwelling house.

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20. During the month of August, 1926, the defendant Oscar Anderson told and represented to the plaintiff Amelia Santos that he had purchased the lot known and designated as Nos. 414-416 Clifton avenue, Newark, N. J., for her, and represented that he was erecting a dwelling house on said lot for her.

21. The said Oscar Anderson does not own said lot nor has he entered into any binding contract to purchase the same from the owner

Complaint.

thereof, nor has he procured the owner thereof to convey, or agree to convey, the said lot to the plaintiff Amelia Santos.

22. By said false representations, equivocations, deceits and frauds the said Oscar Anderson knowingly, wilfully and intentionally induced the plaintiffs to give and entrust to him the aforementioned sums of money and to make the aforementioned assignment of mortgage. 10

23. The said Oscar Anderson made said false representations, knowing that the same were false and intending that the plaintiffs act thereon.

24. The plaintiffs relied on said false representations to their damage. 20

SECOND COUNT.

1. All the paragraphs of the first count are repeated and made a part hereof.

2. The defendant Oscar Anderson is the servant, agent and manager of the E. Anderson Construction Co.

3. The E. Anderson Construction Co. is a trade name under which the defendant Elizabeth Anderson conducts her business. 30

4. By the false representations, deceits and frauds of the said Oscar Anderson the defendant, Elizabeth Anderson, knowingly, wilfully and intentionally induced the plaintiffs to give and entrust to the said Elizabeth Anderson the aforementioned sums of money and to make the aforesaid assignment of mortgage.

5. The defendants Oscar Anderson and Elizabeth Anderson conspired together to deceive and 40

Complaint.

defraud the plaintiffs and by said false representations to entrust to the said defendants the aforementioned sums of money and to make said assignment of mortgage.

10 6. The said Elizabeth Anderson, by her agent and servant, the said Oscar Anderson, made said false representations, knowing that the same were false and intending that the plaintiffs act thereon.

7. The plaintiffs relied on said false representations to their damage.

THIRD COUNT.

20 1. Paragraphs 3, 6, 8, 9, 10, 11 and 12 of the first count are repeated and made a part hereof.

2. The defendant Augustus L. Friedmann, by his servants and agents, Oscar Anderson and Samuel Avidan, represented to the plaintiffs that said assignment of mortgage was made to the said Oscar Anderson.

30 2. The defendant Augustus L. Friedmann, by his servants and agents, Oscar Anderson and Samuel Avidan, did not inform the plaintiffs that said assignment of mortgage was made to the said Augustus L. Friedmann.

4. The said defendant Augustus L. Friedmann, obtained said assignment of mortgage from the plaintiffs against their will and intention.

5. The said defendant Augustus L. Friedmann has given to the plaintiffs no consideration or remuneration in return for said assignment of mortgage.

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Complaint.

6. The said defendant August L. Friedmann, by his agents, made the representations and suppressions mentioned in paragraphs 2 and 3 of this count, knowing that the same were false and intending that the plaintiffs act thereon.

7. The plaintiffs relied on said representations and suppressions to their damage. 10

8. The plaintiffs made no gift of said assignment to the said defendant Augustus L. Friedmann.

FOURTH COUNT.

1. Paragraphs 3, 6, 8, 9, 10, 11 and 12 of the first count are repeated and made a part hereof.

2. Paragraphs 2, 3, 4, 5, 6, 7 and 8 of the third count are repeated and made a part hereof. 20

3. The defendant Augustus L. Friedmann agreed to pay to the plaintiffs the sum of \$5,000 in consideration of said assignment of mortgage.

4. The said Augustus L. Friedmann has not paid to the plaintiffs said sum of \$5,000.

FIFTH COUNT.

1. Paragraphs 3, 6, 8, 9, 10, 11 and 12 of the first count are repeated and made a part hereof. 30

2. Paragraphs 2, 3, 4, 5, 6, 7 and 8 of the third count are repeated and made a part hereof.

3. In consideration of said assignment of mortgage the defendant Augustus L. Friedmann agreed to pay to the plaintiffs what the same was reasonably worth.

4. Said assignment of mortgage was reasonably worth \$5,000. 40

Complaint.

5. Said defendant Augustus L. Friedmann has not paid the plaintiffs what said assignment of mortgage was reasonably worth.

10 Plaintiffs demand on the first count of the defendant, Oscar Anderson, \$9,900 damages; on the second count of the defendants, Elizabeth Anderson, trading as E. Anderson Construction Co., and Oscar Anderson, \$9,900 damages and on the third, fourth and fifth counts of the defendant August L. Friedman, \$5,000 damages; together with interest and costs against all the defendants, on the respective counts.

MICHAEL J. BRUDER,
Attorney for Plaintiffs.

20 ARTICLES OF AGREEMENT Made the Twelfth day of July, One Thousand Nine Hundred and Twenty-six.

BETWEEN Santas of the City of Newark, County of Essex and State of New Jersey of the First Part;

AND E. Anderson Construction Co., of the Borough of Verona, County of Essex and State of New Jersey, of the Second Part;

30 WITNESSETH, First—The said parties of the second part, do hereby for their heirs, executors and administrators, covenant, promise and agree to and with the said part of the first part, their executors, administrators or assigns, that the said parties of the second part their executors or administrators shall and will for the consideration hereinafter mentioned, on or before the first day of November, well and sufficiently erect and finish the complete works of the new Building to be erected on the lot Newark, New Jersey, agree-

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Complaint.

able to the Drawings and Specifications made by Herman Fritz, Architect, and signed by the said parties and hereunto annexed, within the time aforesaid, in a good workmanlike and substantial manner, under the direction of said * * * as hereinafter mentioned, and, also, shall and will find and provide such good, proper and sufficient materials of all kinds whatsoever, as shall be proper and sufficient for the completing and finishing of all the different parts of construction and all the works of the said Building mentioned in the signed plans and Specification for the sum of Thirteen thousand, three hundred (\$13,300.00) Dollars. 10

AND the said parties of the first part does hereby, for their heirs, executors and administrators, covenant, promise and agree, to and with the said part of the second part, their executors and administrators, that they the said parties of the first part, their executors and administrators, shall and will in consideration of the covenants and agreements being strictly performed and kept by the said parties of the second part as specified, well and truly pay or cause to be paid unto the said parties of the second part their executors, administrators and assigns, the sum of Thirteen thousand, three hundred (\$13,300.00) Dollars lawful money of the United States of America, in manner following: 20

One thousand (\$1,000.00) Dollars as deposit.

Twenty-five hundred (\$2,500.00) Dollars when this contract is signed.

Fifteen hundred (\$1,500.00) Dollars to be paid when frame of building is up.

Thirty-three hundred (\$3,300.00) Dollars when all building is enclosed and brick work outside finished. 30 40

Complaint.

Balance of Five thousand (\$5,000.00) Dollars to be secured by mortgage by party of the second part and all interest and installments to be paid by the parties of the second part until the first day of November, 1926, on which day the Building and lot will be turned over to the parties of the first part by deed, free of all debts and all assessments paid.

And it is hereby further agreed by the parties of the second part that they will build a garage 18' x 20' on rear of said lot and to complete same with exterior to the house and to have cement floor and entrance of 3 feet in front of doors.

Changes on plans and specifications will be made as agreed later in course of construction.

* * * lessening the total and final responsibility of the Contractor; neither shall it exempt the Contractor from liability to replace work, if it be afterwards discovered to have been done ill, or not according to the Drawings and Specifications, either in execution or materials.

AND IT IS HEREBY FURTHER AGREED BY AND BETWEEN THE SAID PARTIES:

First—The Specifications and Drawings are intended to co-operate, so that any works exhibited in the Drawings; and not mentioned in the Specifications, or VICE VERSA, are to be executed the same as if they were mentioned in the Specifications and set forth in the Drawings to the true meaning and intentions of the said Drawings and Specification, without any extra charge whatsoever. Copies thereof certified by the Architect to be true copies shall be furnished to the Contractor.

Second—The Contractor, at their own proper costs and charges, to provide all manner of ma-

Complaint.

materials and labor, scaffolding, implements, moulds, models and cartage, of every description for the due performance of the several erections.

Third—Should the Owner at any time during the progress of the said BUILDING request any alterations, deviations, additions or omissions, from the said contract, shall be at liberty to do so, and the same shall in no way affect or make void the contract, but will be added or deducted from the amount of the contract, as the case may be, by a fair and reasonable valuation. 10

Fourth—Should the Contractor, at any time during the progress of said works, refuse or neglect to supply a sufficiency of materials or workmen, the Owner shall have power to provide materials and workmen, after three days' notice in writing being given, to finish the said works, and the expense shall be deducted from the amount of the contract. 20

Fifth—Should any dispute arise respecting the true construction or meaning of the Drawings or Specifications, the same shall be decided by Herman Fritz and his decision shall be final and conclusive; but should any dispute arise respecting the true value of the extra work, or of the works omitted, the same shall be valued by two competent persons—one employed by the Owner, and the other by the Contractor—and those two shall have power to name an umpire, whose decision shall be binding on all parties. 30

Sixth—The Owner shall not, in any manner, be answerable or accountable for any loss or damage that shall or may happen to the said works, or any part or parts thereof respectively, or for any of the materials or other things used and employed in finishing and completing the same. 40

Complaint.

Seventh—No alterations or extra work shall be done without a written order from the Owner, approved by the Architect and an express agreement in writing as to the cost.

10 Eighth—The Contractor will insure the building and in the joint names and interest of himself and the Contractor against loss or damage by fire, in such sums as may from time to time be agreed upon with the Contractor to cover work and materials used in the building and around the premises, and the policies to be made payable to Owner and Contractor, as their interest may appear. The Contractor shall see to it that this insurance is satisfactorily effected.

20 Ninth—All work and materials, delivered on the premises to form part of the works, are to be considered the property of the Owner, and are not to be removed without his consent; but the Contractor shall have the right to remove all surplus materials after the completion of the works.

Tenth—Neither the Contractor nor the Architect shall, without the written consent of the Owner, have authority to vary, alter, amend or change this contract, or any of the Plans or Specifications herein referred to.

30 Eleventh—Whenever building permits shall be required by any municipality, or be necessary under any law, ordinance or other regulation, to the erection, alteration or repair of any building, the same shall be procured by the Contractor.

Complaint.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and seals the day and year above written.

E. Anderson Construction Co.,
 (L. s.) Per Oscar Anderson.
 (L. s.) Amelia Santos.

10

Signed, Sealed and Delivered
 in the presence of

AGREEMENT
 FOR BUILDING

Amelia Santos and
 Santas

20

and

E. Anderson Construction Co.

Dated, July 12th, 1926.

Filed,

19

To the Within Named Defendants:

TAKE NOTICE, that if the within summons and complaint be served upon you personally and you intend to make defense, then you must file an affidavit of merits within ten days of such service and must file an answer within twenty days of such service; and that in default thereof, judgment will be entered against you. Lawful service upon a corporation is deemed personal service.

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MICHAEL J. BRUDER,
 Attorney for Plaintiffs. 40

Complaint.

I hereby appoint and depute Charles F. Hummel to serve the within writ.

WITNESS my hand and seal this 16th day of February, 1927.

10

CONRAD DEUCHLER,
Sheriff.

By RUPPERT F. MILLS,
Under Sheriff.

20

Served the within summons and complaint, a ten days' notice endorsed thereon February 17, 1927, personally upon Elizabeth Anderson, trading as E. Anderson Construction Co., the within named defendant by delivering to her a true copy thereof at her usual place of abode, 8 Lloyd Road, Verona, N. J., personally upon Augustus L. Friedmann, the within named defendant February 17, 1927, by delivering to him a true copy thereof at his office, 316 Bloomfield avenue, Montclair, N. J.

CONRAD DEUCHLER,
Sheriff.

30

By CHARLES F. HUMMEL,
Special Deputy.

40

Complaint.

Served the within capias and complaint February 17, 1927, personally upon Oscar Anderson, the within named defendant and at the same time took him in custody and had him appear before Supreme Court Commissioner Jacob L. Newman, who duly entered him into a recognizance of bail and he was duly released from custody. 10

CONRAD DEUCHLER,
Sheriff.

By CHARLES F. HUMMEL,
Special Deputy.

Let the defendant be held in bail in the sum of Nine Thousand Nine Hundred Dollars. 20

WM. J. KEARNS,
Supreme Court Commissioner of N. J.

Affidavits and order to hold to bail filed before issuing this writ.

February 15, 1927.

JOHN H. SCOTT,
Clerk. 30

Affidavit of Amelia Santos.

AFFIDAVIT.

Filed February 15, 1927.

ESSEX COUNTY CIRCUIT COURT.

10	AMELIA SANTOS and JOSEPH SANTOS, <div style="text-align: right;"><i>Plaintiffs,</i></div>	<i>Action at Law.</i> <i>Affidavit.</i>
	<div style="text-align: center;"><i>vs.</i></div> ELIZABETH ANDERSON, trading as E. Anderson Construction Co.; OSCAR ANDERSON and AUGUSTUS L. FRIEDMANN, <div style="text-align: right;"><i>Defendants.</i></div>	

20 STATE OF NEW JERSEY, }
 COUNTY OF ESSEX. } ss.

30 AMELIA SANTOS, of full age, being duly sworn, on her oath deposes and says that I am the wife of Joseph Santos, the other plaintiff in this action, that Oscar Anderson, the defendant herein, is justly indebted to my husband and me in the sum of \$9,900 for monies entrusted by us to him, that the facts, matters and things set forth in the affidavit of this deponent dated February 8, 1927, are true, which affidavit is hereto annexed and made a part hereof and reference is hereby made thereto, that the said Oscar Anderson fraudulently incurred the said obligation and the said Oscar Anderson is about to remove his property out of the jurisdiction of the State of New Jersey, with intent to defraud his creditors, as deponent is informed and verily believes.

40 AMELIA SANTOS.

Affidavit of Amelia Santos.

Sworn to and subscribed before me
this 14th day of February, A. D.
1927.

MARY M. CAFFREY,
Notary Public for N. J.

10

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } ss.

AMELIA SANTOS, of full age, being duly sworn, on her oath deposes and says, I am the wife of Joseph Santos, and reside at No. 230 Garside street, in the City of Newark, County of Essex, and State of New Jersey.

On or about June 28, 1926, Oscar Anderson came to me and told me that he was a contractor and builder, that he was reliable, honest and did good work and offered to build a home for me and secure the lot on which to erect said home.

20

On July 8, 1926, I gave to the said Oscar Anderson the sum of \$1,000 as a payment to erect a dwelling house for me and to purchase the lot on which to erect the same.

On July 12, 1926, the said Oscar Anderson gave me a building contract which he had prepared and which I signed and thereupon I gave to the said Oscar Anderson the sum of \$2,500.

30

On July 26, 1926, I gave the said Oscar Anderson the sum of \$1,000 as a payment on account of said building contract and to erect said dwelling and to purchase the lot on which to erect the same.

On or about August 14, 1926, I gave to the said Oscar Anderson the sum of \$300 as a payment on account of said building contract and to pay for the lot on which to erect the said house.

40

Affidavit of Amelia Santos.

On September 24, 1926, my husband, Joseph Santos and I assigned a mortgage held by us on premises known and designated as No. 230 Garside street, Newark, N. J., to Augustus L. Friedmann, which mortgage was for the sum of \$5,000 and is recorded in the Essex County Register's office in Book D. 57 of Mortgages at pages 590 and 591. We made this assignment at the request of Oscar Anderson and up to the present time I have believed that we made this assignment to Oscar Anderson and I hold a receipt from Oscar Anderson for the sum of \$5,000 which is the amount of said mortgage. We made said assignment as a payment to Oscar Anderson on account of said building contract and to pay for the lot on which to erect said building.

On January 4, 1927, I gave the said Oscar Anderson the sum of \$50 as a payment on account of said building contract and to pay for the lot on which to erect the said house.

On January 5, 1927, I gave the said Oscar Anderson the sum of \$50 as a payment on account of said building contract and to pay for the lot on which to erect the said house.

During the month of August, 1926, the said Oscar Anderson told me that he had purchased the lot known as Nos. 414-416 Clifton avenue, Newark, N. J., for me and would erect the said house on the same for me and in the latter part of August, 1926 (before Labor Day, September 6, 1926), he started work on the same and told me the house was for me.

When Oscar Anderson first came to me in June (just before the Fourth of July) I showed him the lot on which I desired to have the dwelling house erected, which lot is Nos. 414-416

Affidavit of Amelia Santos.

Clifton avenue, Newark, N. J., and he agreed to purchase the lot for me and to build the said house on it.

The said Oscar Anderson promised to purchase said lot for me and erect a dwelling house on said lot before November 1, 1926, but to date has purchased no lot and has erected no building for me and refuses to return to me the money paid by me or to complete his part of our agreement. 10

I paid the said sum of \$9,900 to the said Oscar Anderson relying on his said promises and the truth thereof.

The said Oscar Anderson has not employed the monies entrusted by me to him for my use, namely, the purchase of a lot and the erection thereon of a dwelling house, but has converted them to his own use and refuses to use them in my behalf or return the same to me. 20

The said Oscar Anderson represented to me that he was purchasing a lot at Nos. 414-416 Clifton avenue, Newark, N. J., and erecting a house on the same for me but I am informed by Mariano Lombardi that he is the owner of said lot and that he has never conveyed said lot to Oscar Anderson, Elizabeth Anderson or E. Anderson Construction Co. nor has he signed any contract to sell said lot to any one. 30

There is at the present time a house partly erected on said lot at 414-416 Clifton avenue, Newark, N. J., about one-third finished and Oscar Anderson has repeatedly informed and told me that he was erecting the same for me and I believed his statements and paid him the hereinbefore mentioned sums of money totaling \$9,900 relying on his statements and in consideration that he build said dwelling house for 40

Affidavit of Amelia Santos.

me on said lot which I believed he purchased for me, as he assured me he had done.

10 The written contract which I signed on July 12, 1926, was drawn by Oscar Anderson or some person at his request, and in it no particular lot is designated, described or mentioned and this contract is also signed by E. Anderson Construction Co., per Oscar Anderson. The E. Anderson Construction Co. is Elizabeth Anderson, wife of Oscar Anderson, trading under said firm name.

20 At the time said building contract was signed, namely, July 12, 1926, I suggested that I consult a lawyer before signing said contract but Oscar Anderson told me not to, that he would have nothing to do with building for me if I did so, and that a lawyer would take the property away from me.

The said Oscar Anderson either in his own name or in the name of E. Anderson Construction Co. is buying real estate in New York State, namely at Fingerboard Road, Mt. Hope, Staten Island, and by so doing is removing his property out of the State of New Jersey.

30 Elizabeth Anderson, the wife of Oscar Anderson, informed me that they were contemplating moving to Staten Island, New York State, that she was sick and tired of living in Verona, New Jersey, and that they were considering moving to one of the houses on the tract of land which Oscar Anderson was purchasing in Staten Island.

AMELIA SANTOS.

Affidavit of Mariano Lombardi.

Sworn to and subscribed before
me this 8th day of February,
A. D. 1927.

MARY M. CAFFREY,
Notary Public for N. J.

(SEAL)

10

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } ss.

MARIANO LOMBARDI, of full age, being duly sworn, on his oath deposes and says: I reside at 14 Taylor street, Newark, N. J. I am the owner of premises situate at Nos. 414-416 Clifton avenue, Newark, New Jersey. I have not sold said premises to Oscar Anderson, Elizabeth An- 20
derson, or the E. Anderson Construction Co.; neither have I entered into a written contract to convey said premises to either or any of them; nor have the said Oscar Anderson, Elizabeth An-
derson, and E. Anderson Construction Co. re-
quested me to convey said premises to Amelia Santos. I purchased said lot on the second day of August, 1926, from Rocco Tortoriello, having entered into a contract to purchase the same in April, 1926. I did not know for whom the 30
house on said lot was being erected until I made inquiries of persons in the neighborhood of said lot with whom I left my card and then, in the latter part of October, upon Mrs. Amelia Santos coming to me I learned that Oscar Anderson told her he was building the house for her; nor did I give permission to Oscar Anderson, or to any person, to erect a building on said lot either in writing or orally and I did not know a house was being erected on said lot until I saw the 40

Affidavit of Mariano Lombardi.

frame up in the latter part of September and as soon I communicated with Oscar Anderson I informed him to stop work on said house.

MARIANO LOMBARDI.

10 Sworn to and subscribed before
me this 14th day of February,
A. D. 1927.

FLORENCE A. TAKACS,
Notary Public in and for N. J.

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30

40

ORDER TO HOLD TO BAIL.

ESSEX COUNTY CIRCUIT COURT.

AMELIA SANTOS and JOSEPH
SANTOS,

Plaintiffs,

vs.

