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Notice of Appeal.

In Chancery of New Jersey.

Between

GIACINTA ZEZIMA,

Complainant,

and

LUCIANO ZEZIMA,

Defendant.

On Bill &c.  
Notice of  
Appeal.

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The complainant, Giacinta Zezima, herein appeals from the final decree made in this court, in the above stated cause, and from the whole and every part thereof to the Court of Errors and Appeals in the last resort in all causes. 30

Dated:—September 30, 1925.

NATHAN H. BERGER,

Solicitor for and of counsel with Complainant.

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10                    **Petition of Appeal from Final Decree.**  
**NEW JERSEY COURT OF ERRORS AND**  
**APPEALS**

20	Between GIACINTA ZEZIMA, Complainant-Appellee, and LUCIANO ZEZIMA, Defendant-Appellant.	}	On Bill &c. Petition of Appeal from Final Decree.
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To the HONORABLE COURT OF ERRORS AND APPEALS  
 IN THE LAST RESORT IN ALL CAUSES.

30            The petition of Giacinta Zezima, the appellee in  
 the above stated case respectfully shows:

Your petitioner finds herself aggrieved by a final decree made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, bearing date September 22, 1925, wherein Giacinta Zezima was complainant, and the said Luciano Zezima was defendant, in this respect to wit:

40            1. That the said final decree denies complainant's prayer that the defendant should have been ordered and decreed to provide suitable support and maintenance, to be paid and provided by him, or made out of his property, for the complainant and the child of the marriage of the complainant and defendant.

2. That the said final decree adjudges and decrees that the complainant is not entitled to separate maintenance from her said husband in the

*Appeal from Final Decree.*

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face of proof, uncontradicted in this case, that the defendant married another woman, with whom he co-habited, and with whom he has had children and that at the same time the defendant abandoned the complainant and the child of the marriage of the complainant and defendant.

3. That the said final decree adjudged and decreed that the complainant has been guilty of infidelity and that she committed the act of adultery with Mario Zezima, brother of the defendant, Luciano Zezima. 20

4. Your petitioner humbly appeals from the said final decree of Chancery, which decrees as aforesaid, upon the ground that the same is erroneous for that:

a. The complainant is entitled to the relief prayed for by her in her bill of complaint. 30

b. The Court of Chancery by its said final decree should have granted separate maintenance to the complainant and the child of the marriage of the complainant and the defendant.

c. Said final decree should not have adjudged the complainant guilty of the act of adultery with the said Mario Zezima. 40

Your petitioner, therefore, prays that the said decree of said Chancellor be set aside for nothing holden, and that your petitioner may have such relief in the premises as this Honorable court shall seem meet.

NATHAN H. BERGER,  
Solicitor and of counsel with petitioner.

10

**Answer to Petition.**NEW JERSEY COURT OF ERRORS AND  
APPEALS.

Between

GIACINTA ZEZIMA,  
Complainant-Appellant,

20

and

LUCIANO ZEZIMA,  
Defendant-Respondent.On Bill, etc.  
On Appeal  
from Chancery.Answer to  
Petition.

The answer of the Respondent to the petition of appeal of the appellant.

30

The respondent admits it to be true that a certain final decree was entered in the Court of Chancery in the above stated cause on September 22nd, 1925, as in the petition of appeal is etated; but as to the substance and form thereof this respondent prays to refer thereto when the same shall be produced.

40

And this respondent is advised and believes that said decree is agreeable to law and equity, and he prays that the same may be affirmed, with costs to be adjudged to this respondent.

T. MANCUSI-UNGARO,  
Solicitor for Respondent.

HERMAN B. J. WECKSTEIN,  
Of Counsel for Respondent.

## Bill of Complaint.

10

## IN CHANCERY OF NEW JERSEY.

Between

GIACINTA ZEZIMA,  
Complainant,

and

LUCIANO ZEZIMA,  
Defendant.

On Bill &amp;c.

Bill of  
Complaint.

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

The complainant, Giacinta Zezima, of the Town  
of North Bergen, County of Hudson and State of  
New Jersey, respectfully shows and alleges: 30

1. Your complainant was lawfully joined in  
the bonds of matrimony to her present husband,  
Luciano Zezima, on the sixth day of December,  
1900, by L. Terenzio, an officer of the Civil State  
of the Community of Settefrati, and Province of  
Caserta, Italy.