ELIZABETH ANDERSON, trading
as E. Anderson Construction
Co.; OSCAR ANDERSON and
AUGUSTUS L. FRIEDMANN,
Defendants.

10

*Action at
Law.*

*Order to
Hold to Bail.*

I, WILLIAM J. KEARNS, a Supreme Court Com-
missioner of the State of New Jersey, having
read the affidavit of Amelia Santos and Mari-
ano Lombardi, and having duly considered the
same, do adjudge and decide that, by the said
affidavits, it is sufficiently proved before me
that there is due to Amelia Santos and Joseph
Santos from the said Oscar Anderson a demand
founded on contract, amounting on this day to
the sum of nine thousand nine hundred dollars
for monies entrusted to the said Oscar Ander-
son by the said Amelia Santos and Joseph San-
tos, the nature and particulars thereof being
set out and described in said affidavits, and that
by the affidavits aforesaid it is established to my
satisfaction that the said Oscar Anderson fraud-
ulently incurred the obligation aforesaid and that
there was fraud in the inception of such contract
on the part of said Oscar Anderson. I do, there-
fore, order that the said Oscar Anderson be
held to bail in the sum of nine thousand nine

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Order to Hold to Bail.

hundred dollars to answer unto the said Amelia Santos and Joseph Santos in an action at law.

Dated this 15th day of February, A. D. nineteen hundred and twenty-seven.

WM. J. KEARNS,
Supreme Court Commissioner.

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BOND.

Filed February 18, 1927.

ESSEX COUNTY CIRCUIT COURT.

AMELIA SANTOS and JOSEPH
SANTOS,

Plaintiffs,

vs.

ELIZABETH ANDERSON, trading as
E. Anderson Construction
Company; OSCAR ANDERSON
and AUGUSTUS L. FRIEDMANN,
Defendants.

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*Action
at Law.*

Bond.

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BE IT REMEMBERED, that on the 17th day of February, 1927, Oscar Anderson, and Morris Le Vor and Isadore Kaplan, of the County of Essex, personally appeared before me, Jacob L. Newman, one of the Supreme Court Commissioners of the State of New Jersey, and severally acknowledged themselves to owe unto Amelia Santos and Joseph Santos, the sum of \$19,900.00 each, to be levied upon their several goods and lands, upon condition that if the defendant, Oscar Anderson, shall be condemned in this action at the suit of Amelia Santos and Joseph Santos, the plaintiffs, he shall pay the costs and condemnation of the court, or render himself into the custody of the Sheriff of the County of Essex for the same, or if he fail so to do, that the said Morris Le Vor and Isadore Kaplan, will pay the costs and condemna-

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Bond.

tion for him, or render him into the custody of the Sheriff of said County.

OSCAR ANDERSON,
MORRIS LE VOR,
ISADORE KAPLAN.

10 Taken and acknowledged the day and year above written.

JACOB L. NEWMAN,
A Supreme Court Commissioner of N. J.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } ss.

20 MORRIS LE VOR, being duly sworn on his oath according to law, deposes and says:

I am over 21 years of age and am one of the sureties named in and who executed the within recognizances.

I reside in the County of Essex and am a freeholder and am owner of lands and premises known as Nos. 70-72 Wickliffe street, Newark, N. J., that said plot of ground is about 47 feet and 103 feet in depth, more or less, upon which is erected a substantial building, that said land and building are worth about \$35,000 that said premises are encumbered by a Building and Loan Mortgage of \$12,500. That I also own lands and premises known as No. 207 Weequahic avenue, Newark, N. J., that said plot of ground is about 42 feet front and 100 feet in depth, more or less upon which there is erected a substantial building, that said land and building are worth about \$30,000; that said premises are encumbered by a mortgage of \$11,000 and I am

Bond.

worth over and above my just debts and the exemptions allowed by law the sum of \$50,000.

MORRIS LE VOR.

Subscribed and sworn to before
me this 17th day of February,
1927.

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JACOB L. NEWMAN,
Attorney at Law of N. J.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } ss.

ISADORE KAPLAN, being duly sworn on his oath according to law, deposes and says:

I am over the age of 21 years and am one of the sureties named in and who executed the within recognizance. I reside in the County of Essex and am a freeholder and am the owner of lands and premises known as No. 43 Prince street, Newark, N. J.; that said plot of ground is almost 32 feet front and 90 feet depth, more or less, upon which is erected a substantial building; that said lands and building are worth about \$30,000; that said premises are encumbered by a mortgage of \$2,000.

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That I also own lands and premises known as No. 21 Winans avenue, Newark, N. J., that said plot of ground is about 25 feet front and 100 feet depth, more or less, upon which there is erected a substantial building; that said land and building are worth about \$20,000.

That I also own lands and premises known as No. 301 Eighteenth avenue, Newark, N. J., that said plot of ground is about 75 feet front and 100 feet in depth, more or less, upon which

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Bond.

there is erected a substantial building, that said land and building are worth about \$25,000, that said premises are encumbered by a mortgage of \$5,500.

I am worth over and above my just debts and the exemptions allowed by law, the sum of
10 \$100,000.

ISADORE KAPLAN.

Subscribed and sworn to before
me this 17th day of February,
1927.

JACOB L. NEWMAN,
A Supreme Court Commissioner of N. J.

20 I approve the within bond as to form and
security.

JACOB L. NEWMAN,
A Supreme Court Commissioner of New Jersey.

Filed February 18, 1927.

EXCEPTION TO BAIL.

Filed February 28, 1927.

ESSEX COUNTY CIRCUIT COURT.

AMELIA SANTOS and JOSEPH SANTOS,

Plaintiffs,

vs.

ELIZABETH ANDERSON, trading as E. Anderson Construction Co.; OSCAR ANDERSON and AUGUSTUS L. FRIEDMANN,
Defendants.

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Action at Law.

Exception to Bail.

I except against these bail.

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MICHAEL J. BRUDER,
Attorney of Plaintiffs.

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NOTICE OF EXCEPTION TO BAIL.

ESSEX COUNTY CIRCUIT COURT.

10	AMELIA SANTOS and JOSEPH SANTOS, TOS, <div style="text-align: right; padding-right: 20px;"><i>Plaintiffs,</i></div> <div style="text-align: center; padding: 0 10px;"><i>vs.</i></div> ELIZABETH ANDERSON, trading as E. Anderson Construction Co.; OSCAR ANDERSON and AUGUSTUS L. FRIEDMANN, <div style="text-align: right; padding-right: 20px;"><i>Defendants.</i></div>	} <i>Action at Law.</i> } <i>Notice of Exception to Bail.</i>
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20 To Oscar Anderson, Isadore Kaplan and Morris
Le Vor.

TAKE NOTICE, that I have excepted against the
bail, put in this cause by the defendant Oscar
Anderson.

Dated this 28th day of February A. D. 1927.

MICHAEL J. BRUDER,
Attorney for Plaintiffs.

30 Served the within action at law notice of ex-
ception to bail March 1, 1927, on Oscar Ander-
son by leaving a true copy with his wife at his
usual place of abode, 13 Floyd Road, Verona,
N. J.

March 1, 1927, personally upon Morris Le Vor
at his usual place of abode, 70 Wickliffe street,
Newark, N. J.

40 March 1, 1927, upon Isadore Kaplan within
named defendant, by leaving a true copy with

Affidavit of Michael J. Bruder.

his son at his usual place of abode, 43 Prince street, Newark, N. J.

CONRAD DEUCHLER,
Sheriff.

By D. DEMAREST, JR.,
Special Deputy. 10

I hereby appoint and depute Daniel Demarest, Jr., to serve the within writ.

Witness my hand and seal this 1st day of March, 1927.

CONRAD DEUCHLER,
Sheriff.

By ALFRED C. WALKER,
Under Sheriff. 20

AFFIDAVIT.

Filed May 21, 1927.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } ss.

MICHEAL J. BRUDER, of full age, being duly sworn, upon his oath deposes and says: 30

I am an attorney at law of the State of New Jersey, and made an examination of the records of deeds in the Register's office of Essex County and after searching the name of Morris Le Vor in grantee indices from the year of 1860 to date, in the Register's office of Essex County, I found that Morris Le Vor took title to the following real estate, premises commonly known as 70-72 Wickliffe street, Newark, N. J.; premises known

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Affidavit of Michael J. Bruder.

as 207 Weequahic avenue, Newark, N. J.; premises known as 102 and 112 Chapel street, and also that Morris Le Vor and Sarah, his wife, took title to premises situate at 86 Chapel street; and after searching the name of Morris Le Vor in mortgagor indices in the Register's office of
10 Essex County from the year, 1900 to date, I found that Morris Le Vor executed the following mortgages; a mortgage on premises known as 70-72 Wickliffe street of \$3,000, executed September 23, 1926, and recorded in Book T-58, page 500 of Mortgages in the Register's office of Essex County; I also found a mortgage on the premises known as 70-72 Wickliffe street in the sum of \$12,500, held by the Erste Bershader B. & L. Association of Newark, N. J., executed
20 by Morris Le Vor, on June 17, 1925, and recorded in Book W-54, page 364 of Mortgages in the Register's office of Essex County; I also found a mortgage on premises known as 207 Weequahic avenue, Newark, N. J., in the sum of \$3,000, executed on September 23, 1926, and recorded in Book T-58 of Mortgages, page 499, payable in installments of \$50 each with interest, this being a third mortgage; there being a first mortgage in the sum of \$11,000 held by
30 the Future B. & L. Association and a second mortgage of \$3,000.

I also found a mortgage on premises known as 86 Chapel street, Newark, N. J., executed by Morris Le Vor on September 23, 1926, in the sum of \$3,000, recorded in Book T-58, page 500 of Mortgages in the Register's office of Essex County; this mortgage being second and subsequent to a mortgage of \$2,000 held by Yetta Klein.

Affidavit of Michael J. Bruder.

I also found a mortgage executed by Morris Le Vor to Louis Werksman on December 18, 1925, in the sum of \$2,132 on premises known as 102 Chapel street, Newark, N. J., and recorded in Book P-56 of Mortgages, at page 138; a recital in the mortgage recites that it is second in priority to a mortgage in the sum of \$2,500, held by the West End Building and Loan Association. I also found a mortgage on premises known as 102 Chapel street, executed by Morris Le Vor on September 23, 1926, in the sum of \$3,000 and recorded in Book T-58 of Mortgages at page 500 for Essex County. There is a recital in the mortgage that it is a third mortgage.

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I also found a mortgage, executed by Louis Werksman to Service Building and Loan Association in the sum of \$2,200 on September 18, 1923, on premises known as 112 Chapel street, Newark, N. J., and recorded in Book N-49, page 209 of Mortgages in the Register's office of Essex County, which mortgage was assumed by Morris Le Vor, when he purchased the premises from Louis Werksman and wife by deed dated July 1, 1926, and recorded in Book L-74, page 507 of Deeds for the Register's office of Essex County.

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I also found a mortgage executed by Morris Le Vor to Louis Werksman on premises known as 112 Chapel street, in the sum of \$905, dated July 1, 1926, and recorded in Book Y-56, page 592 of Mortgages for Essex County.

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I also found a mortgage executed by Morris Le Vor to David Haas on September 23, 1926, on premises known as 112 Chapel street in the sum of \$3,000 and recorded in Book T-58, page 500 in Mortgages in the Register's office of Essex County.

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Affidavit of Michael J. Bruder.

The above mortgages are still open and uncancelled of record.

MICHAEL J. BRUDER.

Sworn to and subscribed before
me this 20th day of May, A. D.
10 1927.

MARY M. CAFFREY,
Notary Public in and for N. J.

AFFIDAVIT.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } ss.

20 MICHAEL J. BRUDER, of full age, being duly sworn, upon his oath deposes and says: I am an attorney at law of the State of New Jersey and I made an examination of the records in the Clerk's office of Essex County and after searching the name of Morris Le Vor in the book of recognizances, I found recognizances in the sum of \$53,850 against said Morris Le Vor, a copy of said recognizances being annexed to this affidavit; and in the Book of Civil Recognizances,
30 I found recognizances in the sum of \$12,300 against Morris Le Vor, a copy of said recognizances being annexed to this affidavit and in the Book on Judgments, I found a judgment in the sum of \$1,000 against Morris Le Vor in favor of the State of New Jersey, on a forfeited recognizance, a copy of said judgment record being annexed to this affidavit, all of the above mentioned recognizances are still uncancelled of record.

I also made an examination in the Clerk's
40 office of Essex County and after searching the

Affidavit of Michael J. Bruder.

name of Isadore Kaplan in the Book of Recognizances, I found recognizances in the sum of \$312,875, against said Isador Kaplan, a copy of said recognizances being annexed to this affidavit and in said Book of Recognizances, I found that recognizances in the sum of \$12,500 had been forfeited, and in the Book of Judgments, I found judgments in the sum of \$9,670.93 against Isadore Kaplan, a copy of said judgments being annexed to this affidavit and in the Book of Civil Recognizances, I found recognizances in the sum of \$24,350, a copy of said recognizances being annexed to this affidavit and that these recognizances are still uncanceled of record. 10

MICHAEL J. BRUDER.

Sworn to and subscribed before me this 20th day of May, A. D. 1927. 20

MARY M. CAFFREY,
Notary Public in and for N. J.

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Affidavit of Michael J. Bruder.

	Date of Ackd.	Amt.	G. J. & C.	D. of Entry
Isador Kaplan				
	Hyman Gustin, Sept. 11-21	\$500.	G. J. 3CC.,	Sept. 2-21
	Louis Novich, Oct. 26-21	500.	G. J. S. Co.	
	Joseph E. Marion, Jun 1-22	3,000.	Mdlsx Co. G. J.	
	Max Blum, Jun 8-22	1,500.	Q. S.	
	Peter Yager, Jul. 13-22	1,000.	G. J. F. Ct.	Jul 24-22
	Wm. Freeman, Oct. 10-22	500.	Prob. Bond	
	Louis Hackman, Dec. 2, 22	2,000.	G. J., Paid	
	Peter Jaeger, Dec. 14-22	500.	Q. S.	
	Alex Grey, May 14-23	500.	G. J. F. Ct.	
	Louis Huckman, Dec. 15-22	2,000.	Q. S.	
	Henry Wenzel, Jun 2-23	500.	G. J. J. P.,	June 21-23
	Angelo Trozeze, Jul. 20-23	500.	G. J.	
	Tony Bottote, Sept. 4-23	1,500.	G. J.	
	Steven Openowitz, Sept. 6-23	1,000.	G. J. M. Co.	
	Louis Molinaro, Sept. 15-23	1,000.	O. T., Paid	
	Geldo Molinaro, Sept. 15-23	1,500.	O. T., Paid	
	Frank Carlucci, Oct. 4-23	1,500.	O. T., Paid	
	Henry Wenzel, Oct. 11-23	1,500.	Q. S., Paid	
	Angelo Trozeza, Oct. 25-23	500.	Q. S., Paid	
	Cornelia Thomas, Oct. 30-23	100.	G. J. 3CC.,	Nov. 2-23
	Mamie Tidings, Oct. 30-23	100.	G. J. 3CC.,	Nov. 2-23
	Luch Jackson, Oct. 30-23	25.	G. J. 3CC.	
	Mamie Jackson, Oct. 30-23	100.	G. J. 3CC.	
	Oscar Stager, Nov. 1-23	100.	G. J. 3CC.	
	Thomas Hickey, Nov. 5-23	100.	G. J. 3CC.	
	Joseph Rowitz, Nov. 29-23	1,000.	Q. S. Monmouth Co.	
	Eddie Magad, Nov. 29-23	1,000.	Q. S. Monmouth Co.	
	Ormond R. Ayers, Nov. 29-23	1,000.	Q. S. Monmouth Co.	
	Lewis Galmkin, Nov. 29-23	1,000.	Q. S. Monmouth Co.	
	Michael Schehner, Nov. 29-23	1,000.	Q. S. Monmouth Co.	
	Wendel Ward, Nov. 30-23	1,500.	G. J. Monmouth Co.	
	John Teufet, Dec. 3-23	200.	G. J. 3CC.,	Dec. 24-25
	Louis A. Jackson, Dec. 17-23	\$4,000.	Q. S.	
	Stephen Spetz, Dec. 28-23	500.	G. J. 3CC.,	Jan. 4-24
	Stephen V. Spetz, Dec. 28-23	500.	G. J. 3CC.,	Jan. 4-24
	Stephen V. Spetz, Dec. 28-23	500.	G. J. 3CC.,	Jan. 4-24
	Benj. Goldfinger, Jan. 7-24	100.	G. J. 3CC.,	Jan. 25-24
	Frank Zysk, Feb. 20-24	500.	G. J. 3CC.,	Mar. 3-24
	Herman Lindeman, Mar. 27-24	12,500.	G. S.	
	Thomas Chapman, Mar. 3-24	300.	O. T.	
	Frank Zyck, Apr. 14-24	500.	G. J.	
	Louis Silver, May 1-24	5,000.	O. T., Paid	
	Izzy Presser, May 2-24	5,000.	O. T.	
	Ada Rettig, Dec. 4-24	100.	G. J. 3CC.	
	Eliz. Brun, Dec. 6-24	100.	G. J. 3CC.	
	John Higgins, Feb. 13-25	1,000.	G. J. 3CC.,	Feb. 20-25
	J. Shaughnesy, Feb. 21-25	500.	Q. S.	

Affidavit of Michael J. Bruder.

	Date of Ackd.	Amt.	G. J. & C.	D. of Entry
Isador Kaplan				
	Clarence Stephens, Feb. 24-25	500.	O. T.	
	Joseph Ross, Apr. 16-25	1,000.	G. J.,	Jun. 2-25 Forf'd
	Joseph Ross, Apr. 16-25	1,000.	G. J.,	
	Sidney Rorres, Apr. 24-25	1,000.	G. J.,	Jan. 11-26 Forfeited
	Sidney Rorres, Apr. 24-25	1,000.	G. J.,	Jan. 11-26 Forfeited
	Joseph Amato, Apr. 24-25	200.	G. J. 3CC,	May 1-25
	Joseph Ross, Apr. 30-25	3,000.	Q. S.	
	Sidney Rorres, May 7-25	1,000.	Q. S.,	Jan. 11-26 Forfeited
	Sidney Rorres, May 7-25	1,000.	Q. S.,	Jan. 11-26 Forfeited
Moe Bercher,				
	(Alias J. Brunno), May 13-25	1,000.	G. J. 3CC.,	Jun. 25-25
	George Daniels, Jun 15-25	200.	G. J. 3CC	
	Gussie Andres, Jun. 15-25	200.		
	Dorothy Robinson, June 15-25	200.	G. J. 3CC	
	John McKenna, Jul 8-25	1,000.	G. J.,	Nov. 12-25 Forfeited
	Felix Hodge, Jul 10-25	1,000.	G. J.	
	Harry A. Zile, Jul. 18-25	1,000.	G. J.	
	L. V. Janneret, Jul. 20-25	1,000.	G. J.	
	Leo Weisgal, Aug. 4-25	\$10,000	G. J.	
	Albert Townsend, Aug. 4-25	100.	G. J.	
	Moses Green, Aug. 7-25	100.	G. J.	
	Adam Green, Aug. 7-25	100.	G. J.	
	Ward Green, Aug. 7-25	100.	G. J.	
	James Reynolds, Aug. 15-25	200.	Q. S.	
	Vincent Blasi, Aug. 31-25	100.	G. J. 3CC.	
	Dela Williams, Sept. 30-25	1,000.	G. T.	
	Ezzie Ash, Sept. 29-25	500.	G. J. 3CC.,	Jan. 21-26 Forfeited
	David Sweeper, Sept. 29-25	500.	G. J. 3CC.	
	Anthony McKenna, Nov. 5-25	100.	G. J. 3CC.	
	Wm. Dunlap, Dec. 4-25	5,000.	Passaic Co. W. of E.	
	Alex I. Martin, Dec. 4-25	500.	G. J.,	Pd. 2.65
	Anna Lake, Dec. 9-25	5,000.	Q. S. Bergen	
	Jennie Thomas, Dec. 9-25	5,000.	Q. S. Bergen	
	Sarvey Manfready, Dec. 9-25	500.	Q. S. Bergen	
	Jean Carrolle, Dec. 9-25	5,000.	Q. S. Bergen	
	Andrew Duffy, Dec. 10-25	5,000.	Q. S. Bergen	
	Ezzie Ash, Jan. 7-26	500.	Q. S.,	Jan. 25-26 Forfeited
	M. Pruchnicki, Jan. 9-26	1,000.	G. J.	
	Andrew Duffy, Dec. 30-25	5,000.	Q. S. Bergen	
	Nathan Kleinman, Aug. 19-25	1,000.	G. J. J. C.	

Affidavit of Michael J. Bruder.

	Date of Ackd.	Amt.	G. J. & C.	D. of Entry
Isador Kaplan				
	M. Pruchnicki, Jan. 22-26	1,000.	Q. S.	
	Bessie White, Jan. 25-26	2,000.	Q. S., G. J.	
	Andrew Duffy, Feb. 10-26	5,000.	Q. S. Bergen	
	Sam Steinberg, May 7-26	500.	G. J. 3CC., Jul. 2-26	Forfeited
	Maurice Welch, Jun. 23-26	2,500.	Q. S.	
	Jacob Zebert, Jul. 2-26	3,500.	Q. S. Writ of Error	
	Sylvia Trosola, Jul. 9-26	2,000.	Q. S. Writ of Error	
	Joseph Lafferty, Jul. 14-26	1,000.	G. J.	
	Joseph Lafferty, Jul. 14-26	1,000.	G. J.	
	Joseph Lafferty, Jul. 14-26	\$1,000	G. J.	
	Nelson Pope, Jul. 7-26	500.	G. J. 2 C.C.	
	Grady Smith, Jul. 6-26	200.	G. J. 3 C.C.	
	Felix Lampkin, Jul. 23-26	500.	G. J.	
	Buster Queen, Aug. 2-26	500.	Q. S.	
	Felix Lampkin, Jul. 23-26	500.	G. J.	
	Buster Queen, Aug. 2-26	500.	G. J., Feb. 3-27	Forfeited
	Oliver Wood, Jul. 30-26	5,000.	Q. S. Somerset	Aug. 4-26
	Max Greenfield, Aug. 3-26	500.	G. J. 3 C.C.	
	Josephine Young, Aug. 3-26	500.	G. J. 3 C.C.	
	Groel Clements, Aug. 2-26	200.	G. J. 3 C.C.	
	Joseph M. Tate, Aug. 9-26	500.	G. J. 3 C.C.	
	Louis N. Krauss, Aug. 11-26	500.	G. J. 3 C.C.	
	Peter Costa, Aug. 13-26	1,000.	Q. S. Bergen Co.,	Aug. 23-26
	Frank Michl, Aug. 26-26	1,000.	G. J.	
	Alberta Crawley, Aug. 2-26	500.	G. J. 2 C.Ct.	
	Prince Clements, Aug. 2-26	500.	G. J. 2 C.Ct.	
	Frank Broglin, Aug. 24-26	200.	G. J. 3 C.Ct.	
	Angelo Sethmier, Aug. 24-26	500.	G. J. 3 C.Ct.	
	John K. Revell, Sept. 7-26	1,000.	G. J.	
	William Blunt, Sept. 8-26	500.	G. J.	
	Constance Dillard, Sept. 3-26	500.	G. J.	
	Eugene Glenn, Sept. 3-26	500.	G. J.	
	Everett Johnson, Sept. 13-26	500.	G. J.	
	Martha Weaver, Sept. 11-26	1,000.	G. J. 3 C.Ct.	
	James West, Sept. 11-26	100.	G. J. 3 C.Ct.	
	Abe Grossbarth, Sept. 15-26	500.	G. J. 3 C.Ct.	
	Joseph McGuire, Sept. 21-26	500.	G. J.	
	Grace Middleton, Sept. 23-26	100.	Q. S.	
	William Fleming, Sept. 20-26	1,000.	Q. S.	
	Wm. Hardway, Oct. 1-26	\$500.	G. J.	
	Frank Jacobs, Sept. 24-26	250.	G. J. 3 C.Ct.	
	Rebecca Cosby, Sept. 24-26	100.	G. J. 3 C.Ct.	
	Wm. A. Levy, Sept. 24-26	1,000.	G. J. 3 C.Ct.	

Affidavit of Michael J. Bruder.

	Date of Ackd.	Amt.	G. J. & C.	D. of Entry
Isador Kaplan				
	Pearl Tompkins, Sept. 27-26	500.	G. J. 3 C.Ct.	
	Michael Lepore, Sept. 27-26	1,000.	G. J. 3 C.Ct.	
	Frank Ball, Sept. 27-26	2,500.	G. J. 3 C.Ct.	
	William Miller, Oct. 7-26	500.	G. J.	
	William Jones, Oct. 6-26	100.	G. J. 3 C.Ct.	
	William Jones, Oct. 6-26	1,000.	G. J. 3 C.Ct.	
	Benj. Lehner, Oct. 4-26	500.	G. J. 3 C.Ct.	
	Wm. Hawkins, Oct. 1-26	100.	G. J. 3 C.Ct.	
	Wm. Hawkins, Oct. 1-26	100.	G. J. 3 C.Ct.	
	Wm. Hawkins, Oct. 1-26	100.	G. J. 3 C.Ct.	
	Wm. Hawkins, Oct. 1-26	1,000.	G. J. 3 C.Ct.	
	Wm. Hawkins, Oct. 1-26	100.	G. J. 3 C.Ct.	
	Leena Finn, Oct. 4-26	100.	G. J. 3 C.Ct.	
	Leena Finn, Oct. 4-26	100.	G. J. 3 C.Ct.	
	Samuel Steinberger, Oct. 14-26	1,000.	Q. S.	
	Clarence Brooks, Oct. 16-26	500.	G. J.	
	John Witt, Oct. 19-26	2,500.	W. of E.	
	Joseph Costyla, Oct. 9-26	1,000.	G. J. 3 C.Ct.	
	Wm. Bailey, Oct. 21-26	500.	G. J.	
	Howard T. Wood, Oct. 15-26	5,000.	Q. S. Som. Co.	
	Howard T. Wood, Oct. 15-26	5,000.	Q. S. Som. Co.	
	Tom Parker, Oct. 22-26	300.	G. J., Paid	
	Joseph Perna, Oct. 25-26	1,000.	G. J.	
	Harold Corbett, Oct. 25-26	1,000.	Q. S.	
	Wm. Schwabe, Oct. 29-26	1,000.	G. J.	
	Jesse Wis, Oct. 18-26	500.	G. J. 3 C.Ct.	
	Jesse Wis, Nov. 8-26	2,000.	Q. S.	
	Frank Moser, Nov. 8-26	200.	Q. S.	
	W. H. Gillette, Nov. 5-26	\$500.	S. S.	
	Joseph Perna, Nov. 9-26	1,500.	Q. S.	
	Louis Kraus, Nov. 10-26	1,000.	O. & T.	
	William Taylor, Nov. 10-26	500.	Q. S.	
	Ida Kelley, Nov. 1-26	100.	G. J. 3 C.Ct.	
	Peter West, Nov. 1-26	1,000.	G. J. P Ct. Or.	
	Robert J. Marcy, Nov. 13, 26	1,000.	Q. S.	
	John L. Daugherty, Nov. 15-26	2,000.	G. J.	
	Emanuel Cohen, Nov. 15-26	2,000.	G. J.	
	Soloman Novitch, Nov. 15-26	2,000.	G. J.	
	Rose Marscio, Nov. 15-26	1,000.	G. J.	
	Rose Marscio, Nov. 15-26	500.	G. J.	
	William Lange, Nov. 15-26	1,500.	G. J.	
	Joseph Papolino, Nov. 15-26	500.	G. J.	
	Florence Jackson, Nov. 16-26	1,500.	G. J.	
	Raymond Jackson, Nov. 17-26	1,500.	G. J.	
	Benj. DeMabie, Nov. 17-26	500.	G. J.	
	Pietro Vitanzo, Nov. 18-26	1,000.	G. J.	
	Frank Brotleri, Nov. 18-26	200.	Q. S.	

Affidavit of Michael J. Bruder.

	Date of Ackd.	Amt.	G. J. & C.	D. of Entry
Isador Kaplan				
	Geo. Hamilton, Nov. 18-26	500.	G. J.	
	Lindsley Becko, Nov. 22-26	500.	G. J.	
	Joseph Cornish, Nov. 23-26	500.	G. J.	
	Joseph Caputo, Nov. 23-26	500.	G. J.	
	John Liska, Nov. 23-26	1,000.	G. J.	
	Fred McCoon, Nov. 23-26	1,000.	G. J.	
	Wm. Hayes, Nov. 24-26	500.	G. J.	
	Katherine Rose, Nov. 24-26	500.	G. J.	
	Morris Straitman, Nov. 24-26	2,000.	Q. S.	
	Richard Wilson, Nov. 15-26	100.	G. J. 3	C.Ct.
	John Liska, Nov. 22-26	100.	G. J. 3	C.Ct.
	Cecil Turrelli, Nov. 24-26	500.	G. J. 3	C.Ct.
	Jacob Ricker, Nov. 24-26	250.	G. J. 3	C.Ct.
	Helen Pisar, Dec. 8-26	\$500.	G. J.	
	Rose Marsico, Dec. 9-26	1,000.	Q. S.	
	Wm. A. Levy, Dec. 9-26	1,000.	Q. S.	
	Walter Debold, Dec. 13-26	1,000.	Q. S.	
	Walter Debold, Dec. 13-26	500.	G. J.	
	Harold Smith, Dec. 14-26	100.	G. J.	
	Patrick Flood, Dec. 14-26	100.	G. J.	
	Thomas Howard, Dec. 14-26	100.	G. J.	
	Howard Johnson, Dec. 14-26	100.	G. J.	
	Louis Krauss, Dec. 14-26	500.	G. J.	
	Louis Krauss, Dec. 14-26	1,000.	G. J.	
	Jesse Minncae, Dec. 14-26	100.	G. J.	
	Sam Scaduto, Dec. 14-26	500.	G. J.	
	Pietro Vitanzo, Dec. 16-26	1,000.	Q. S.	
	William Schwal, Dec. 16-26	1,000.	Q. S.	
	Solomon Novitch, Dec. 16-26	2,000.	Q. S.	
	Emanuel Cohen, Dec. 16-26	2,000.	Q. S.	
	J. L. Daugherty, Dec. 16, 26	2,000.	Q. S.	
	Peter West, Dec. 16-26	1,000.	Q. S.	
	Benj. Lehner, Dec. 16-26	500.	Q. S.	
	Earl Williams, Dec. 17-26	500.	G. J.	
	M. Maskowitz, Dec. 17-26	500.	G. J.	
	Maggie Tinsley, Dec. 21-26	1,000.	G. J.	
	Isabella Watson, Dec. 21-26	500.	O. & T.	
	Vincent Ferera, Dec. 21-26	500.	O. & T.	
	Jose Silve, Dec. 21-26	500.	O. & T.	
	Mary Flornoy, Dec. 21-26	250.	G. J.	
	Herman Straitman, Dec. 3-26	4,000.	G. J. R. Ct.	Montclair
	Edward Farese, Dec. 6-26	2,500.	G. J. R. Ct.	Belleville
	Herman Steinberg, Dec. 6-26	2,500.	G. J. R. Ct.	
	Billard Pitts, Dec. 14-26	100.	G. J. 3	C.Ct.
	Ulysses Jones, Dec. 14-26	\$500.	G. J. 3	C.Ct.
	Agnes Guilford, Dec. 15-26	1,000.	G. J. 3	C.Ct.
	Macon Williams, Dec. 23-26	1,000.	Q. S.	

Affidavit of Michael J. Bruder.

	Date of Ackd.	Amt.	G. J. & C.	D. of Entry
Isador Kaplan				
James Laurence,	Dec. 28-26	500.	Q. S.	
Mary Woodson,	Dec. 28-26	500.	G. J.	
Preston McCall,	Dec. 29-26	500.	G. J.	
Otis Flowers,	Dec. 27-26	100.	G. J.	
Charles Wilson,	Dec. 27-26	2,500.	G. J. 3 C.Ct.	
M. Richardson,	Dec. 27-26	100.	G. J. 3 C.Ct.	
Willie Duncan,	Dec. 27-26	100.	G. J. 3 C.Ct.	
Effie Lasky,	Dec. 29-26	500.	G. J. 3 C.Ct.	Feb. 3-27 Forfeited
J. Maskowics,	Dec. 21-26	1,000.	G. J. 3 C.Ct.	
Virginia Brison,	Dec. 31-26	100.	G. J. 3 C.Ct.	
Jacob Picker,	Jan. 6-27	500.	Q. S.	
Cecil Tuccelli,	Jan. 6-27	500.	Q. S.	
Benj. Demabre,	Jan. 6-27	500.	Q. S.	
Wm. Hawkins,	Jan. 6-27	1,000.	Q. S.	
Jos. Gastyla,	Jan. 6-27	1,000.	Q. S.	
Wm. Hayes,	Jan. 6-27	500.	Q. S.	
Wm. Lange,	Jan. 6-27	1,500.	Q. S.	
John Liska,	Jan. 12-27	500.	G. J. 3 C.Ct.	Jan. 12-27
Alma DeVoe,	Jan. 5-27	500.	G. J. 3 C.Ct.	
John Drapshuk,	Jan. 6-27	500.	G. J. 3 C.Ct.	
Clifford Forman,	Jan. 10-27	500.	G. J.	
George Long,	Jan. 12-27	500.	G. J.	
Rocco Malvine,	Jan. 12-27	500.	S. S.	
John Liska,	Jan. 13-27	1,000.	S. S. Mar. 3-27	Forfeited
Charlotte Driskell,	Jan. 13-27	500.	O. & T.	
Emma Read,	Jan. 12-27	500.	O. & T.	
Louis Bernfield,	Jan. 10-27	20,000.	G. J. Union Co.	Jan. 17-27
Marie Williams,	Jan. 18-27	1,000.	G. J. Mar. 3-27	Forfeited
Elizabeth Reilly,	Jan. 18-27	\$1,000.	G. J., Mar. 3-27	Forfeited
E. Breunninger,	Jan. 18-27	500.	G. J.	
George DeLigue,	Jan. 19-27	100.	G. J.	
Julius Szeckie,	Jan. 19-27	1,500.	G. J.	
Edna Armour,				
Alias Mary Carroll,	Jan. 19-27	500.	G. J.	
Dixie Manuel,	Jan. 21-27	1,000.	G. J.	
Walter Zmarz,	Jan. 24-27	2,000.	G. J.	
Walter Debold,	Jan. 24-27	1,000.	Q. S.	
Louis Krauss,	Jan. 24-27	500.	Q. S.	
Louis Krauss,	Jan. 24-27	1,000.	Q. S.	
James Mitchell,	Jan. 24-27	1,000.	G. J.	
William Ford,	Jan. 22-27	500.	G. J. 3 C.Ct.	
Mike Dudack,	Jan. 18-27	100.	G. J. 3 C.Ct.	

Affidavit of Michael J. Bruder.

	Date of Ackd.	Amt.	G. J. & C.	D. of Entry
Isador Kaplan				
	Joe Parlik, Jan. 18-27	500.	G. J.	
	John Zarda, Jan. 18-27	500.	G. J. 3 C.Ct.	
	Jos. Schacklan, Jan. 18-27	2,000.	G. J. 3 C.C.	
	Romaine Kuma, Jan. 25-27	200.	G. J.	
	Kitty Hurst, Jan. 25-27	1,500.	G. J.	
	Jesse Fears, Jan. 25-27	200.	G. J.	
	Louis Bersfield, Jan. 21-27	5,000.	Q. S. Union Co.	
	Oscar Anderson, Dec. 21-27	500.	G. J. Jus. P.	
	Clover Crawford, Jan. 27-27	1,000.	G. J. 3 C.C.	
	Archie W. Cary, Feb. 4-27	500.	G. J. J. P.	
	J. P. Henry, Dec. 7-26,	1,000.	G. J., Mar. 4-27	

Affidavit of Michael J. Bruder.

- | | | |
|-------|---|--|
| 10 | Samuel Piscetelli and
Nunzia Piscetelli,
<i>vs.</i>
Carl Keyes and Leslie
Dusenberry. | Essex Circuit.
Leslie E. Dusenberry,
Isador Kaplan.
Recognizance Special
Bail.
Filed Jan. 24, 1927.
No. 42,168.
Amt. of Bail \$5,000.
No Judgment. |
| <hr/> | | |
| 20 | Anna Ewaska,
<i>vs.</i>
Sorzy Poprosky. | Essex Circuit.
Sorzy Poprosky, Isa-
dor Kaplan.
Recognizance Special
Bail.
Filed Jan. 26, 1923.
No. 33,725.
No Judgment.
Amt. of Bail \$5,000. |
| <hr/> | | |
| 30 | Margaret E. Kildruff
by Reba Gleitz, her
next friend,
<i>vs.</i>
Edward Balser. | Essex Circuit.
Edward Balser, Isador
Kaplan.
Recognizance Special
Bail.
Filed Mar. 10, 1923.
No. 33,842.
No Judgment.
Amt. Bail \$2,000. |
| <hr/> | | |
| 40 | | |

Affidavit of Michael J. Bruder.

Samuel Feksenfeld,	Essex Circuit.	
<i>vs.</i>	Louis W. Crosby, Isa-	
Louis W. Crosby	dore Kaplan.	
	Recognizance Special	
	Bail.	
	Filed Mar. 15, 1923.	
	No. 33,940.	10
	No Judgment.	
	Amt. of Bail \$2,000.	

Irving Finkelstein, and	Amt. \$250.	
Isador Kaplan,	Jan. 3, 1922.	
<i>to</i>	Recd. Jan. 3, 1922.	
State of New Jersey.		
Conditioned that Irving Finkelstein pay \$4.00		
per week to Overseer of Poor of City of Newark		20
for support of bastard child.		

James Reilly and Isa-	Bond Book 4-244.	
dor Kaplan,	Amt. \$500.	
<i>to</i>	Dated May 12, 1919.	
State of New Jersey.	Recd. May 13, 1919.	

30

Affidavit of Michael J. Bruder.

JUDGMENTS.

KAPLAN.

10	North Jersey Mortgage Co., Inc., a corpora- tion, <i>Plaintiff,</i> <i>vs.</i> Benjamin Farber and Isador Kaplan, <i>Defendants.</i>	Essex Co. Book 101-92 C. C. On Order of the Court. Judgment entered. Feb. 26, 1926. Damages \$2678.81. Costs Total
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Maurice J. Zucker,
Attorney for Plaintiff.

Judgment entered February 26, 1926.

20	Armour Fertilizer Works, a corpora- tion, <i>Plaintiff,</i> <i>vs.</i> Isadore Kaplan and Harry Rosen, <i>Defendants.</i>	Book 97-172 C. C. Action at Law. After verdict. By order of Court Judgment entered May 25/22. Damages\$1023.89 Costs 70.95 Total\$1094.84
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30	Armour Fertilizer Works, a corpora- tion, <i>Plaintiff,</i> <i>vs.</i> Isadore Kaplan and Harry Rosin, <i>Defendants.</i>	Action at Law. Book 96-284 C. C. Judgment entered May 6, 1921. Damages\$918.32 Costs 41.98 Total\$960.30
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Affidavit of Michael J. Bruder.

American Loan Co., <i>Plaintiff,</i> <i>vs.</i> Hyman Trau and Isa- dore Kaplan.	On Contract. Filed March 31, 1926. Herman Waldman, Plaintiff's Attorney.
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10 Judgment entered in District Court of the Second Judicial District of Essex County, Irvington, N. J., on March 12, 1926, in the sum of \$149.70, costs, \$11.96; total, \$161.66. No execution issued.

American Loan Co., <i>Plaintiff,</i> <i>vs.</i> Isadore Kaplan. <i>Defendant.</i>	First District Court, City of Newark. D. J. Bk. 26-435. Filed Nov. 4, 1926. Judgment entered Oct. 21, 1926. Damages\$69.92 Costs 7.98 <hr style="width: 50%; margin-left: auto; margin-right: 0;"/> \$77.90
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20 Contract.

No execution issued.

30

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Affidavit of Michael J. Bruder.

LE VOR.