2. Complainant and defendant resided in the 40  
Community, Province and Country aforesaid, un-  
til about March 1901, when he left complainant in  
Italy and departed for the United States of Amer-  
ica, where he has been living ever since.

3. On or about October 1905, complainant came  
to the United States of America to live with the  
defendant, and they thereupon took up their resi-  
dence in the City of New York, County of New  
York and State of New York, where they resided

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*Bill of Complaint.*

together until November 1906. During the period aforesaid, to wit: on July 21st, 1906, a child was born to the complainant as the fruit of their marriage, to wit: Amelia Zezima, who is now sixteen years of age and who has at all times been in the custody of the complainant. On November 1906, complainant and their child Amelia, at the request of the defendant, left for Italy and continued to reside in Italy with said child Amelia until May 1914, when complainant returned to the United States of America to resume her domicile with the defendant in the City of New York. Upon the return of the complainant to New York City, the defendant refused to permit complainant to reside with him, and defendant insisted that complainant return to Italy. Complainant frequently pleaded with defendant to establish a home for themselves and their daughter Amelia, but defendant refused to do so. Defendant maintained a furnished room in New York City and refused to provide any money for the support of the complainant and their child Amelia, although he periodically contributed the meagre sum of Twenty-five (\$25.00) dollars per month to the complainant until March 1st, 1923, when he ceased contributing anything whatsoever towards the support of the complainant and their daughter Amelia.

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4. On the 17th day of November 1907, the defendant, under the name of Louis Zema, wickedly disregarding the solemnity of his vows and the sanctity of the marriage state, married one Margaret Schaffhauser at St. Joseph's Church, Yorkville, New York, through a minister of the gospel and has ever since that day co-habited with the said Margaret Schaffhauser, and has ever since,

*Bill of Complaint.*

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and for the past two years resided with the said Margaret Schaffhauser at Bradley Beach, New Jersey. Defendant holds out said Margaret Schaffhauser as his lawfully wedded wife. Two children have been born to the defendant and the said Margaret Schaffhauser, and the defendant holds out said children as his lawful children. Complainant has annexed hereto a copy of the marriage certificate issued to the said Louis Zema and Margaret Schaffhauser upon their marriage aforesaid.

20

5. By virtue of the residence of the defendant in the State of New Jersey for more than two years last past, the complainant has during said period been and now is a bona fide resident of this State, and although complainant makes her permanent home at the present time at the Town of North Bergen aforesaid, she believes that her legal residence is at Bradley Beach, New Jersey, where the defendant now resides and has resided for more than two years last past continuously.

30

6. Complainant therefore charges that the defendant without any justifiable cause has abandoned complainant and has separated himself from her and refuses and neglects to maintain and provide for her and Amelia their child, and that complainant is now dependent for the support of herself and her child upon her own exertions.

40

7. Complainant charges that defendant is possessed of a large amount of real and personal property; that he is the owner of real estate at Bradley Beach, New Jersey, of the value exceeding ten thousand (\$10,000) dollars wherein his equity is about said amount; that he runs a lucrative busi-

*Bill of Complaint.*

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ness of furnishing watchmen for property at which business he earns an income of two hundred (\$200.) dollars per week, as complainant is informed and believes, although she does not know the exact amount of his said income; that he operates an automobile for pleasure; that defendant is abundantly able to maintain and support her and their child Amelia in a manner suitable to their position; that such support and maintenance as will be ordered for complainant and child should be made out of the property of the defendant and that the defendant be compelled to give reasonable security for such maintenance and allowance.

20

In consideration whereof, and forasmuch as your complainant can be relieved only in this court:

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To the end, therefore, that the said defendant, Luciano Zezima, may answer the premises, without oath, and that he may be ordered and decreed to provide such suitable support and maintenance, to be paid and provided by him, or made out of his property, for your complainant and child of the said marriage, and for such times as the nature of the case and the circumstances of the parties render suitable and proper; and that the said defend-

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ant may be compelled to give reasonable security for such maintenance and allowance, and to pay the same from time to time under the compulsory orders of this Honorable Court, as provided by the statute (and in case the defendant cannot be found in this State to be served with process, that his estate, property and effects in this State may be sequestered to compel his appearance and performance to any decree as shall seem fit to your Honor); and that the defendant may be required to pay to your complainant a proper amount for counsel

*Bill of Complaint.*

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fees, and that she may have such further equity as to your Honor shall seem meet.