	Date Acknowledged	Amt.	
Morris Le Vor			
Willie Hodge	Jul. 9-25, G. J.	\$750.	
John Samba	Aug. 28-25, G. J. 3 C.C.	1,000.	
Julian Tillman	Oct. 16-25, G. J.	100.	
Henry Phillipa	Oct. 30-25, Q. S.	500.	
Wilson Ballard	Oct. 30-25, Q. S.	500.	10
Gaetano Manno	Jul. 2-26, Q. S.	2000.	
Robert Pannell	Oct. 9-26, G. J.	50.	
Catherine Pannell	Oct. 9-26, G. J.	50.	
Albert Carmel	Oct. 14-26, G. J.	500.	
Paul Kavernick	Sept. 28-26, Q. S. Union	300.	
Alex. Burkon	Nov. 8-26, Q. S.	1,000.	
William Cook	Nov. 20-26, G. J.	500.	
Howard Clifford	Nov. 22-26 G. J.	1,000.	
George Hill	Nov. 22-26, G. J.	250.	
Alfred Foster	Nov. 22-26, G. J.	250.	
Michael Wiener	Nov. 19-26, G. J.	3,000.	
Herman Schmidt	Nov. 3-26, Q. S. U. C.	1,000.	
Maurice A. Jacobs	Nov. 9-26, G. J.	1,000.	20
Fritz Handscrib	Nov. 3-26, Q. S.	1,000.	
Powell Kavreick	Nov. 10-26, Q. S. U. C.	500.	
Theodore Harris	Dec. 20-26, G. J.	1,000.	
David Friedman	Dec. 23-26, Q. S.	1,000.	
Eva Hamilton	Dec. 29-26, Q. S.	100.	
Marion Thomas	Dec. 30-26, G. J.	1,000.	
Alfonso Caprio	Dec. 3-26, E. O. R.	500.	
Frances Blackman	Jan. 13-27, G. J.	500.	
Louis Bernfield	Jan. 10-27, G. J. U. Co.	20,000.	
James Creekmas	Jan. 17-27, Q. S.	500.	
Margaret Drumm	Jan. 2-27, G. J.	500.	
Margaret Drumm	Jan. 2-27, G. J.	500.	
Michael Wiener	Jan. 27-27, Q. S.	\$3,000.	30
Louis Bernfield	Jan. 31-27, Q. S. U. Co.	5,000.	
Michael Loprete	Sept. 20-25, G. J. R. C.	1,000.	
Michael Loprete	Jan. 4-26, Q. S.	1,000.	
Vincenzo Fragasso	Aug. 19-25, G. J.	2,500.	
Herbert Sanders	Jan. 17-26, G. J.	500.	
		<hr/>	
		\$53,850.	

Affidavit of Michael J. Bruder.

JUDGMENT.

LE VOR.

10 The State of New *Scire facias.*
 Jersey, On Forfeited
 Plaintiff, Recognizance.
 vs. Judgment entered
 David Friedman and April 26, 1927.
 Morris Le Vor, Damages, \$1,000.
 Defendants. Costs.

SIMON L. FISCH,
 Atty. and Ass't Prosecutor Pleas.
 Judgment entered and signed April 26, 1927.

20

CIVIL BONDS.

Henry C. Thomas, Bond Book 6, page 98.
 Principle, Amount, \$2,000.
 and Dated November 9,
 Morris Le Vor and 1926.
 Isador Kaplan, Recd. November 10,
 Sureties, 1926.
 to
 Conrad Deuschler,
 Sheriff of Essex.

30

Henry C. Thomas, arrested on a writ of *ne
 exeat.*

40

Affidavit of Michael J. Bruder.

William Adams, Bond Book 6, page 117.
Principle, Dated Dec. 28, 1926.
and A.
 Isadore Kaplan and Recd. Dec. 29, 1926.
 Morris Le Vor, Amt. \$2,000.
Sureties,
to
 Conrad Deuschler,
Sheriff of Essex.

10

William Adams, arrested on writ of *ne exeat* issued out of Court of Chancery wherein Annie Adams is complainant, and William Adams is defendant.

Peter Kowaleski, Morris Le Vor and Benjamin Farber, Bond Book 6, page 34.
 Amt. \$1,000. 20
 Dated April 17, 1926.
to Recd. April 19, 1926.
 Harry B. O'Connell, Ackd. April 17, 1926.
Sheriff.

Peter Kowaleski arrested on writ of *ne exeat* issued out of Court of Chancery in a cause therein depending, wherein Marie Kowaleski is complainant, and Peter Kowaleski is defendant.

 30

40

Affidavit of Michael J. Bruder.

Edgar F. Reid, Morris Bond Book 6, page 81.
 Le Vor and Samuel Amt. \$500.
 Silverman, • Dated Sept. 21, 1926.
Sureties, Recd. Sept. 29, 1926.

to

10 Harry B. O'Connell,
Sheriff of Essex.

Edgar F. Reid arrested upon contempt order
 issuing out of an under seal of Court of Chan-
 cery on October 12, 1926.

20 Margaret Clawson, Book A—page 87.
Plaintiff, Civil Recognizances.
vs. Edward Tiriella,
 Edward Tiriella, Morris Le Vor.
Defendant, Recognizance Special
 Bail.
 Filed Apr. 6, 1926.
 Amt. of Bail, \$5,000.

30 Docket H-1-60. No. 39960. Filed Mar. 23, 1926.
 Affidavit for Capias filed Mar. 23, 1926.
 Order filed and entered Mar. 23, 1926.
 Recognizance filed April 5, 1926.
 Summons and Complaint issued Mar. 23, 1926.
 Answer filed April 20, 1926.
 Reply filed May 22, 1926.
 Notice of Trial filed May 27, 1926.

Affidavit of Harry Berger.

Samuel Grossman,
vs.
 James Creekman.

Bk. A., page 92, Civil
 Recognizance. Essex
 Co. Circuit Court.
 Morris Le Vor.
 Recognizance Special
 Bail.

Filed Jan. 18, 1927. 10
 Case No. 42107, p. 545.
 Amt. \$1,800.

Order to hold to bail filed and entered Jan.
 17/27.

Affidavit filed Jan. 17, 1927.

Recognizance and Justification filed Jan. 18/27.

Summons and Complaint issued Jan. 17, 1927.

20

AFFIDAVIT.

Filed May 21, 1927.

STATE OF NEW JERSEY, }
 COUNTY OF ESSEX. } *ss.*

HARRY BERGER, of full age, being duly sworn,
 on his oath deposes and says, I am a licensed
 real estate broker of the State of New Jersey
 with an office at #849 Broad street, Newark,
 N. J. I have had over 20 years' experience in
 buying and selling real estate and acting as
 broker in such transactions in the City of New-
 ark and am familiar with the values of real
 estate in said city and in particular with the
 value of property in the vicinity of the premises
 hereinafter mentioned. In my opinion as a
 real estate broker and operator the property
 owned by Morris Le Vor situate at #207 Wee-
 quahic avenue, having 36 feet frontage and 105 40

Affidavit of Harry Berger.

feet depth is worth not more than \$16,000, the property owned by Morris Le Vor at #102 Chapel street on a 25x100 foot lot is worth \$4,000 at the very most, the property owned by Morris Le Vor at 112 Chapel street on a 25x100 foot lot is worth \$6,000 at the very most, that at #86
 10 Chapel street not more than \$3,000, the property situate at #301-303 Eighteenth avenue, consisting of a six-family house on a 35x110 foot lot is worth \$17,000 and I am informed by Michael Korszykowski, one of the occupants of said premises that he is the owner of said premises, the premises owned by Morris Le Vor, situate at 70 Wickliffe street on a lot 27x90 has a value of \$8,000, the property at 72 Wickliffe street owned by Morris Le Vor on a lot 18x90 feet has a value
 20 of about \$7,000, the premises at #43 Prince street owned by I. Kaplan consisting of a three-story brick building on a 30x67 foot lot is worth at a fair appraisal \$22,000, the property at 21 Winans avenue is owned by Theresa Kaiser and is worth about \$6,000. No. 20 Winans avenue is owned by Isadore Kaplan and consists of a six-family house on a 25x83 lot, worth at a liberal appraisal, \$15,000.

I have viewed and inspected all of the above-
 30 mentioned premises on May 19, 1927, and the foregoing valuations are fair and just valuations and appraisements thereof.

HARRY BERGER.

Sworn to and subscribed before
 me this 20th day of May,
 A. D. 1927.

MARY M. CAFFREY,
 Notary Public in and for N. J.

40 Filed May 21, 1927.

ORDER TO SHOW CAUSE.

Filed May 7, 1927.

ESSEX COUNTY CIRCUIT COURT.

AMELIA SANTOS and JOSEPH
SANTOS,

*Plaintiffs.**vs.*

ELIZABETH ANDERSON, trading
as E. Anderson Construction
Co.; OSCAR ANDERSON and AU-
GUSTUS L. FRIEDMANN,

Defendants.

10

*Action at
Law.**Order to
Show Cause.*

20

It appearing that the defendant Oscar Ander-
son was held to bail in the sum of nineteen thou-
sand eight hundred dollars by virtue of a writ
of *capias ad respondendum*, that the defendant
Oscar Anderson was admitted to bail by virtue
of a recognizance in which the said Oscar An-
derson is principal and Isadore Kaplan and
Morris Le Vor are sureties, that on February 28,
1927, plaintiffs by their attorney filed exception
to said bail, that Notice of Exception to Bail
was served on the said Oscar Anderson, Isadore
Kaplan and Morris Le Vor, and that said Oscar
Anderson, Isadore Kaplan and Morris Le Vor
have not appeared to justify said bail or given
notice to plaintiffs, or their attorney, of such
appearance, although more than ten days have
expired since the service of said notice upon
the said Oscar Anderson, Isadore Kaplan and
Morris Le Vor,

30

40

Order to Show Cause.

It is therefore on this fifth day of May, nineteen hundred and twenty-seven, ordered that the said Oscar Anderson, Isadore Kaplan and Morris Le Vor show cause before this court at ten o'clock in the forenoon on the fourteenth day of May, nineteen hundred and twenty-seven, why they should not bring in the body of the defendant, Oscar Anderson, at said time and place or be amerced by the Court in any sum not exceeding the plaintiffs' debt or demand with costs; and failing so to do they shall be amerced by the Court in any sum not exceeding the plaintiffs' debt or demand with costs, as the Court may determine.

It is further ordered that a true but uncertified copy of this order be served upon the said Oscar Anderson, Isadore Kaplan and Morris Le Vor within five days from the making hereof.

WILLIAM A. SMITH,
Judge.

On motion of

MICHAEL J. BRUDER,
Plaintiffs' Attorney.

I hereby appoint and depute Donald Strobe to serve the within writ.

Witness my hand and seal this 9th day of May, 1927.

CONRAD DEUCHLER,
Sheriff.

By ALFRED C. WALKER,
Under Sheriff.

Order to Show Cause.

Served the within personally, writ, May 9, 1927, upon Isador Kaplan, the within named defendant by delivering to him a true copy thereof at his usual place of abode, 43 Prince street, Newark, N. J., and personally, upon the within named defendant, May 11, 1927, by delivering to him a true copy thereof at the Essex County Court House, Newark, N. J. 10

CONRAD DEUCHLER,
Sheriff.

By DONALD STROPE,
Special Deputy.

Filed May 7, 1927.

Service of the within order to show cause is hereby acknowledged this 6th day of May, 1927. 20

WOLBER & GILHOOLEY,
Attorneys for Oscar Anderson, Defendant.

ORDER.

Filed May 14, 1927.

ESSEX COUNTY CIRCUIT COURT.

10

AMELIA SANTOS and JOSEPH
SANTOS,

*Plaintiffs,**vs.*

ELIZABETH ANDERSON, trading as
E. A. Anderson Construction
Co.; OSCAR ANDERSON and AU-
GUSTUS L. FRIEDMANN,

*Defendants.**On Capias,
&c.**Order.*

20

It being represented that application having been made for a continuance of the argument under an order to show cause returnable on this 14th day of May, 1927, and application having been made in the presence of Michael P. Bruder, attorney for the plaintiffs, and there being no objection thereto,

30

It is on this 14th day of May, 1927, ORDERED that the argument of the motion of the aforesaid rule to show cause be continued to May 21, 1927, at ten o'clock in the forenoon of that date at the Court House, Newark, New Jersey.

Judge.

40

ORDER.

Filed May 23, 1927.

ESSEX COUNTY CIRCUIT COURT.

AMELIA SANTOS and JOSEPH
SANTOS,

Plaintiffs,

vs.

ELIZABETH ANDERSON, trading as
E. Anderson Construction
Company; OSCAR ANDERSON
and AUGUSTUS L. FRIEDMANN,
Defendants.

10

*Action at
Law.*

Order.

20

It appearing that the defendant, Oscar Anderson, was taken into custody by the Sheriff of Essex under a writ of *capias ad respondendum* on February 18, 1927, and was admitted to bail on said date by entering into a recognizance on said date upon which recognizance Isadore Kaplan and Morris Le Vor became bail and sureties, that on February 28, 1927, the plaintiffs excepted to said bail and that notice thereof was served upon the said Oscar Anderson, Isadore Kaplan and Morris Le Vor, that on May 5, 1927, an order to show cause why the bail should not justify or be amerced was entered in this court and argument thereon having been heard on the 21st day of May, 1927, in the presence of Joseph Siegler, attorney for the said Oscar Anderson, Isadore Kaplan and Morris Le Vor and Michael J. Bruder, attorney for the plaintiffs, and the affidavits thereon having been considered and the said bail having failed to justify.

30

40

Order for Amercement of Bail.

It is thereupon on this 21st day of May, nineteen hundred and twenty-seven, ORDERED that the said Isadore Kaplan and Morris Le Vor deliver the body of the said Oscar Anderson into the custody of the Sheriff of Essex County and failing so to do they shall be and are hereby
10 amerced in the sum of \$9,900 the amount of the claim of the plaintiffs and the plaintiffs may have a writ of execution against the property of said bail, in such event.

WORRALL F. MOUNTAIN,
Judge.

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30

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ORDER.

Filed May 25, 1927.

ESSEX COUNTY CIRCUIT COURT.

AMELIA SANTOS and JOSEPH SANTOS,	10
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*Plaintiffs.**vs.*

ELIZABETH ANDERSON, trading as E. Anderson Construction Co.; OSCAR ANDERSON and AU- GUSTUS L. FRIEDMANN,	20
---	----

*Defendants.**Action at
Law.**Order.*

It appearing that the defendant, Oscar Ander-
son, was taken into custody by the Sheriff of
Essex under a writ of *capias ad respondendum*
on February 18, 1927, and was admitted to bail
on said date by entering into a recognizance
on said date, upon which recognizance Isadore
Kaplan and Morris Le Vor became bail and
sureties; that on February 28, 1927, the plain-
tiff excepted to said bail and that notice thereof
was served upon the said Oscar Anderson, Isa-
dore Kaplan and Morris Le Vor, that on May
5, 1927, an order to show cause why the bail
should not justify or be amerced, was entered in
this court and argument thereon having been
heard on the 21st day of May, 1927, in the
presence of Irving Siegler, attorney for the
said Oscar Anderson, Isadore Kaplan and Morris
Le Vor, and Michael J. Bruder, attorney for
the plaintiffs, and the affidavits thereon having
been considered and the said bail having failed

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Amended Order for Amercement of Bail.

to justify, and on May 21, 1927, an order was made by the Court ordering the said bail to deliver the body of the defendant, Oscar Anderson, to the Sheriff of Essex County or be amerced, and said order did not specify the time limit.

10 It is thereupon, on this 24th day of May, nineteen hundred and twenty-seven, ORDERED, that the said Isadore Kaplan and Morris Le Vor, deliver the body of the said Oscar Anderson into the custody of the Sheriff of Essex County by May 27, 1927, at 10 o'clock in the forenoon, or that said Isadore Kaplan and Morris Le Vor cause new and sufficient bail to be put in and approved on May 27, 1927, at 10 o'clock in the forenoon, and failing so to do they shall be and are hereby amerced in the sum of \$9,900, the amount of the claim of the plaintiffs, plus the plaintiffs' court costs and the plaintiffs may have a writ of execution against the property of said bail.

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WORRALL F. MOUNTAIN,
Judge.

Served the within order May 25, 1927, personally upon Isadore Kaplan, and May 26, 1927, personally upon Morris Le Vor, the within-named sureties, by delivering to each of them a true copy thereof at the Essex County Court House.

30

CONRAD DEUCHLER,
Sheriff.

By OLIVER WERKHEISER,
Special Deputy.

Amended Order for Amercement of Bail.

I hereby appoint and depute Oliver Werkheiser
to serve the within writ.

Witness my hand and seal this 24th day of
May, 1927.

CONRAD DEUCHLER,
Sheriff. 10

By ALFRED C. WALKER,
Under Sheriff.

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MINUTES.

Filed June 7, 1927.

ESSEX COUNTY CIRCUIT COURT.

10	AMELIA SANTOS and JOSEPH SANTOS, <div style="text-align: right;"><i>Plaintiffs,</i></div> <div style="text-align: center;"><i>vs.</i></div> ELIZABETH ANDERSON, trading as E. Anderson Construction Co.; OSCAR ANDERSON and AU- GUSTUS L. FRIEDMANN, <div style="text-align: right;"><i>Defendants.</i></div>	} <i>Action at Law. Minutes.</i>
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20 The defendant, Oscar Anderson, and his bail, Morris Le Vor and Isadore Kaplan, were called in open court at ten o'clock in the forenoon on May 27, 1927, and failed to appear either in person or by counsel and did not produce the body of the defendant, Oscar Anderson, nor cause new and sufficient bail to be put in and approved.

30 WORRALL F. MOUNTAIN,
Judge.

Let this be entered in the minutes June 7, 1927.

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PETITION.

Filed June 2, 1927.

ESSEX COUNTY CIRCUIT COURT.

AMELIA SANTOS and JOSEPH SANTOS,

*Plaintiffs,**vs.*

ELIZABETH ANDERSON, trad. as
the E. Anderson Construction
Co.; OSCAR ANDERSON and AU-
GUSTUS L. FRIEDMANN,

Defendants.

10

*Action
at Law.**Petition.*

20

*To the Honorable William Smith, Judge of the
Essex County Circuit Court.*

The petitioner Jacob Siff respectfully shows
to your Honor that:

1. The petitioner is the attorney of record
of the defendant Oscar Anderson in the above-
entitled cause.

2. The petitioner has examined the papers
and records filed and entered in the above-en-
titled cause and from said examination finds the
following facts: On May 5, 1927, an order was
made in the above-entitled cause ordering Oscar
Anderson, Isadore Kaplan and Morris Le Vor
to show cause to said court on May 14, 1927, why
they should not bring in the body of the defend-
ant Oscar Anderson at said time and place or be
amerced by the Court in any sum not exceeding
the plaintiff's debt and demand with costs; and

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Petition.

failing so to do they shall be amerced in any sum not exceeding the plaintiff's debt or demand and costs, as the Court may determine; that on May 14, 1927, an order was made in the above cause that the argument thereon be continued to May 21, 1927; that on May 21, 1927, an order was made in the above cause requiring the said Isidore Kaplan and Morris Le Vor to bring in the body of the defendant Oscar Anderson or failing so to do they be amerced in the sum of \$9,900 and costs and that plaintiff have a writ of execution for the same; on May 24, 1927, an order was made in the above cause amending the said order of May 21, 1927, and requiring the said Isidore Kaplan and Morris Le Vor to bring in the body of the defendant Oscar Anderson on or before May 27, 1927, at ten A. M., or failing so to do they be amerced in the sum of \$9,900 and costs and that plaintiffs have a writ of execution therefor; on June 6, 1927, said writ of execution, directed to the Sheriff, Essex County, New Jersey, was issued returnable June 30, 1927, and on June 6, 1927, a levy was made thereunder.

3. The said proceedings and the said orders and said writ of execution were irregularly, illegally and improvidently made, entered, had and issued and are void and should be vacated and set aside for the following reasons:

1. There should have been a separate proceeding to rule the said Isidore Kaplan and Morris Le Vor to bring in the body of the defendant Oscar Anderson and a separate proceeding to amerce the bail.

2. The said order of May 21, 1927, fails to state the time by which the said Isidore Kaplan

Petition.

and Morris Le Vor are required to bring in the body of Oscar Anderson.

3. The said order of May 21, 1927, amerced Isidore Kaplan and Morris Le Vor without proof being presented by the plaintiffs proving that the said Isidore Kaplan and Morris Le Vor failed to bring in the body of Oscar Anderson and without giving the said Isidore Kaplan and Morris Le Vor an opportunity to produce proof that they had brought in the body of Oscar Anderson. 10

4. The order of May 21, 1927, amerced Isidore Kaplan and Morris Le Vor in the sum of \$9,900 and costs and allowed said writ of execution therefor without proof of the amount if any of the debt or demand alleged to be due to the plaintiffs from Oscar Anderson and without giving the said Isidore Kaplan and Morris Le Vor an opportunity to produce counter proof that there was nothing due on any alleged debt or demand to the plaintiffs from Oscar Anderson or that there was a sum less than \$9,900 due from Oscar Anderson on the debt or demand to the plaintiffs from Oscar Anderson or any other proper proof. 20

5. The order of May 25, 1927, amerced Isidore Kaplan and Morris Le Vor without proof being presented by the plaintiffs proving that the said Isidore Kaplan and Morris Le Vor failed to bring in the body of Oscar Anderson and without giving the said Isidore Kaplan and Morris Le Vor an opportunity to produce proof that they had brought in the body of Oscar Anderson. 30

6. The order of May 24, 1927, amerced Isidore Kaplan and Morris Le Vor in the sum of \$9,900 and costs and allowed said writ of execu- 40

Petition.

tion therefor without proof of the amount if any of the debt or demand alleged to be due to the plaintiffs from Oscar Anderson and without giving the said Isidore Kaplan and Morris Le Vor an opportunity to produce counter proof that there was nothing due on any alleged debt or
10 demand to the plaintiffs from Oscar Anderson or that there was a sum less than \$9,900 due from Oscar Anderson on the debt or demand to the plaintiffs from Oscar Anderson or any other proper proof.

7. The said order of May 25, 1927, was made without any prior notice to Oscar Anderson, Isidore Kaplan and Morris Le Vor that an application would be made for said order of
20 May 24, 1927, amending the said order of May 21, 1927.

The petitioner therefore prays that an order be entered in the above-entitled cause vacating and setting aside the said orders, said writ of execution and levy and said proceedings; and restraining, enjoining and prohibiting the plaintiffs, their attorneys, servants and agents and Conrad Deuchler, as Sheriff of Essex County, New Jersey, his deputies, officers, servants and agents
30 from proceeding any further under said writ of execution and under said levy and from holding any sale thereunder, and for such other relief as may be just.

Dated, June 24, 1927.

JACOB SIFF,
Attorney for Oscar Anderson, Petitioner.

A true copy.

JACOB SIFF,
40 Attorney for Defendant Oscar Anderson.

Petition.

ESSEX COUNTY CIRCUIT COURT.

AMELIA SANTOS & JOSEPH SANTOS,

Plaintiffs,

vs.

ELIZABETH ANDERSON, trad. as
E. Anderson Construction
Co.; OSCAR ANDERSON and AU-
GUSTUS L. FRIEDMANN,

Defendants.

Affidavit.

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STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } ss.

JACOB SIFF, of full age, being duly sworn according to law, upon his oath deposes and says: 20

I am the petitioner named in the annexed petition. I have read the said petition and the facts therein stated are true.

JACOB SIFF.

Sworn and subscribed before
me this 25th day of June,
1927.

30

JOSEPH C. CASSINI,
A Master in Chancery of New Jersey.

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ORDER.

Filed July 2, 1927.

ESSEX COUNTY CIRCUIT COURT.

10 AMELIA SANTOS & JOSEPH SANTOS,

Plaintiffs,

vs.

ELIZABETH ANDERSON, trad. as
E. Anderson Construction
Co.; OSCAR ANDERSON and AU-
GUSTUS L. FRIEDMANN,

Defendants.

*Action
at Law.*

Order.

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Upon filing of a duly certified petition of Jacob Siff in the above-entitled cause, and good cause appearing therefrom for the making of this order, it is on this 29th day of June, 1927, on motion of Jacob Siff, Esq., attorney for the defendant, Oscar Anderson,

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ORDERED, that the above-named plaintiffs be and they are hereby required to show cause before me, Judge Nelson Y. Dungan, at the Court House, Market street, corner Springfield avenue, in the City of Newark, New Jersey, on July 2, 1927, at nine A. M. standard time being ten A. M. daylight savings time or as soon thereafter as said matter can be heard, why the proceedings, orders, judgment, writ of execution and levy mentioned in said petition should not be vacated and set aside for the reasons stated in said petition and why they the said plaintiffs, their attorneys, servants and agents and the Sheriff of Essex County, New Jersey, his

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Order to Show Cause.

deputies, officers, servants and agents should not be restrained, prohibited and enjoined from proceeding further under said writ of execution and levy and from holding any sale thereunder; and it is further

ORDERED, that in the meantime and until the further order of this court the plaintiffs, their attorneys, servants and agents and Conrad Deuchler as Sheriff of Essex County, New Jersey, his deputies, officers, servants, and agents be and they are hereby restrained, enjoined and prohibited from proceeding any further under said writ of execution and levy and from holding any sale thereunder; and it is further **10**

ORDERED, that a true copy of the said petition and this order which need not be certified except by the attorney for the defendant Oscar Anderson, be duly served on the attorney in this cause for the plaintiffs and on the said Conrad Deuchler as Sheriff of Essex County, New Jersey, **20**
 days after and on Isidore Kaplan and Morris Le Vor.

WORRALL F. MOUNTAIN,
 Circuit Court Judge.

A true copy.

JACOB SIFF, **30**
 Attorney for Defendant Oscar Anderson.

Service of the within petition, affidavit and order is hereby acknowledged this 29th day of June, 1927.

IRVING SIEGLER,
 Attorney for Isidore Kaplan
 and Morris Le Vor.

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ORDER.

Filed July 13, 1927.

ESSEX COUNTY CIRCUIT COURT.

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 AMELIA SANTOS and JOSEPH
 SANTOS,
*Plaintiffs,**vs.*

 ELIZABETH ANDERSON, trading
 as E. Anderson Construction
 Company; OSCAR ANDERSON
 and AUGUSTUS L. FRIEDMANN,
Defendants.

*At Law.**Order.*

20

Affidavit and proof having been submitted of the death of the plaintiff Joseph Santos in this cause and of the appointment of Amelia Santos, as executrix of all and singular the goods and chattels, rights and credits of the said Joseph Santos, deceased;

It is ORDERED, on this 13th day of July, A. D. 1927, that the said Amelia Santos, as such executrix, be substituted as plaintiff in this action and that the same proceed accordingly.

30

On motion of

MICHAEL J. BRUDER,
 Attorney for Plaintiffs.

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AFFIDAVIT.

Filed July 13, 1927.

ESSEX COUNTY CIRCUIT COURT.

AMELIA SANTOS and JOSEPH
SANTOS,

*Plaintiffs,**vs.*

ELIZABETH ANDERSON, trading
as E. Anderson Construction
Company; OSCAR ANDERSON
and AUGUSTUS L. FRIEDMANN,
Defendants.

10

*At Law.**Affidavit.*

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } *ss.*

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AMELIA SANTOS, of full age, being duly sworn,
on her oath deposes and says:

On June 14, 1927, the above-named plaintiff
Joseph Santos died.

On July 7, 1927, letters of administration of all
and singular the goods and chattels, rights and
credits of the said Joseph Santos were in due
form of law granted to me, Amelia Santos, as
executrix. 30

AMELIA SANTOS.

Subscribed and sworn to before
me this 13th day of July, A. D.
1927.

MARY M. CAFFREY.

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ORDER.

Filed August 9, 1927.

ESSEX COUNTY CIRCUIT COURT.

10	AMELIA SANTOS, individually and as executrix of the will of Joseph Santos, <div style="text-align: right;"><i>Plaintiff,</i></div>	<i>Action at Law. Order.</i>
	<i>vs.</i>	
20	ELIZABETH ANDERSON, trading as E. Anderson Construction Co.; OSCAR ANDERSON and AU- GUSTUS L. FRIEDMANN, <div style="text-align: right;"><i>Defendants.</i></div>	

30 It appearing that the defendant Oscar Anderson was taken into custody by the Sheriff of Essex County under a writ of *capias ad respondendum* in this cause, on February 18, 1927, and was admitted to bail on said date by entering into a recognizance in favor of the plaintiffs in the sum of \$19,800, upon which recognizance Isadore Kaplan and Morris Le Vor became bail and sureties; that the said bail failed to justify upon the plaintiffs excepting to the bail and notice thereof and upon order to show cause why the bail should not bring in the body of the defendant Oscar Anderson before this court at ten o'clock in the forenoon, on May 14, 1927, or be amerced by the Court in any sum not exceeding the plaintiffs' debt or demand with costs; that the bail were amerced by order of this court, made May 21, 1927, and by order made May 24, 1927, upon failing to produce the

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Order for Writ of Inquiry, etc.

body of the defendant or cause new and sufficient bail to be put in and approved on May 27, 1927;

And it further appearing that a duly verified petition of Jacob Siff, dated June 24, 1927, was filed on behalf of the defendant Oscar Anderson and an order to show cause made thereon, dated June 29, 1927, returnable July 2, 1927, and copies of said petition and order certified by the said Jacob Siff to be true copies thereof having been duly served on Michael J. Bruder, attorney for the plaintiffs, and on the Sheriff of Essex County and on Isadore Kaplan and Morris Le Vor, as provided by said order; and the hearing on said order to show cause having been duly adjourned in the presence of the said Jacob Siff, attorney for the defendant Oscar Anderson, and Michael J. Bruder, attorney for the plaintiffs from July 2, 1927 to July 9, 1927, and the said matter having been argued before this court by the said Jacob Siff and Michael J. Bruder and the Court having duly considered their argument, it is, on this 4th day of August, 1927,

ORDERED, that the order heretofore made in the above-entitled matter dated May 21, 1927, ruling the said Isadore Kaplan and Morris Le Vor to bring in the body of defendant Oscar Anderson, and failing so to do, they shall be and are hereby amerced in the sum of \$9,900, the amount of the claim of the plaintiffs and the plaintiffs may have a writ of execution against the property of said bail, in such event, be and the same is hereby amended by striking out the words "in the sum of \$9,900, the amount of the claim of the plaintiffs and the plaintiffs may have a writ of execution against the property of said bail," and as to those words the said order

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Order for Writ of Inquiry, etc.

be and the same is hereby vacated and set aside, and in all other things remain in full force and effect.

It is further ORDERED, that the order heretofore made in the above-entitled cause, dated May 24, 1927, be and the same is hereby amended by
 10 striking out the words, "in the sum of \$9,900, the amount of the claim of the plaintiffs, plus the plaintiffs' costs" and as to those words the order be set aside and vacated, and in all other things the said order shall remain in full force and effect, and it is further

ORDERED, that interlocutory judgment be and the same is hereby entered against Isadore Kaplan and Morris Le Vor, the bail in this cause, in the penal sum of the recognizance, heretofore
 20 filed in the above-entitled cause, namely, \$19,800, and it is further

ORDERED, that a writ of inquiry be issued directed to the Sheriff of the County of Essex, to assess the damages, if any, due to the plaintiffs from the defendant Oscar Anderson, with costs, and upon such assessment, that the plaintiffs may have final judgment against Isadore Kaplan and Morris Le Vor in a sum equal to an amount so found to be due and owing to the plaintiffs, if
 30 any, from the defendant Oscar Anderson, and it is further

ORDERED, that the writ of execution heretofore issued and levy made thereunder by the Sheriff of Essex County in the matter of the amercement proceedings stand and continue in full force and effect to abide the assessment of damages upon a writ of inquiry to be issued and the judgment of the Court thereupon and that said writ of execution be accordingly amended, if necessary, as to the amount of damages so found to be due,
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Order for Writ of Inquiry, etc.

and that the interim restraint contained in the order to show cause, dated June 29, 1927, be and is hereby dissolved and vacated upon the entry of the said final judgment.

Let this be entered in the minutes.

NELSON Y. DUNGAN, 10
Circuit Court Judge.

I consent to the foregoing order.

MICHAEL J. BRUDER,
Attorney for Plaintiff.

I hereby approve the above order as to form only.

JACOB SIFF, 20
Attorney for Defendant, Oscar Anderson.

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**NOTICE OF EXECUTING WRIT OF
INQUIRY.**

Filed August 30, 1927.

ESSEX COUNTY CIRCUIT COURT.

10

AMELIA SANTOS, individually and
as executrix of the will of
Joseph Santos,

Plaintiff,

vs.

ELIZABETH ANDERSON, trading
as E. Anderson Construction
Co.; OSCAR ANDERSON and AU-
GUSTUS L. FRIEDMANN,

20

Defendants.

*Action
at Law.*

To Isadore Kaplan, Morris Le Vor or to their
attorney, Irving Siegler.

PLEASE TAKE NOTICE, that a writ of inquiry of
damages will be executed in this cause on the
12th day of September, next, at 10 o'clock in the
forenoon of that day, at Sheriff's Sales Room,
No. 104, Court House, Newark, N. J.

30

Dated the 26th day of August, A. D. nineteen
hundred and twenty-seven.

MICHAEL J. BRUDER,
Attorney for Plaintiff.

Service of the within notice of executing writ
of inquiry is hereby acknowledged this 26th day
of August, A. D. 1927.

IRVING SIEGLER,
Attorney for Morris Le Vor
and Isadore Kaplan.

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**NOTICE OF EXECUTING WRIT OF
INQUIRY.**

Filed August 30, 1927.

ESSEX COUNTY CIRCUIT COURT.

AMELIA SANTOS, individually and
as executrix of the will of
Joseph Santos,

Plaintiff,

vs.

ELIZABETH ANDERSON, trading
as E. Anderson Construction
Co.; OSCAR ANDERSON and AU-
GUSTUS L. FRIEDMANN,

Defendants.

10

*Action
at Law.*

20

To Oscar Anderson, the above-named defendant,
or to Jacob Siff, attorney for Oscar Ander-
son.

PLEASE TAKE NOTICE, that a writ of inquiry of
damages will be executed in this cause on the
12th day of September, next, at 10 o'clock in the
forenoon of that day, at Sheriff's Sales Room
No. 104, Court House, Newark, N. J.

30

Dated the 26th day of August, A. D. nineteen
hundred and twenty-seven.

MICHAEL J. BRUDER,
Attorney for Plaintiff.

Service of the within notice of executing writ
of inquiry is hereby acknowledged this 26th day
of August, A. D. 1927.

JACOB SIFF,
Attorney for Defendant Oscar Anderson.

40

NOTICE.

Filed.

ESSEX COUNTY CIRCUIT COURT.

10 AMELIA SANTOS, individually and
as executrix of the will of
Joseph Santos,
Plaintiff,

vs.

ELIZABETH ANDERSON, trading as
E. Anderson Construction Co.,
and OSCAR ANDERSON,
Defendants,

*Action at
Law.**Notice.*

20 *and*

MORRIS LE VOR and ISADORE
KAPLAN,
Bail.

To Oscar Anderson, or his attorney, Jacob
Siff, Esq.

30 TAKE NOTICE, that the writ of inquiry issued in
the above-stated cause has been executed and
returned and that on the first day of October,
1927, the Court will be moved for an order to
enter final judgment thereon.

Respectfully yours,

MICHAEL J. BRUDER,
Attorney for Plaintiff.

40

Notice of Entering Final Judgment.

Service of the within notice of entering final judgment is hereby acknowledged this 29th day of Sept., A. D. 1927.

IRVING SIEGLER,
Attorney for Bail,
Isadore Kaplan and Morris Le Vor. 10

20

30

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NOTICE.

Filed September 30, 1927.

ESSEX COUNTY CIRCUIT COURT.

10 AMELIA SANTOS, individually and
as executrix of the will of
Joseph Santos,
Plaintiff,

vs.

ELIZABETH ANDERSON, trading as
E. Anderson Construction Co.,
and OSCAR ANDERSON,
Defendants,

*Action at
Law.**Notice.*

20

and

MORRIS LE VOR and ISADORE
KAPLAN,
Bail.

To Oscar Anderson, or his attorney, Jacob
Siff, Esq.

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TAKE NOTICE, that the notice for application
for an order to enter final judgment on the first
day of October, nineteen hundred and twenty-
seven, at 10 o'clock in the forenoon, is hereby
countermanded, and that I shall not move for
final judgment on said date.

Yours respectfully,

MICHAEL J. BRUDER,
Attorney for Plaintiff.

40

Notice of Countermand.

STATE OF NEW JERSEY, }
 COUNTY OF ESSEX. } ss.

MICHAEL J. BRUDER, of full age, being duly sworn, upon his oath deposes and says that on Thursday, September 29th, I personally served upon Jacob Siff, attorney for Oscar Anderson, the within notice of countermand by delivering to him a true copy thereof and informing him of the contents thereof, at his office, 60 Park Place, Newark, N. J. 10

MICHAEL J. BRUDER.

Sworn to and subscribed before
 me this 30th day of Sept.,
 A. D. 1927.

MARY M. CAFFREY, 20
 Notary Public for N. J.

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NOTICE.

Filed September 30, 1927.

ESSEX COUNTY CIRCUIT COURT.

10 AMELIA SANTOS, individually and
as executrix of the will of
Joseph Santos,

*Plaintiff,**vs.*

ELIZABETH ANDERSON, trading as
E. Anderson Construction Co.,
and OSCAR ANDERSON,

Defendants,

20

and

MORRIS LE VOR and ISADORE
KAPLAN,

*Bail.**Action at
Law.**Notice.*

To Isadore Kaplan, Morris Le Vor, or their
attorney, Irving Siegler, Esq.

To Oscar Anderson, or his attorney, Jacob Siff.

30

PLEASE TAKE NOTICE, that the writ of inquiry
issued in the above-stated cause has been ex-
ecuted and returned and that I shall apply to
Hon. Nelson Y. Dungan, Judge of the Essex
County Circuit Court, at the Court House, in
the City of Newark, in the County of Essex
and State of New Jersey on Monday, October
3, 1927, at ten o'clock in the forenoon of that

40

Notice of Entering Final Judgment.

date, for an order to enter final judgment thereon.

Respectfully yours,

MICHAEL J. BRUDER,
Attorney for Plaintiff.

10

Service of the within notice of entering final judgment is hereby acknowledged this 29th day of Sept., A. D. 1927.

IRVING SIEGLER,
Attorney for Defendants,
Isadore Kaplan and Morris Le Vor.

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WRIT OF INQUIRY.

ESSEX COUNTY CIRCUIT COURT.

10	AMELIA SANTOS, individually and as executrix of the will of Joseph Santos, <div style="text-align: right;"><i>Plaintiff,</i></div>	}	<i>Action at Law.</i>
	<i>vs.</i>		
	ELIZABETH ANDERSON, trading as E. Anderson Construction Co.; OSCAR ANDERSON and AUGUS- TUS L. FRIEDMANN, <div style="text-align: right;"><i>Defendants.</i></div>	}	<i>Writ of Inquiry.</i>

20 NEW JERSEY, ss.

The State of New Jersey to our Sheriff of our County of Essex. It (SEAL) appearing that the defendant, Oscar Anderson, was taken into custody by the Sheriff of Essex County under a writ of *capias ad respondendum*, in this cause on February 18, 1927, and was admitted to bail on said date by entering into a recognizance in favor of the plaintiffs, in the sum of \$19,800, upon which recognizance Isadore Kaplan and Morris Le Vor became bail and sureties.

30 And it further appearing, that the bail failed to justify upon the plaintiffs excepting to the bail and notice thereof, and upon order to show cause why they should not bring in the body of the defendant; and that the bail were amerced on May 27, 1927, as will appear by the minutes of this court, by order of this court made May 24, 1927, and it further appearing that such proceedings were had in our said court that the

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Writ of Inquiry.

said Amelia Santos, individually and as executrix of the will of Joseph Santos, ought to recover against the said Isadore Kaplan and Morris Le Vor, damages on occasion of the premises.

But because it is unknown to our said court what damages the said Amelia Santos, individually and as executrix of the last will and testament of Joseph Santos, hath sustained by reason thereof, we command you that by the oath of twelve good and lawful men of your county, you diligently inquire what damages the said Amelia Santos, individually and as executrix of the last will of Joseph Santos, hath sustained as well by reason of the premises as for her costs and charges by her about her suit in this behalf expended, and that you send to our said court, before the judge thereof, on the third Tuesday of September next, the inquisition which you shall thereupon take under your seal and the seals of those by whose oath or affirmation you shall take that inquisition together with this writ.

WITNESS, NELSON Y. DUNGAN, Esquire, Judge of our said Court at Newark, N. J., the 26th day of August, A. D. nineteen hundred and twenty-seven.

JOHN H. SCOTT,
Clerk.

MICHAEL J. BRUDER,
Attorney for Plaintiff.

Inquisition.

ESSEX COUNTY CIRCUIT COURT.

10	AMELIA SANTOS, individually and as executrix of the will of Joseph Santos, <div style="text-align: right;"><i>Plaintiff,</i></div>	}	<i>Action at Law.</i>
	<i>vs.</i>		<i>Inquisition.</i>
	ELIZABETH ANDERSON, trading as E. Anderson Construction Co.; OSCAR ANDERSON and AUGUS- TUS L. FRIEDMANN, <div style="text-align: right;"><i>Defendants.</i></div>		

NEW JERSEY, ss.

20 An inquisition indented and taken at the Court House in Newark in the County of Essex, on the 12th day of Sept., A. D. nineteen hundred and twenty-seven, before Conrad Deuchler, Esquire, Sheriff of the County of Essex, by virtue of the writ of New Jersey to the said sheriff directed and to this inquisition annexed, to inquire of certain matters in the said writ specified by the oath of

- | | | |
|----|---------------------|-----------------------|
| 30 | 1. Frank Umscheider | 7. William Carl |
| | 2. Michael Radley | 8. Robert Taylor |
| | 3. Joseph Pfaff | 9. Clements Muller |
| | 4. John Wurzbach | 10. Louis Noel |
| | 5. Herman Rieger | 11. Peter J. MacMahon |
| | 6. Charles J. Young | 12. Edgar Bloomer |

honest and lawful men of said county, who upon their oaths aforesaid, say they find in favor of Mrs. Amelia Santos as executrix of the will of Joseph Santos, \$2,650, and in favor of Mrs. Amelia Santos, individually in the sum of \$7,-
 40 885.50.