May it please your honor, the premises considered, to grant unto your complainant the State's writ of subpoena, issuing out of and under the seal of this honorable court, to be directed to the said defendant, Luciano Zezima, commanding him by a certain day and under a certain penalty therein to be expressed, to be and appear before your Honor in this Honorable Court, then and there to answer all and singular the said premises, and to abide by and perform such order and decree therein as to your Honor shall seem meet, and shall be agreeable to equity and good conscience.

20

And your complainant, as in duty bound, will ever pray, &c.

NATHAN H. BERGER.

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Solicitor for and of Counsel with Complainant.

State of New Jersey }  
County of Essex } ss.:

Giacinta Zezima, of full age being duly sworn according to law on her oath, deposes and says:

She is the complainant named in the annexed Bill of Complaint. That she has read the same and knows the contents thereof and avers that the same are true.

40

Deponent further says, that:

1. Your deponent was lawfully joined in the bonds of matrimony to her present husband, Luciano Zezima, on the sixth day of December, 1900, by L. Terenzio, an officer of the Civil State of the

*Bill of Complaint.*

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Community of Settefrati, and Province of Caserta, Italy.

2. Deponent and defendant resided in the Community, Province and Country aforesaid, until about March 1901, when he left deponent in Italy and departed for the United States of America, where he has been living ever since.

20

3. On or about October 1905, deponent came to the United States of America to live with the defendant, and they thereupon took up their residence in the City of New York, County of New York and State of New York, where they resided together until November 1906. During the period aforesaid, to wit: on July 21st, 1906, a child was born to the complainant as the fruit of their marriage, to wit: Amelia Zezima who is now sixteen years of age and who has at all times been

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in the custody of the deponent. On November 1906, deponent and their child Amelia, at the request of the defendant left for Italy and continued to reside in Italy (also at the defendant's request), with said Amelia until May 1914, when deponent returned to the United States of America to resume her domicile with the defendant in the City of New York. Upon the return of the deponent to

40

New York City, the defendant refused to permit deponent to reside with him, and defendant insisted that deponent return to Italy. Deponent frequently pleaded with defendant to establish a home for themselves and their daughter Amelia, but defendant refused to do so. Defendant maintained a furnished room in New York City and refused to provide any money for the support of the deponent and their child Amelia although he periodically contributed the meagre sum of Twenty-five (\$25.00) dollars per month to deponent until

*Bill of Complaint.*

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March 1st, 1923, when he ceased contributing anything whatever towards the support of the deponent and their daughter Amelia.

4. On the 17th day of November 1907, the defendant, under the name of Louis Zema, wickedly disregarding the solemnity of his vows and the sanctity of the marriage state, married one Margaret Schaffhauser at St. Joseph's Church, Yorkville, New York, through a minister of the gospel and has ever since that day co-habited with the said Margaret Schaffhauser, and has ever since, and for the past two years resided with the said Margaret Schaffhauser at Bradley Beach, New Jersey. Defendant holds out said Margaret Schaffhauser as his lawfully wedded wife. Two children have been born to the defendant and the said Margaret Schaffhauser, and the defendant holds out said children as his lawful children. Deponent has annexed hereto a copy of the marriage certificate issued to the said Louis Zema and Margaret Schaffhauser upon their marriage as aforesaid.

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5. By virtue of the residence of the defendant in the State of New Jersey for more than two years last past, the deponent has during said period been and now is a bona fide resident of this State, and although deponent makes her permanent home at the present time at the Town of North Bergen aforesaid, she believes that her legal residence is at Bradley Beach, New Jersey, where the defendant now resides and has resided for more than two years past continuously.

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6. Deponent therefore charges that the defendant, without any justifiable cause, has abandoned deponent and has separated himself from her and refuses and neglects to maintain and provide for her and Amelia their child, and that deponent is

*Bill of Complaint.*

10

now dependent for the support of herself and her child upon her own exertions.

20

7. Deponent charges that defendant is possessed of a large amount of real and personal property; that he is the owner of real estate at Bradley Beach, New Jersey, of the value exceeding ten thousand (\$10,000) dollars wherein his equity is about said amount; that he runs a lucrative business of furnishing watchmen for property at which business he earns an income of two hundred (\$200) dollars per week, as complainant is informed and believes, although she does not know the exact amount of his said income; that he operates an automobile for pleasure; that defendant is abundantly able to maintain and support her and their child Amelia in a manner suitable to their position; that such support and maintenance as will be ordered for deponent and child should be made out of the property of the defendant and that the defendant be compelled to give reasonable security for such maintenance and allowance.