Inquisition.

In witness whereof, as well I, the said sheriff,
as the said jurors, have hereto set our hands
and seals to this inquisition the day and year
above written.

CONRAD DEUCHLER,
Sheriff.

10

By RUPERT F. MILLS,
Under Sheriff.

FRANK UMSCHIEDER	(L. S.)	
MICHAEL RADLER	(L. S.)	
JOSEPH PFAFF	(L. S.)	
JOHN WURZBACH	(L. S.)	
HERMAN RIEGER	(L. S.)	
CHARLES J. YOUNG	(L. S.)	
WILLIAM CARL	(L. S.)	
ROBERT TAYLOR	(L. S.)	20
CLEMENTS MULLER	(L. S.)	
LOUIS NOEL	(L. S.)	
PETER J. MACMAHON	(L. S.)	
EDGAR BLOOMER	(L. S.)	

Returnable.

The execution of this writ appears by the
inquisition thereto annexed.

CONRAD DEUCHLER,
Sheriff.

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By RUPERT F. MILLS,
Under Sheriff.

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RULE FOR FINAL JUDGMENT.

Filed October 3, 1927.

ESSEX COUNTY CIRCUIT COURT.

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AMELIA SANTOS, individually and
as executrix of the will of
Joseph Santos,

Plaintiff,

vs.

ELIZABETH ANDERSON, trading as
E. Anderson Construction Co.,
and OSCAR ANDERSON,

Defendants,

20

and

MORRIS LE VOR and ISADORE
KAPLAN,

Bail.

*Action at
Law.*

*Rule for
Final
Judgment.*

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The writ of inquiry in the above-stated cause having been issued and returned and it appearing thereby that there is due to the said plaintiff, individually, from the said defendant, Oscar Anderson, the sum of seven thousand eight hundred and eighty-five dollars and fifty cents (\$7,885.50) and that there is due to the said plaintiff, as executrix of the Will of Joseph Santos, from the said defendant, Oscar Anderson, the sum of two thousand six hundred and fifty (\$2,650) dollars;

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And Morris Le Vor and Isadore Kaplan bail for the said defendant, having been amerced by the Court in the sum due from the said de-

Rule for Final Judgment.

fendant, Oscar Anderson, to be determined by said writ of inquiry;

It is, on motion of Michael J. Bruder, attorney of said plaintiff, ordered that judgment final be entered in the above-stated cause in favor of the plaintiff, individually, and against Morris Le Vor and Isadore Kaplan, the bail, for the said sum of seven thousand eight hundred and eighty-five dollars and fifty cents (\$7,885.50) and in favor of the plaintiff, as executrix of the Will of Joseph Santos, and against Morris Le Vor and Isadore Kaplan, the bail, for the said sum of two thousand six hundred and fifty (\$2,650) dollars, besides costs to be taxed by the Court. 10

Let the above order be entered in the minutes.

Rule entered October 3, 1927. 20

NELSON Y. DUNGAN,
Circuit Court Judge.

MICHAEL J. BRUDER,
Attorney of Plaintiff.

Costs, \$68.82.

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NOTICE OF APPEAL.

Filed.

ESSEX COUNTY CIRCUIT COURT.

10 AMELIA SANTOS, individually and
as executrix of the will of
Joseph Santos,
Plaintiff,

vs.

ELIZABETH ANDERSON, trading as
E. Anderson Construction Co.,
and OSCAR ANDERSON,
Defendants,

*Action at
Law.*

*Notice of
Appeal.*

20

and

MORRIS LE VOR and ISADORE
KAPLAN,
Bail.

To Michael J. Bruder, Esquire, attorney of plain-
tiffs, or to whom it may concern:

SIR:

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PLEASE TAKE NOTICE that the defendants, Mor-
ris Le Vor and Isadore Kaplan, bail in the above-
entitled cause, appeal to the New Jersey Supreme
Court from the whole of the judgment entered
in this cause.

Respectfully yours,

IRVING SIEGLER,
Attorney of the Defendants,
Morris Le Vor and Isadore Kaplan.

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Notice of Appeal.

Service of the within notice of appeal is hereby
acknowledged this 26th day of November, 1927.

MICHAEL J. BRUDER,
Attorney of Plaintiff.

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GROUNDS OF APPEAL.

Filed.

NEW JERSEY SUPREME COURT.

10 AMELIA SANTOS, individually and
as executrix of the will of
Joseph Santos,
Plaintiff-Appellee,

vs.

ELIZABETH ANDERSON, trading as
E. Anderson Construction Co.,
and OSCAR ANDERSON,

and

20 MORRIS LE VOR and ISADORE
KAPLAN,

Bail.

Defendants-Appellants.

On Appeal.

*Grounds of
Appeal.*

To Michael J. Bruder, attorney of plaintiff-appellee or to whom it may concern:

SIR:

30 PLEASE TAKE NOTICE that the defendant-appellants in the above-entitled cause appeals from the judgment of the Essex County Circuit Court on the following grounds, to wit:

1. Because the Essex County Circuit Court erred in giving final judgment to the plaintiff-appellee in that

A. That the Court below erred in allowing rule for amercement of bail on May 21, 1927.

40 B. That the Court below erred in allowing the amended order of amercement of May 24, 1927.

Grounds of Appeal.

C. That the Court below erred in allowing the amended order of amercement of bail, without notice to bail.

D. That the Court below erred in allowing the amended rule of amercement of bail and judgment interlocutory against appellants under date of August 4, 1927.

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E. That allowance of said rules of May 21, 1927, and of May 24, 1927, under and pursuant to the pretended authority under Section 76 of an Act of Legislature of the State of New Jersey entitled "An Act to Regulate the Practice of Courts of Law" (Revision of 1903), Chapter 247 of the Laws 1903, deprived appellants of their property without due process of law and of the equal protection of the laws contrary to the provision of the fourteenth article of the Constitution of the United States.

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F. That all of said rules of May 21, 1927; May 24, 1927, and of August 4, 1927, amercing the appellants, and all the proceedings and judgment interlocutory and judgment final entered against the appellants, pursuant to the provision of Section 76 of an Act of the Legislature of the State of New Jersey, are null and void and invalid, for the following reasons:

1. Because the object of said Act is not expressed in the title thereof contrary to the provisions of Article 4, Section 7, Paragraph 4 of the Constitution of the State of New Jersey.

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2. That said Act embraces more than one object contrary to the provisions of Article 4, Section 7, Paragraph 4 of the Constitution of the State of New Jersey.

3. That said Act deprives the appellant of a trial by jury in violation of Article 1, Section 7, of the Constitution of New Jersey.

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Grounds of Appeal.

G. That the said rule of amercement of May 21, 1927, for the amercement of bail was improvidently, illegally and irregularly entered.

10 H. That said rule of May 24, 1927, for the amercement of bail was improvidently, illegally and irregularly entered and without the notice required in the aforesaid Section 76 of the Act of the Legislature of the State of New Jersey.

I. That the rule of amercement entering interlocutory judgment and directing writ of inquiry was irregularly, illegally and improvidently entered.

20 J. That said rule of August 4, 1927, was allowed and entered contrary to the provisions of Section 76, of an Act of Legislature of the State of New Jersey, entitled "An Act to Regulate the Practice of Courts of Law" (Revision of 1903), Chapter 247 of the Laws of 1903.

K. That said rule of August 4, 1927, was entered without proper notice to bail.

30 L. That the writ of inquiry had pursuant to the order of August 4, 1927, was irregular, illegal and improper and contrary to the provisions of Section 76, of an Act of Legislature of the State of New Jersey, entitled "An Act to Regulate the Practice of Courts of Law" (Revision of 1903), Chapter 247 of the Laws of 1903.

M. That judgment final entered pursuant to provisions of Section 76 of an Act of Legislature of the State of New Jersey, entitled "An Act to Regulate the Practice of Courts of Law" (Revision of 1903), Chapter 247 of the Laws of 1903, was illegally, improperly and irregularly entered.

40 N. That judgment final was entered contrary to the provisions of said Section 76 of an Act

Grounds of Appeal.

of Legislature of the State of New Jersey, entitled "An Act to Regulate the Practice of Courts of Law" (Revision of 1903), Chapter 247 of the Laws of 1903.

O. That final judgment was entered in this cause and the Court below contrary to provisions of the 14th Article of the United States Constitution, contrary to the provisions of Article 4, Section 7, Paragraph 4 of the Constitution of the State of New Jersey and contrary to the provisions of Article 1, Section 7 of the Constitution of New Jersey. 10

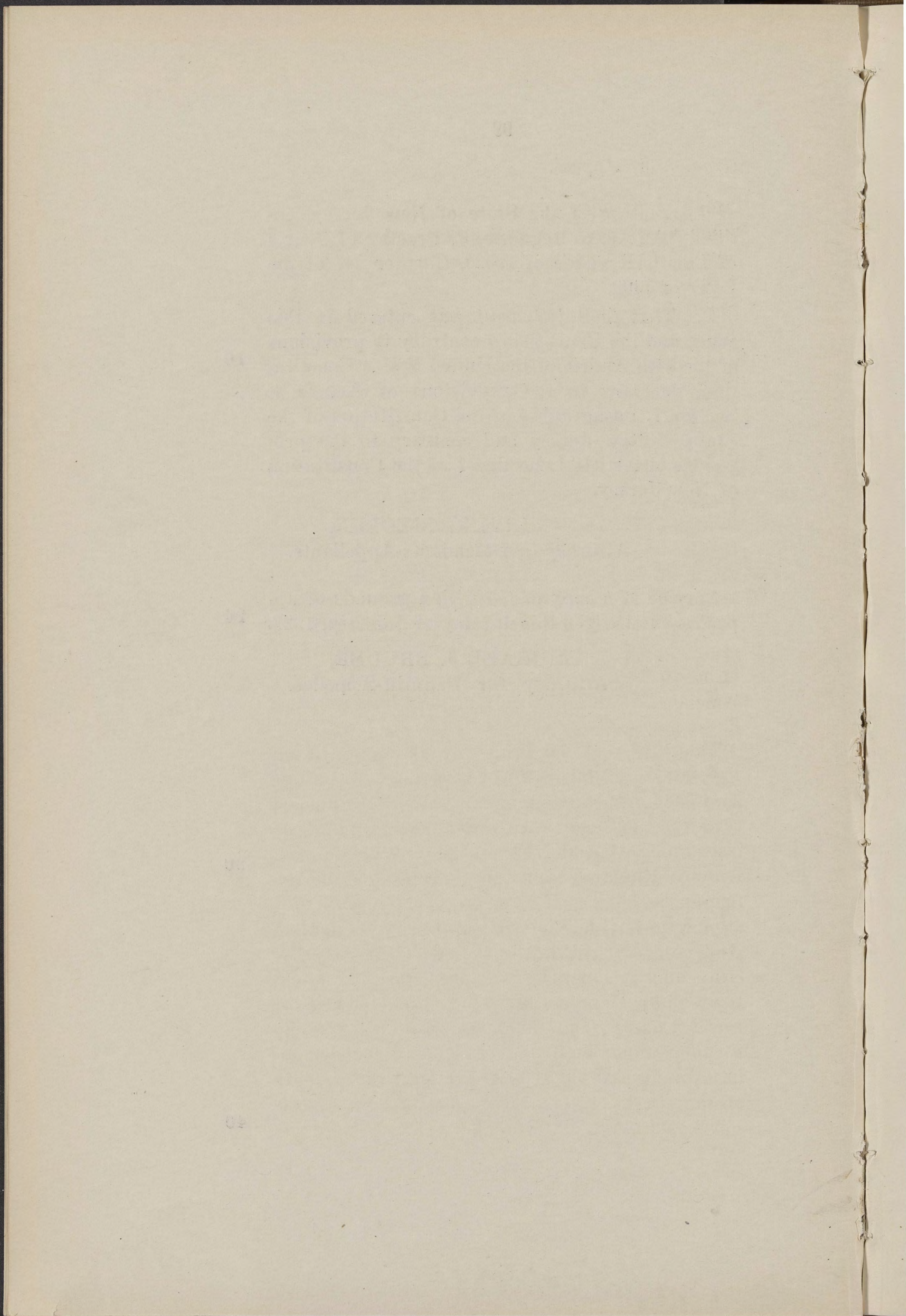
IRVING SIEGLER,
Attorney of Defendants-Appellants.

Service of a copy of the within grounds of appeal acknowledged this 4th day of January, 1928. 20

MICHAEL J. BRUDER,
Attorney for Plaintiff-Appellee.

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OPINION OF SUPREME COURT.

Filed July 26, 1928.

NEW JERSEY SUPREME COURT

No. 60 January T., 1928.

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AMELIA SANTOS

vs.

OSCAR ANDERSON *et als.*,

Appeal from Essex Circuit Court.

Argued before Gummere, Chief Justice, and Justices Black and Lloyd.

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For the appellant, Irving Siegler.

For the respondent, Michael J. Bruder.

Per Curiam:

This suit was instituted by the plaintiff on February 15, 1927, to recover damages from one Anderson, her claim being based upon the alleged fraud of the latter. An order for a *capias* was issued against Anderson, and Morris Le Vor and Isadore Kaplan became the sureties on the defendant's bond. By the terms thereof, they agreed that, if the plaintiff should recover against Anderson and the latter should fail to pay the costs and condemnation of the court, he would render himself into the custody of the sheriff of Essex County; and that, upon his failure to do so, they would pay the costs and the condemnation, or else would render him into the custody of the sheriff. No answer was filed by Anderson to the suit, and judgment by default was

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Opinion of Supreme Court.

entered against him. The Court issued a rule to show cause against the sureties requiring them to bring in the body of the defendant Anderson or become amerced. A hearing was had on the return of this rule, at which the sureties were present, with their counsel, and as a result thereof the rule was made absolute and the sureties were amerced in the amount of the judgment. A few days later this rule was amended by providing that the bail deliver the body of Anderson into the custody of the sheriff or cause new and sufficient bail to be put in and approved in a short day, therein specified, and amercing them in the amount of the bond in the event of their failing to comply with this mandate. They paid no attention to this procedure, and the rule of amercement was thereupon confirmed. From this rule of confirmation the present appeal is taken by Le Vor and Kaplan, the sureties on the bond.

The principal ground upon which the rule of amercement is attacked is that the proceedings against the bail were not justified under section 76 of the Practice Act of 1903. This criticism is directed at the original rule of amercement and the subsequent amendment thereof. Assuming that this contention is well founded, we consider that it would not justify a reversal of the rule under review, for the reason that it becomes immaterial, in view of the fact that a writ of inquiry was thereafter issued and returned, and that final judgment was thereupon entered against the sureties and that these latter steps were in strict accordance with the provision of the statute relating to forfeiture of bail. This being so, section 27 of the Practice Act of 1912, which provides that no judgment shall be reversed for error as to matters of procedure unless, after examination

Opinion of Supreme Court.

of the whole case, it shall appear that the error injuriously affected the substantial rights of a party, is a bar to a reversal upon the ground urged.

It is further argued that our statute relating to bail violates the Fourteenth Amendment of the Federal Constitution, so far as it applies to the present case, because it deprives the appellants of their property without due process of law; and that it is also violative of our own constitution in that it deprives the defendants of a right to trial by jury. We find nothing of merit in either one of these contentions, and consider that the argument in their support is without substance.

The rule of amercement will be affirmed.

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RULE ON AFFIRMANCE.

NEW JERSEY SUPREME COURT

Term, 1928.

10 AMELIA SANTOS, individually and
as executrix of the will of
Joseph Santos,

Plaintiff-Appellee,

vs.

ELIZABETH ANDERSON, trading
as E. Anderson Construction
Co., and Oscar Anderson,

and

20 MORRIS LE VOR and ISADORE
KAPLAN,

Bail,

Defendants-Appellants.

*Action
at Law.*

*On Appeal
from
Essex
Circuit
Court.*

*Rule on
Affirmance.*

30 This cause having been duly argued at the
present term of this court by Irving Siegler, Esq.,
attorney for and of counsel with the defendants-
appellants and Michael J. Bruder, attorney for
the plaintiff-appellee and Anthony P. Kearns, of
counsel with the plaintiff-appellee, and the court
having considered the same, and finding no error
in the record or proceedings in the Essex County
Circuit Court:

It is thereupon ordered and adjudged that the
judgment of the Essex County Circuit Court be
affirmed with costs and that the record be re-
mitted to the Essex County Circuit Court to

Rule on Affirmance.

be proceeded with in accordance with this judgment and the practice of said court.

Entered August 10, 1928, on motion of

MICHAEL J. BRUDER,
Attorney of Plaintiff-Appellee.

A true copy.

FRED L. BLOODGOOD,
Clerk.

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NOTICE AND GROUNDS OF APPEAL.

NEW JERSEY SUPREME COURT.

10 AMELIA SANTOS, individually and
as executrix of the will of
Joseph Santos,
Plaintiff-Appellee,

vs.

ELIZABETH ANDERSON, trading
as E. Anderson Construction
Co., and Oscar Anderson,
and

20 MORRIS LE VOR and ISADORE
KAPLAN,
Bail,
Defendants-Appellants.

*Action
at Law.*

*Notice of
Appeal and
Grounds.*

TO MICHAEL J. BRUDER, attorney of plaintiff-
appellee, or TO WHOM IT MAY CONCERN:

SIR:

30 PLEASE TAKE NOTICE that the defendants,
Morris Le Vor and Isadore Kaplan, appeal to
the Court of Errors and Appeals in the last
resort in all causes in New Jersey, from the
whole of the judgment entered in this cause on
the following grounds, to wit:

1. Because the Supreme Court erred in giving
judgment affirming the judgment of the plaintiff-
appellee, when it should have reversed the judg-
ment of the Essex County Circuit Court.

40 2. Because the Supreme Court erred in giving
judgment to the plaintiff-appellee instead of

Notice and Grounds of Appeal.

entering said judgment in favor of the defendants-appellants.

Respectfully yours,

IRVING SIEGLER,
Attorney of Isadore Kaplan
and Morris Le Vor, Defendants- 10
Appellants.

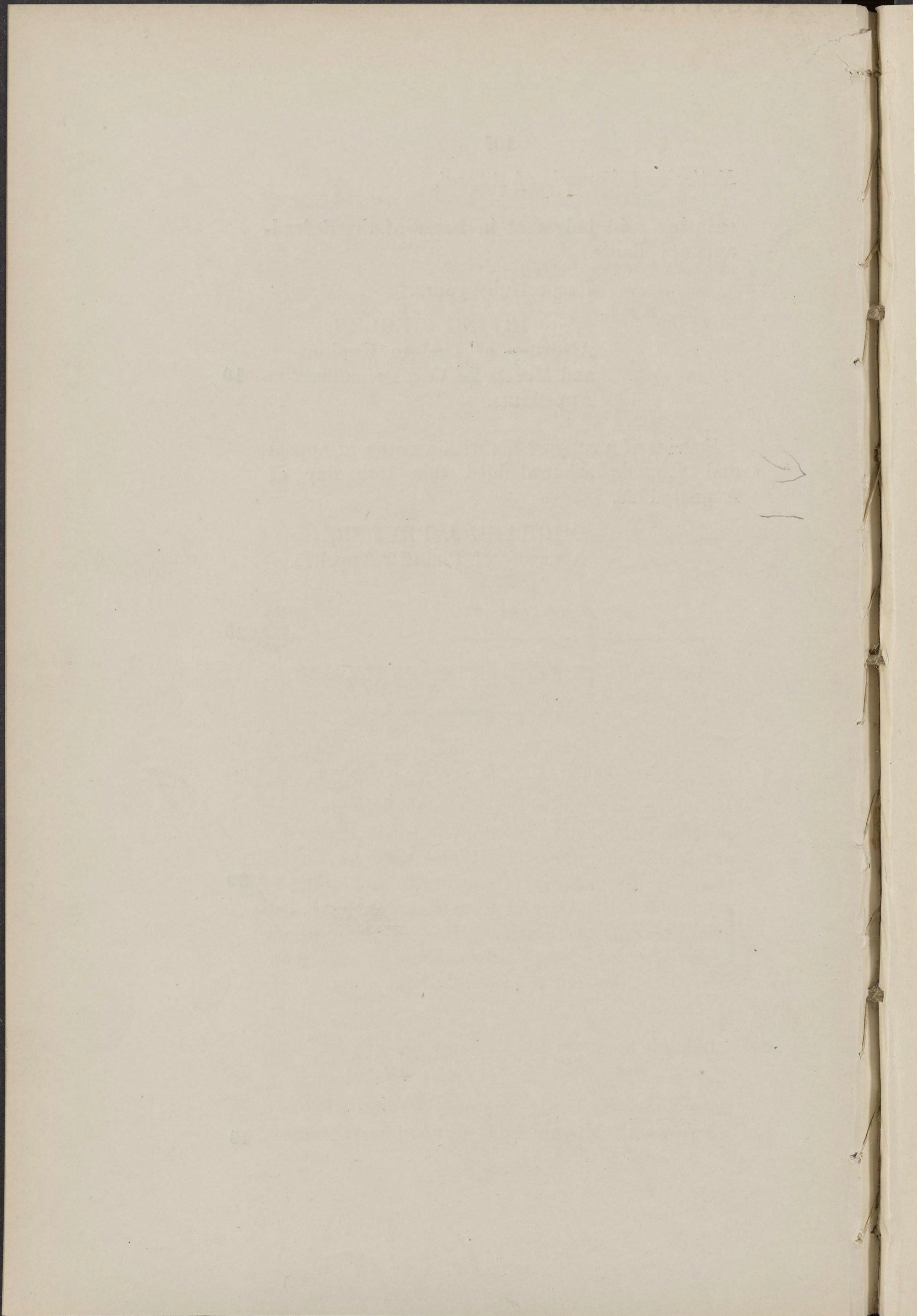
Service of a copy of the within notice of appeal
and grounds acknowledged this 16th day of
August, 1928.

MICHAEL J. BRUDER,
Attorney of Plaintiff-Appellee.

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New Jersey Court of Errors and Appeals

AMELIA SANTOS, individually and
as executrix of the will of
Joseph Santos,

Plaintiff-Appellee,

vs.

ELIZABETH ANDERSON, trading as
E. Anderson Construction
Co., and OSCAR ANDERSON,

and

MORRIS LEVOR and ISADORE
KAPLAN,

Bail,

Defendants-Appellants.

*Action
at Law.*

*On Appeal
from
Supreme
Court.*

BRIEF OF DEFENDANTS-APPELLANTS.

Facts.

On or about February 15, 1927, the plaintiffs in this cause, Amelia Santos and Joseph Santos, instituted action in the Essex County Circuit Court against Elizabeth Anderson, Oscar Anderson, *et al.* On the same day a *capias ad respondendum* was issued and an order to hold the defendant Oscar Anderson to bail was filed, bail was fixed by William J. Kearns, a Supreme Court Commissioner, in the amount of nine thousand nine hundred (\$9,900.00) dollars and thereafter on the 17th day of February, 1927, a bond in the sum of nineteen thousand nine hundred (\$19,900.00) dollars was executed and filed on the 18th day of February, 1927, in the office of the Clerk of Essex County, wherein Isadore Kaplan and Morris LeVor, appellants, herein,

became bail for Oscar Anderson, the defendant, and whereupon the defendant Oscar Anderson was released from custody. On February 28, 1927, the plaintiff took exception to the bail filed in this cause on the ground that the same was inadequate. That on May 21, 1927, upon the return of a rule to show cause directed to bail, why they should not bring in the body of the defendant Anderson or be amerced, an order was entered on the return of said rule, (the court having found the bail inadequate), amercing the bail Isadore Kaplan and Morris LeVor in the sum of nine thousand eight hundred (\$9,800.00) dollars. However, on May 24, 1927, without any notice whatever to the bail another order was entered amending the previous order of May 21, 1927, directing the bail to deliver the body of the said Anderson to the Sheriff by May 27, 1927, or to provide new and sufficient bail by that time. Copies of this order were served on May 25, 1927, upon Isadore Kaplan and on May 26, 1927, upon Morris LeVor. On May 27, 1927, an entry was made upon the minutes of the court indicating the failure of the bail to produce Anderson at ten o'clock on said day, and the failure to cause new and sufficient bail to be put in and approved. Thus final judgment of amercement by the order of May 24th, went into effect for the failure of the bail to comply with its terms of May 27, 1927. Thereafter proceedings were taken by the defendant Oscar Anderson for the purpose of setting aside the entire proceedings under the writ of *capias* and order of bail. The bail not being a party to these proceedings did not participate therein and on August 4, 1927, another order was entered in the aforesaid proceedings, amending the orders of amercement to May 21st, and May 24th, and decreeing judgment interlocutory therein in favor of the plain-

tiff and against the bail and a writ of inquiry was directed to the Sheriff of Essex County therein to assess the damages. Thereafter a writ of inquiry issued upon notice to bail and on October 3, 1927, a rule for final judgment against bail was entered in the sum of ten thousand five hundred and thirty (\$10,530.00) dollars. It is significant to note that at no time in the proceedings was judgment ever entered in the original cause against Oscar Anderson, or any of the defendants in the cause. The judgment now under appeal having been entered against the bail as a result of the failure of the bail to satisfy the court of the adequacy of the security; the failure of the bail to do so resulted in the order of the court to produce the defendant Anderson on May 27.

POINT I.

That the judgment of amercement was entered contrary to the provisions of Section 76 of an act of the Legislature of the State of New Jersey, entitled "An Act to Regulate the Practice of Courts of Law" (Revision of 1903), Chapter 247 of the Laws of 1903.

1.

In the opinion rendered by the Supreme Court the following appears,

"No answer was filed by Anderson to the suit and judgment by default was entered against him. The court issued a rule to show cause against the sureties requiring them to bring in the body of Anderson or become amerced."

There is nothing in the record to show that a judgment by default was entered against Anderson and as a result of which the bail were required to produce the defendant. The record

discloses no judgment whatsoever against Anderson, the defendant. The proceedings against the bail arose in a collateral manner, and solely because of the alleged inadequacy of the bail. The record shows no prosecution of the cause itself against the defendant nor the entry of any judgment, either interlocutory or final against the defendant in this cause.

2.

Section 76 of the Practice Act of 1903, C. S., page 4074, provides:

“if on exceptions to bail, the bail shall not appear and be approved as aforesaid, or if new or additional bail shall be ordered and shall not be put in and approved within the time prescribed, the court or a judge shall rule the bail to bring in the body of the defendant at a certain time in said rule specified, and if the bail fail to do so they shall be amerced by the court in any sum not exceeding the plaintiff's debt or demand with costs; such amercement shall have the force and effect of a judgment whereupon an execution in the name and for the use of the plaintiff may on motion be awarded * * *; provided, the bail may to protect themselves cause such new or additional bail to be put in and approved at any time before such amercement * * *.” P. L. 1903, p. 557.

The first order of amercement entered in this cause on May 21, 1927 (S. C., pp. 61-62), actually amerced the bail in the amount of nine thousand nine hundred (\$9,900.00) dollars and costs without prescribing a definite date in the future for the production of the defendant in court or the furnishing of new or additional bail. This order, of course, was clearly defective. Nevertheless, without any previous notice of any kind whatsoever, as appears by the record and on the appli-

cation of the plaintiff, the order of May 21, 1927, amercing the bail was arbitrarily amended by an order entered on May 24, 1927 (C. S., pp. 63-64), to correct the defect appearing in the order of May 21st, to wit: the failure to specify a time within which the bail might produce the body of the defendant or furnish additional bail. The order of amendment was arbitrarily made on *ex parte* application of the plaintiff and again the bail was amerced by this same order in the sum of nine thousand nine hundred (\$9,900.00) dollars and at the same time and in the same order the bail are directed to produce the body of the defendant Oscar Anderson into the custody of the Sheriff by May 27, 1927, at ten o'clock in the forenoon, or cause new and sufficient bail to be put in and approved on that day. A copy of this order was served on Isadore Kaplan on May 25, 1927, and on May 26, 1927, on Morris LeVor, the other bail. On the next day, May 27, 1927, there was an entry on the minutes of the court that the bail failed to produce the defendant or put in new or additional bail. It will, therefore, be seen that the bail are amerced by the amended order on the 24th day of May, 1927, although they are required to produce the defendant or furnish new and additional bail by the 27th of May, 1927. This order of amercement is clearly irregular and illegal for the reason just stated. The order is entered contrary to the provisions of the section hereinabove quoted because the clear intent of said section is to allow the bail sufficient time, after the entry of the rule upon the bail, to bring in the body. Certainly, the act never intended that the bail should be amerced before the records of the court have indicated the failure of the bail to comply with the rule and within the time therein specified for compliance. The order of May 24th, therefore, is

clearly illegal and irregular because, first, it was obtained without the notice intended to be given under the Practice Act, that an application for the order would be made and, secondly, because the bail having no notice that such an order would be entered and not having been heard thereon, the time allowed therein for producing the defendant or furnishing new bail was clearly unreasonable in view of the fact that Morris LeVor was served on the 26th day of May, 1927, and the other bail on the 26th day of May, 1927, certainly allowing the bail hardly any time or opportunity to protect themselves. In *Boggs v. Chichester*, 1 Green 209, at page 212, 13 N. J. L., page 212, Chief Justice Ewing, speaking for the court, there said:

“It would be wrong to fix the bail with the payment of large sums, without some opportunity of protecting themselves; and this, too, upon little more than two days and upon a summons taken out during the same term, and served personally. The term may expire before the bail could procure the defendant, if residing at a distance. The *ca. sa.* must be quashed.”

3.

Thereafter execution issued upon the said judgment of amercement in the usual way and the plaintiff proceeded to levy and make sale of the chattels and real estate of the bail. In the meantime, however, on proceedings instituted by affidavits and rule to show cause in the name and in behalf of Oscar Anderson, the absent defendant, and the party by reason of whose default proceedings to amerce had been commenced a rule was entered directing the plaintiffs to show cause why the entire proceedings, orders, judgments, etc., already had in this case should

not be set aside. The bail, not being a party to these proceedings, although served with copies of the rule, did not participate in the resulting proceedings. Nevertheless, on August 4, 1927, an order was entered on the return of said rule, seriously affecting and prejudicing bail. And although the bail had notice of the pendency of these proceedings, they certainly had no knowledge nor was there any reason to apprehend that there would be entered an order affecting the previous attempted amercement or in any way affecting the rights of the bail. The order of August 4, 1927, amended the orders of May 21st and May 24th, hereinbefore referred to in certain material respects, and ordered judgment interlocutory to be entered against the bail in the original sum of the bond, to wit: nineteen thousand eight hundred (\$19,800.00) dollars, and directed the Sheriff to assess the damages by writ of inquiry and ordered that the plaintiffs have final judgment against the bail in a sum equal to an amount found to be due and owing to the plaintiffs from the defendant.

With respect to this order the appellants contend, first, that such an order should never have been entered upon the application of Oscar Anderson, then in default; and that the bail certainly could not be bound or affected in any legal sense by proceedings not initiated by them and to which they were not parties; that the amercement proceedings in which the bail were involved were entirely collateral, separate and distinct from the argument to be had on the rule to show cause initiated by the defendant in default, Oscar Anderson, and that no order should or could have been made on such proceedings affecting either the bail or the amercement proceedings previously had. In any event, this proceeding

was certainly irregular and not in conformity with either the letter or spirit of the act under which the amercement is effected.

Now it is apparent that when the order of August 4, 1927, was entered, the court in directing a writ of inquiry did so on the assumption that the bail had already been properly amerced by the previous orders of May 21 and May 24 and necessarily assumed that the bail had already been amerced in accordance with law and that what remained to be done was merely a matter of routine. If we are to analyze what took place in the amercement proceedings it will be seen that the first step in the amercement proceedings was accomplished when the order of May 21 was signed, amercing the bail in the sum of nine thousand nine hundred (\$9,900.00) dollars without prescribing a definite date in the future for the production of the defendant or for putting up new or additional bail. This order clearly, is contrary to the provisions of the statute, and in my opinion absolutely void, and not amendable. It is submitted at this point that if the amercement proceedings were to be carried out in a legal manner and in accordance with the statute, the entire proceedings should have been recommenced and with due notice to bail. This order was, therefore, a nulilty. Instead, however, plaintiffs realizing the mistake succeeded in getting a new order on May 24, amending the previous one by the terms of which the bail are required to produce the defendant on May 27, 1927, three days later. This order by its terms immediately amerced the bail on the 24th of May, 1927, should they fail to comply with its terms on the 27th of May, 1927. That no reasonable time was allowed the bail to produce the defendant on the 27th of May, has already been pointed out, so it is contended that the second order of May 24th is like-

wise void, first, because it was obtained without notice to bail; second, because the time allowed to produce the defendant or produce new or additional bail was insufficient and unreasonable, and third, because it is void and a nullity, inasmuch as the order which it attempted to amend was itself clearly void and of no effect. If the first order was void the amended order was void.

Now on what basis is it attempted to sustain the validity and force of the order of August 4, 1927, which clearly is based upon the amercement orders of May 21, and May 24. The order of August 4, 1927, means that because the bail, Kaplan and LeVor failed to produce the defendant Anderson in court on May 27, 1927, and deliver him into the custody of the sheriff, or in lieu thereof, furnish new or additional bail on that day bail were in default. This default was the sole basis of the interlocutory judgment entered on said order in the amount of nineteen thousand eight hundred (\$19,800.00) dollars. The order was not entered because any new situation had arisen with respect to the parties thereto, but came about because the court in taking up the questions presented by the defendant Oscar Anderson in his unsuccessful attempt to set aside the capias and orders of bail, noticed that a judgment of amercement had already been entered against the bail for nine thousand nine hundred (\$9,900.00) dollars, and that execution had in fact been issued on this judgment against the bail to the point where the plaintiffs had already levied and were about to make sale of the chattels and real estate of Isadore Kaplan and Morris LeVor. The court then realizing that the plaintiffs had proceeded improperly to enter judgment, not only dismissed the proceedings instituted by the defendant as aforesaid, but included in its order the direction

that a writ of inquiry be issued to assess the damages and to determine the amount of judgment to be entered against the bail.

4.

The act provides that the bail be amerced by the court in any sum not exceeding the plaintiff's debt or demand with costs. The act gives the court the power of amercement. The amount, however, in which the bail were to be amerced is left to the discretion of the court with this exception, that the penalty imposed should not exceed the amount of the plaintiff's demand or debt. An amercement is, of course, a penalty and should be imposed without regard to the little or much of the plaintiff's damage, *Thompson v. Berry*, 65 N. C. 44-45. The term is generally used with reference to a penalty imposed upon a sheriff or other executive officer for failure to comply with a duty of his office. Under the statutes in some of the states a sheriff who is guilty of specified defaults becomes subject to penalties of definite amounts fixed by the statute or may be fined an amount not exceeding a fixed statutory limit. But where the amount of the penalty to be imposed is discretionary, the penalty should not be arbitrarily imposed. 35 Cyc., page 1889, respecting a discretionary fine, says:

“Where a discretionary fine is to be imposed the discretion of the court must be justly, and not arbitrarily exercised, and the fine must not be excessive.”

If it was the intention of the Legislature that the bail be amerced in the full amount of the plaintiff's debt or demand, the language of the act would have been mandatory, requiring an amercement “in the value of the debt and damages and costs.” But in the old statutes in this

state providing for amercements of sheriffs for certain misconduct or omissions, the language of the act was mandatory and directed that the sheriff "be amerced in the value of the debt and damages and costs." The appellants contend that the act of the court in amercing the defendants in the amount of the plaintiff's debt was arbitrarily imposed, without consideration to the justness of the plaintiff's demand, and that the court's direction in summoning a sheriff's jury to assess the amount of the damages due from the defendant to the plaintiff was clearly irregular and not within the intent or the scope of the provisions of the act under which the amercement is affected.

5.

The section of the statute aforesaid providing for amercement of bail is a distinctly penal provision and, like other penal acts, the steps and proceedings in said act directed and required must be strictly followed. Any material deviation or failure to proceed as directed in the statute must of necessity vitiate and void the entire proceedings. I have already directed the attention of the court to the order of May 21, 1927. This order was void because it failed to specify a time therein with which the bail might produce the body of the defendant or furnish additional bail. The plaintiff cannot remedy the defect in the amercement proceedings by amending the order of May 21st. The only remedy that plaintiff had in this situation was to actually commence the proceedings in amercement over again. The order of May 21, 1927, being absolutely void, it was no longer possible to rectify this error by the amended orders of May 24, 1927, and of August 4, 1927. The order of May 21, 1927, being void,

there was no order before the court that could be amended. Thus it follows that the amended orders of May 24th and of August 4, 1927, are absolute nullities.

POINT II.

Amercement is a penalty and should be enforced in the manner provided by the Practice Act.

As already stated the amercement is a penalty imposed by the court upon the bail for the alleged failure of the bail to comply with the rule directing the bail to bring in the body of the defendant or furnish new or additional bail. Section 76 of the Practice Act of 1903, 593, under which the amercement is obtained is silent as to the method to be pursued by the plaintiff for the recovery of the amercement and unless the Practice Act of 1903 fails to provide any other method of enforcement of the amercement, it may be assumed that the plaintiff could proceed in the manner heretofore prevailing. However, the Practice Act of 1903 is not silent and I respectfully refer to Section 218 of the Practice Act, C. S., page 4120, P. L. 1903, page 593, which reads as follows:

“Whenever in this act it is provided that any person shall be liable for any damages or penalty for the doing or not doing of any act, such damages or penalty may be recovered with costs by the party aggrieved by an action on contract in any court of competent jurisdiction, and every action for the recovery of a penalty imposed by this act shall be instituted within one year after the liability was incurred.”

It therefore seems to me that in view of the fact that the section under which the amercement is affected is strikingly silent as to the method

of enforcement or recovery thereof, the plaintiff was obliged to follow the section just referred to for the enforcement or recovery of his penalty or damages.

POINT III.

The error in procedure seriously affected the substantial rights of Appellants.

I believe that it is clear that the sole basis of the judgment of amercement is the failure of the bail to produce the defendant on May 27th, or in lieu thereof furnish new or additional security. Although it may be argued that the error was merely one of procedure, it is, nevertheless, obvious from an examination of the entire proceedings that it was manifestly unfair to require the bail to produce the defendant on May 27th, when bail had only received notice that they were required so to do on the day previous. It is possible that if more time had been allowed the bail to comply with the order the defendant might have been in court or in lieu thereof new or additional bail might have been furnished. From the time of the entry of the order of amercement in the latter part of May until August 4th, the position of bail was extremely difficult, because on one hand the plaintiffs had issued execution and had made levy upon real estate of bail, and on the other hand the defendant Anderson had on or about July 2, 1927, obtained a rule to show cause with *ad interim* injunction, staying the proceedings in the cause and the amercement proceedings as well, until the disposition of the rule which occurred on August 4, 1927. It is, therefore, contended that the irregularity of the proceedings were such as to render it impossible for bail to protect themselves and thus seriously af-

fected their substantial rights, since it is clear that had the proceedings been regular the bail might have been in a position to discharge themselves of liability.

The appellants, therefore, respectfully urge that the judgment of amercement entered in this cause should be reversed.

Respectfully submitted,

IRVING SIEGLER,
Attorney for Bail, Defendants-Appellants.

143 OCT. 1. 1928

Arthur W. Cross, Law Printer, 55-57 Lafayette Street, Newark, N. J.

New Jersey Court of Errors and Appeals

AMELIA SANTOS, individually and
as executrix of the will of
Joseph Santos,
Plaintiff-Appellee,

vs.

ELIZABETH ANDERSON, trading
as E. Anderson Construction
Co., and OSCAR ANDERSON,
Defendants,

and

MORRIS LEVOR and ISADORE KAP-
LAN,

Bail,
Defendants-Appellants.

*Action
at Law.*

*On Appeal
from
Supreme
Court.*

BRIEF OF PLAINTIFF-APPELLEE.

History of the Cause.

This is an appeal from the judgment of affirmance by the Supreme Court of a judgment entered in the Essex County Circuit Court on October 3, 1927, on amercement against the bail, in favor of the plaintiff after the damages of the plaintiff had been assessed by a jury upon a writ of inquiry.

The defendant, Oscar Anderson, who does not join in this appeal, was taken into custody by the Sheriff of Essex County on a *capias* (State of Case, p. 1) issued by virtue of an order to hold to bail (State of Case, p. 25). He gave bond in the sum of \$19,800 and Morris LeVor and Isadore Kaplan were his bail (State of Case, p. 27). The plaintiff's attorney excepted to the bail on

February 28, 1927, and served notice thereof upon the defendant, Anderson, and upon the appellants (the bail) on March 1, 1927 (State of Case, p. 32). The defendant and the bail ignored this notice and made no attempt to justify although the statutory period of ten days elapsed (Section 75, Chapter 247, Laws of 1903). The plaintiff then obtained on May 5, 1927, a rule to show cause to compel the bail to bring in the body of the defendant, Oscar Anderson, or be amerced. On the return of this rule to show cause and after the argument had thereon on May 21, 1927, the Court below made two orders, one on May 21, 1927, and the other on May 24, 1927 (State of Case, pp. 61 to 65 inclusive). The first order does not specify the time limit as prescribed by Section 76, Chapter 247, Laws of 1903, but the second order does. This second order was served on the bail (State of Case, p. 64, ll. 25 to 31). It could not be served on the defendant, Anderson, as he had left the jurisdiction of the court. On May 27, 1927, the bail did not produce the body of the defendant, Oscar Anderson, although that was the time limit fixed in the order of May 24, 1927 (State of Case, p. 66).