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GIACINTA ZEZIMA.

Sworn and subscribed to before me }  
 this eighth day of June, 1923. }

40

**Answer and Counterclaim.**

10

## IN CHANCERY OF NEW JERSEY.

Between

GIACINTA ZEZIMA,  
Complainant,

and

LUCIANO ZEZIMA,  
Defendant.On Bill &c.  
Answer and  
Counter-Claim 20

The answer of the defendant, Luciano Zezima, and the counter-claim of the said defendant Luciano Zezima against the complainant Giacinta Zezima.

30

This defendant Luciano Zezima answering the Bill of Complaint, says that:

1. He admits the first paragraph.
2. He admits the second paragraph and states that when he left complainant in Italy, it was with the consent of the complainant and for the purpose of bettering his condition so that he could have his wife re-join him in America as soon as his financial circumstances would permit. 40
3. In October 1905 complainant came over from Italy under the name of Giacinta Coloriso and as the wife of Peter Coloriso. He took his wife to the rooms at No. 304 West 69th Street, New York City, N. Y., but she insisted on having Coloriso live at the same address. In 1906 after Amelia Zezima was born and after the complainant admitted to this defendant that she had committed adul-

*Answer to Counterclaim.*

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tery with Peter Coloriso, she agreed with this defendant that she would go back to Italy and never bother him again, and accordingly she went back to Italy. In 1914 the complainant returned to New York, this time as the wife of one Alfredo Andormello, and about two weeks later this defendant was arrested on a complaint made by her for non-support. The case came up one week later and was dismissed. He denies the statements contained in the third paragraph excepting what has been admitted in this answer.

20

4. He admits the fourth paragraph, but states that he was informed that his said wife, the complainant herein, having been guilty of adultery, the marriage to her was void, and he was strengthened in this belief by the fact that the said complainant so stated when she left for Italy.

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5. He admits the fifth paragraph.

6. He denies the sixth paragraph.

7. He denies the seventh paragraph and states that his income is only about One Hundred (\$100.00) Dollars per month.

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By way of counter-claim against complainant, the defendant Luciano Zezima says that during the time from October 1905 until November 1906 the complainant committed adultery with one Peter Coloriso.

1. In the year 1914 both at Long Branch, New Jersey and in New York City, N. Y., and up to the early part of 1915 the said complainant committed adultery with one Mario Zemo, a brother of this defendant and divers other persons unknown to this defendant.

*Answer to Counterclaim.*

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2. From the early part of 1915 to the present date, the said complainant has committed adultery with several other persons unknown to this deponent.

This defendant further prays:

1. That this complainant may answer this counter-claim and each statement herein made.

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2. That he be hence dismissed with his costs and charges in this behalf most wrongfully sustained.

THEMISTOCLES M. UNGARO,  
Solicitor for Defendant.

**Replication.**

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IN CHANCERY OF NEW JERSEY.

Between

GIACINTA ZEZIMA,  
Complainant,

and

LUCIANO ZEZIMA,  
Defendant.

On Bill &c.  
Replication

40

The complainant joins issue on the answer of the defendant.

1. She denies the allegations in the third paragraph of the answer, which are to the effect that this complainant insisted to have one Coloriso live at the home of the complainant and defendant.

10

*Replication.*

2. She denies the allegation that she ever admitted to defendant that she committed adultery with Peter Coloriso.

3. She denies that she ever agreed with the defendant that complainant would go to Italy and never bother the defendant again.

20

4. She denies that in 1914 she returned to New York as the wife of Alfredo Andormello.

As to the counterclaim contained in said answer, this complainant denies the allegations contained in paragraph 1, to wit, that the complainant committed adultery with one Mario Zemo, brother of the defendant and with divers other persons unknown to the defendant.

30

She denies the allegations contained in the second paragraph of said counter claim, that from the early part of 1915 to the present date, the said complainant committed adultery with divers persons unknown to the defendant, and she denies that the defendant is entitled to the relief prayed for by him in the said counter claim.

NATHAN H. BERGER,  
Solicitor of complainant.

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I hereby consent to the filing of the within replication as of time.

THEMISTOCLES MANCUSI-UNGARO,  
Solicitor of defendant.