On June 29, 1927, the defendant, Oscar Anderson, through his attorney, obtained a rule to show cause why the amercement proceedings should not be set aside on the petition made and sworn to by his attorney (State of Case, pp. 67 to 73 inclusive). This rule to show cause as well as the petition was served on the attorney for the appellants (the bail) on June 29, 1927 (State of Case, p. 73, ll. 32 to 40). This rule to show cause of June 29, 1927, was argued on July 9, 1927, and the order of August 4, 1927 (State of Case, pp. 76 to 79), was made after the argument

thereon. The order of August 4, 1927, ordered that a writ of inquiry issue.

Notices of the executing of the writ of inquiry were served on the attorney of the defendant and on the attorney of the bail (appellants) on August 26, 1927 (State of Case, pp. 80 and 81). The writ of inquiry (State of Case, p. 88), was executed on September 12, 1927, as appears from the inquisition (State of Case, p. 90) and the jury assessed the plaintiff's damages at \$10,535.-50. Notice that the writ of inquiry had been executed and that final judgment would be entered was served on the attorney for the bail (appellants) on September 29, 1927 (State of Case, pp. 86 and 87).

Final judgment against the bail was entered on October 3, 1927, in the Essex County Circuit Court. Rule on affirmance was entered in the Supreme Court on August 10, 1928.

FACTS AND ARGUMENT.

This brief will not go into the facts on which the original action is based as they are set out in the complaint (State of Case, p. 3) and the affidavits for the order to hold to bail (State of Case, pp. 18 to 24 inclusive).

The brief of the appellants on the appeal to the Supreme Court argued four points. Now, in their brief to the Court of Errors and Appeals they abandon the third and fourth points argued in the Supreme Court and argue the first and second points and one new point. Their argument does not raise any objections on the merits of the case and is confined to procedural questions. The original defendants do not appeal, it is the bail alone who are the appellants (State of Case, pp. 94 and 106).

This brief follows the numbering used in the brief of the appellants and answers each point in order:

Point I.

The appellants assert, "That the judgment of amercement was entered contrary to the provisions of section 76 of an Act of the Legislature of the State of New Jersey, entitled "An Act to Regulate the Practice of Courts of Law" (Revision of 1903) Chapter 247 of the Laws of 1903."

1. To prove this assertion appellants argue that this is so because the record does not show that a judgment has been entered against Anderson, the original defendant. As a matter of fact, judgment has been entered against the defendant, Anderson. The State of the Case does not set out this judgment; and these two things, namely, the entering of judgment against the original defendant and the amercement of the bail (the appellants) for giving worthless security on the recognizance are, as the appellants themselves admit, collateral. The exceptions to the bail were filed on February 28, 1927 (State of Case, p. 31) and notice of the exception to the bail was served on the bail on March 1, 1927 (State of Case, pp. 32 and 33). The exceptions and notices were, therefore, filed and served eleven days after the recognizance of bail was filed for the statute provides that this be done within twenty days (Section 75, Chapter 247, Laws of 1903). The bail were not amerced because they did not answer for the judgment obtained against the defendant (amercement would hardly be the procedure in such case for the procedure would be, in such case, by *scire facias* or suit on the bond after a return of a

capias ad satisfaciendum by the sheriff *non est inventus*). The procedure in this case has been under Sections 75 and 76 relating to the amercement of bail for failing to justify when the plaintiff excepts to the security furnished by the bail (Sections 75 and 76, Chapter 247, Laws of 1903).

2. In quoting Section 76 in their brief the appellants leave out and represent by asterisks four lines in the middle of the section and three lines at the end. We merely comment on this, for these omitted lines relate to remedies provided by the statute for the bail and of which the bail neglected to avail themselves.

The appellants attempt to create the impression that the bail were amerced without notice. This is far from what actually happened. On February 28, 1927, the plaintiff's attorney excepted to the bail (State of Case, p. 31). Notice thereof was served on the bail (and also on Oscar Anderson, the defendant), on March 1, 1927 (State of Case, p. 32). The bail did not attempt to justify, although required by the statute to do so within ten days after receiving such notice. When the ten days had expired, the plaintiff could then have obtained an order ruling the bail to produce the defendant, but instead, after about two months had elapsed, obtained a rule to show cause on May 5, 1927 (State of Case, p. 57), giving the bail a further opportunity to produce the defendant. This order to show cause was returnable on May 14, 1927, but was continued over to May 21, 1927. On May 21, 1927, the plaintiff produced affidavits and evidence before the Court showing that the security furnished by the bail was inadequate (State of Case, pp. 33 to 56 inclusive), and although the bail were present and represented

by counsel (State of Case, p. 61, ll. 37 to 39 and p. 63, ll. 36 to 38), they did not justify nor did they produce the body of the defendant, Oscar Anderson. The bail, who are the appellants, had been twice given notice of these proceedings, by notice of exception to the bail and by service of the rule to show cause. After the argument had on May 21, 1927, the Court, on the same day, made an order which ruled the bail to deliver the body of the defendant, Oscar Anderson, into custody (State of Case, p. 61). No time limit was specified in this order. However, the order of May 24, 1927 (State of Case, p. 63), made in pursuance of the statute and in virtue of the evidence and argument on May 21, 1927, does fix a time limit. This order of May 24, 1927, was served on the bail (see State of Case, p. 64). The bail did not comply with this order and did not produce the defendant, Oscar Anderson, on May 27, 1927, as is shown by the minutes of the Circuit Court (State of Case, p. 66). Even granting that the appellants received no notice, service of the order of May 24, 1927, upon them was sufficient. (*Hoffman v. Lowell*, 58 N. J. L. 553.)

The appellants cite the case of *Boggs v. Chichester*, 13 N. J. L. 209. Granting that the same rule which applies on the return of a *capias ad satisfaciendum* also applies to amercement for not justifying (and it does not appear to be so, for on the *ca. sa.* the bail would be held for the defendant's default, while on amercement under Sections 75 and 76, the bail themselves are directly in default for furnishing inadequate security and so become directly answerable to the plaintiff), this case is not in point because in that case "The Practice Act, it is true, has been passed since, and in this particular is

silent" (to quote the words of Ewing, C. J., on the bottom of page 211 and at the top of page 212). However, our present Practice Act is not silent: The appellants have fallen into the error of reading Section 76 of the Practice Act by itself when it is necessary for a proper understanding of the matter to interpret Sections 75 and 76 together, since both pertain to the same subject. Consequently, the bail have ten days, from the notice of exceptions, to justify; and, if they fail to do so, they may be ruled to produce the defendant. They were served with notice of the exception to bail on March 1, 1927, and were amerced on May 27, 1927. How can the appellants complain, if they were given not merely the ten days fixed by the statute but from March 1, 1927, to May 27, 1927?

3. The appellants complain that they did not participate in the proceedings had by reason of the petition and affidavit on behalf of the defendant, Oscar Anderson, to set aside the entire proceedings, orders, etc. If they did not, that was their own fault—they received notice of this move by the defendant, Oscar Anderson, which they admit and cannot deny (State of Case, pp. 72 and 73). If they wished to deny the Court's jurisdiction they could have done so. But they did nothing. And can they now complain that the Court ordered an assessment of damages by a jury when they permitted the amendment of the Court's order without objection on their part and it was really for their protection. The order (State of Case, p. 76) amends the two proceeding orders by ratifying them except as to the assessment of damages; it enters judgment interlocutory and orders a writ of inquiry (*Peacock v. Haney*, 37 N. J. L. 179; *Simmons ads. Kelly*, 29 N. J. L. 438; 4 N. J.

Ad. Reports 508; *Hood v. Spaeth*, 51 N. J. L. 129). Surely no rights of the appellants were injured by this order, but rather their rights were safeguarded. The appellants say in their brief that there was no reason to apprehend that there would be an order (meaning the order of August 4, 1927), affecting the previous amercement or in any way affecting the rights of the bail. But, were they not served with the petition, affidavit and order to show cause made on behalf of the defendant, Anderson? (State of Case, p. 73). The petition and order to show cause (State of Case, pp. 67 to 73 inclusive), set out that the purpose was to set aside the amercement proceedings.

Hence the bail had notice of the attack on the amercement proceedings and should have apprehended that an amendment might be ordered by the Court. If they did not wish the defendant to attempt to set the amercement proceedings aside they could have objected to this move on the part of the defendant; but they did nothing. Suppose the defendant had succeeded in setting the amercement proceedings aside: Then we can hardly believe that the appellants (the bail) would not have accepted the benefit of the defendant's attack on the proceedings and would consider themselves no longer amerced. The appellants put themselves in the position of seeking to take the benefit of the defendant's move and to avoid the burden (although we are inclined to think that the order of August 4, 1927 did not place any burden on the appellants, but was rather for their protection).

When the Circuit Court made the order of August 4, 1927 (State of Case, p. 76), the appellants were legally in court for they had been served with the rule to show cause and the

petition and affidavit made on the part of the defendant, Anderson. This order ratified the prior orders except that the Court now ordered a writ of inquiry to issue for the purpose of assessing the plaintiff's damages. The plaintiff had entered no separate judgment of amercement; the judgment of amercement, of which the appellants in their brief speak, is the order of May 21, 1927, and the order of May 24, 1927. When the appellants attack the validity of the order of August 4, 1927, can they mean that the Court does not control its own record and has not the power to order amendments of proceedings that justice may be done? It is elementary that a court of record has sufficient control over its records to prevent them from working an injustice; it is also the duty of the Court to correct any mistake of law or fact, both of commission or omission, and which is necessary to protect and enforce the rights of parties properly before it. (*DeLisle v. Reeves*, 1 N. J. Misc. 449, affirmed in 96 N. J. E. 416; *Harris v. Street*, 1 N. J. Misc. 367.) To hold that an order of a judicial tribunal is void because defective (as the appellants contend) would be contrary to the reasoning in the case of *Lang v. Bayonne* (74 N. J. L. 455), which holds that statutes are binding although later declared unconstitutional. Consequently, judicial orders are binding and not void until set aside. In our case no order has been set aside, but rather has been ratified and such ratification cures any defect or omissions that may exist, which ratification is both a power and duty of the Court under the cases of *DeLisle v. Reeves* and *Harris v. Street* (*supra*).

4. The appellants contend that amercement is a penalty to be imposed with discretion and not arbitrarily. We will grant that. They also state

“that the act of the Court in amerencing the defendants in the amount of the plaintiff’s debt was arbitrarily imposed without consideration to the justness of the plaintiff’s demand and that the Court’s direction in summoning a sheriff’s jury to assess the amount of the damages due from the defendant to the plaintiff was clearly irregular and not within the intent or scope of the provisions of the act under which the amercement is affected.” But they offer not a scintilla of evidence, proof or justification for this statement that the act of the Court was arbitrary. How can they reconcile their contention that the Court acts with discretion and yet has not the right to determine the amount of damages by means of a jury to be sure as to what the damages are, so that the bail would not be amerced in an amount greater than the plaintiff’s claim? Under the decisions it is proper for the Court to use a jury. (*Peacock v. Haney*, 37 N. J. L. 179; *Simmons ads. Kelly*, 39 N. J. L. 438; 4 N. J. Ad. Reports 508; *Hood v. Spaeth*, 51 N. J. L. 129.) There is a failure to tell in what the Court’s arbitrariness consisted, no reason is given for the conclusion that the Court acted arbitrarily. To order a writ of inquiry after a hearing upon notice is not an arbitrary act unless some external fact is shown making it so. The statute requires that the amount of amercement be an amount not exceeding the amount of the plaintiff’s debt or demand. Here the Court amerced the bail in the amount of the plaintiff’s claim. This was a compliance with the statute; for, an amount does not exceed itself.

5. The argument which the appellants here set forth is the same as that set out in the last two paragraphs of Section 3 under Point I of the appellants’ brief and which we have already

answered; hence we shall treat this argument briefly.

To admit the contention of the appellants would be to deny courts of record the power of control which they exercise over their proceedings, acts and orders. The appellants assert that amercement of bail is a penal provision and the act must be strictly followed. Under the cases which we have already cited (*Harris v. Street*, 1 N. J. Misc. 367 and *DeLisle v. Reeves*, 96 N. J. E. 416), the Court has not only the power of amendment, but also the duty. Certainly the Court may amend its own orders and mold the proceedings to the course prescribed by the statute. The appellants would appeal from the Court's action if this had not been done and now they are appealing because it was done. During all the proceedings the appellants stood by, although constantly notified of the various steps of procedure, and neither objected nor aided the Court in anywise. Consequently they should not now be heard in objecting to any alleged defects when the same have been amended and cured by subsequent action by the Court and which they permitted to go unopposed, although legally in court. Moreover a defect in an order does not render it void, but it is binding until set aside; and, if it be subsequently amended and ratified, the defect is wiped out. To hold as the appellants contend would permit persons to pass their own judgment on judicial orders and would weaken the powers of our courts.

Point II.

The appellants state "Amercement is a penalty and should be enforced in the manner provided by the Practice Act."

In arguing this point and in arriving at the desired conclusions the appellants fall into two fallacies; first, that Section 218 of the Practice Act (Section 218, Chapter 247, Laws of 1903, page 593) is mandatory; and second, that Section 76 does not state the procedure of amercement. However, Section 76 is not silent and when read with Section 75, prescribes the procedure of amercing bail.

Point III.

The appellants state "The error in procedure seriously affected the substantial rights of appellants."

This point was not argued by the appellants in the Supreme Court, but is now set forth because the Supreme Court in its opinion stated that Section 27 of the Practice Act of 1912, was a bar to reversal.

We have already stated that Sections 75 and 76 of the Practice Act must be read together and that the amercement was had in pursuance thereto. Consequently, under the statute the bail had ten days from March 1, 1927, in which to justify or produce the defendant, Anderson, yet the plaintiff gave the bail until May 27, 1927, to produce the defendant, Anderson, nearly three months. And yet they state "that if more time had been allowed the bail to comply with the order the defendant might have been in court or in lieu thereof new or additional bail might have been furnished."

The appellants were aware of the attempt on the part of the defendant, Anderson, to set aside the amercement proceedings. They received exactly the same notice of this move that the plaintiff received. The plaintiff, however, appeared in court and contested the defendant's move and had the amercement proceedings sustained. Of course, it is not hard to believe that the appellants desired the defendant to succeed in the attempted vacation of the amercement. And now they claim that it was to their disadvantage and put them in a difficult position. This is not consistent.

What the appellants claim were irregularities were really opportunities to the bail, extended to protect their rights; not only were proper and ample notices given to the bail throughout the proceedings, but anything that could be construed as detrimental to their rights was corrected and sufficient opportunity afforded that they might avail themselves thereof.

SUMMARY.

1. The court below had the power to amend the orders made by it (Section 23, Chapter 231, Laws of 1912, page 381).
2. The appellants cannot complain of these amendments of the orders when no substantial rights that they may have had were injuriously affected by the amendments but rather their rights were thereby more fully protected (Section 27, Chapter 231, Laws of 1912, page 382).
3. An examination of the whole case will disclose that plaintiff-appellee obtained no adjudication against the bail (appellants) except after compliance with the statutes and ample notice

thereof to the bail (Section 27, Chapter 231, Laws of 1912).

4. The bail (appellants) did not object to these proceedings in the court below. The only active move made by the appellants to protect their rights was their attempt to justify on May 21, 1927, through their counsel, though they produced no evidence to support a justification. (The bail did apply to the Supreme Court on June 25, 1927, for a writ of certiorari which was denied by the Chief Justice, but no papers having been filed by them it is not a part of the record and cannot be considered as an assertion of their rights by the appellants.)

5. The court below controls its own record (*DeLisle v. Reeves*, 96 N. J. E. 416).

6. The bail (appellants) received not only the notice prescribed by Section 75, Chapter 247, Laws of 1903, but were served with the rule to show cause, before they were ruled by the court below to bring in the body of the defendant and failing so to do to be amerced.

7. The bail (appellants) received notice of the various motions and orders, and no adjudication was made without the knowledge of the appellants.

8. The plaintiff has the right to have the defendant's body held in custody, or to have ample security in lieu thereof, to answer for her damages; this right the appellants have deprived her of by their furnishing inadequate security as bail.

9. The bail were not amerced at the time the orders of amercement were made, but were amerced when, and at the time, they failed to produce the body of the defendant, namely, on

May 27, 1927, as the minutes of the Circuit Court show (State of Case, p. 66), and as the language of the orders of amercement states.

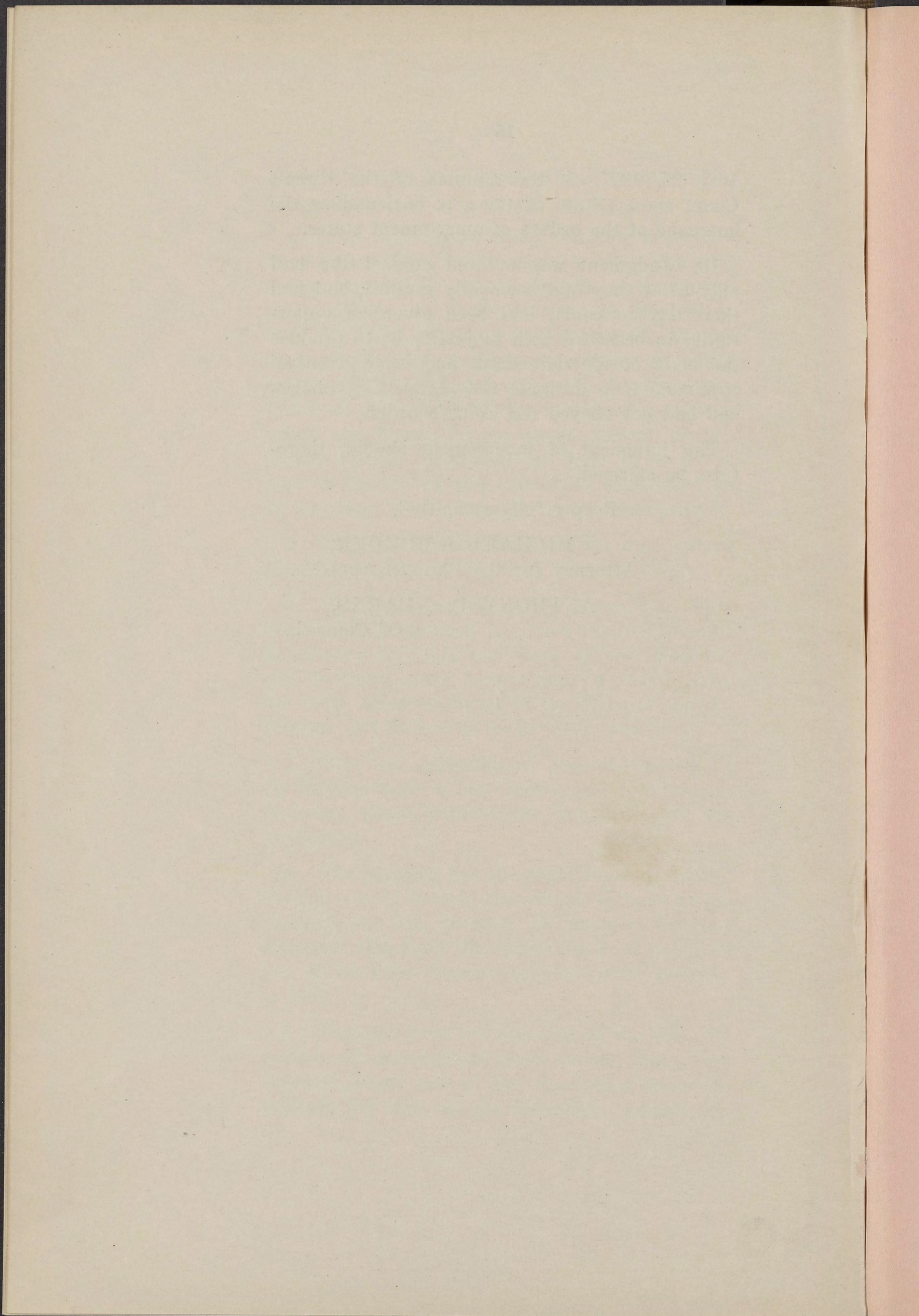
10. Judgment was entered against the bail only after they had been duly notified, had had their day in court, had been given an opportunity to be heard both to justify or to produce the body of the defendant, had been given an opportunity to mitigate the plaintiff's damages and had not obeyed the Court's order.

The judgment of amercement should, therefore, be affirmed.

Respectfully submitted,

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Attorney for the Plaintiff-Appellee.

ANTHONY P. KEARNS,
Of Counsel.



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