**Final Decree.**

10

## IN CHANCERY OF NEW JERSEY.

Between

GIACINTA ZEZIMA,  
Complainant,

and

LUCIANO ZEZIMA,  
Defendant.On Bill &c.  
Final Decree.

20

This cause coming on to be heard in the presence of Nathan H. Berger, solicitor for complainant, and T. Mancusi-Ungaro, Solicitor for defendant, and the pleadings and proofs having been read, and the arguments of the respective solicitors having been heard and considered, and the Court having duly considered said pleadings, proofs and arguments, and it appearing to the Court that the complainant has been guilty of adultery and therefore is not entitled to the relief sought and prayed for by her in her bill of particulars.

30

It is on this 22nd day of September One thousand nine hundred and twenty-five, ORDERED. ADJUDGED AND DECREED that the complainant's bill be and the same is hereby dismissed with costs.

40

It is further ORDERED, ADJUDGED AND DECREED that the defendant, Luciano Zezima pay for the support of his daughter Amelia, the sum of Twenty (\$20.00) Dollars per month, until the further order of this Court.

It is further ORDERED, ADJUDGED AND DECREED that the defendant, Luciano Zezima pay to Nathan H. Berger, counsel for the complainant, the fee of One Hundred (\$100.00) Dollars.

Respectfully advised:

Alonzo Church, V. C.

E. R. Walker, C.

10

**Case.**

## IN CHANCERY OF NEW JERSEY.

Thursday, March 5, 1925.

20 Between

GIACINTA ZEZIMA,  
Complainant,

and

LUCIANO ZEZIMA,  
Defendant.

30

Transcript of shorthand notes of testimony taken in the above entitled cause before his Honor, Alonzo Church, Vice-Chancellor, at the Chancery Chambers, Newark, New Jersey, in the presence of Nathan H. Berger, Esq., for complainant; Themistocles M. Ungaro, Esq., for defendant.

40

GIACINTA ZEZIMA, sworn for the complainant.

Direct-examination by Mr. Berger:

Q. Mrs. Zezima, you were married to Luciano Zezima? A. Yes, sir.

Q. In the year 1900? A. Yes, sir.

Q. In what city were you married? A. Settefrati, Italy.

Q. Is this the certificate of your marriage to Mr. Zezima (showing witness paper)? A. Yes.

*Giacinta Zezima—Direct—for Complainant.* 10

Mr. Berger: I have shown it to counsel and I offer it in evidence.

(Certificate marked Exhibit C-1).

Q. After your marriage to Mr. Zezima, where did you go to live with him? A. In his house, Settefrati.

Q. Is this town in Italy? A. Yes, sir.

Q. How long did you live there at this place with him, how many years? A. Well, since 1900 until 1901, and then he come over alone. 20

Q. Then he went over to America? A. Yes, sir.

Q. And did he leave you there at the same place? A. Yes; with his family.

Q. When did he get you to the United States thereafter? A. To come over?

Q. When did you come over? A. In 1905.

Q. Did he send for you? A. Yes, sir. 30

Q. And when you arrived in the United States, did he call for you at Ellis Island? A. Yes, sir.

Q. At the ship? A. Yes, sir.

Q. And where did you go to live with him after that, after you came to the United States? A. New York City.

Q. Do you remember what house? A. 304 West 69th Street. 40

Q. What kind of an apartment did you have over there, how many rooms? A. Four rooms.

Q. And did your husband live there with you? A. Yes, sir.

Q. How long did you live there at that house—flat with your husband? A. About fifteen months.

Q. What happened at the end of those fifteen months? A. When my daughter was born and he started to say that he can't have no family here no more because he has intentions to go back to Italy.

10           *Giacinta Zezima—Direct—for Complainant.*

Q. Just a moment. Was your daughter born in this flat that you speak of? A. Yes, sir.

Q. What is your daughter's name? A. Amelia.

Q. And she is here in court? A. Yes, sir.

Q. When was she born? A. 1906, July the twenty-first.

Q. You say that, after your daughter was born, your husband said he had intentions to go back to Italy? A. Yes, sir.

The Court: When did she arrive in this country?

Q. When did you arrive in this country? A. 1905.

Q. (By the Court.) What month? A. November—October or November, something like that.

30    Q. (By the Court.) The child was born in July, 1906? A. I don't remember the date that I come over, but I know— (interrupted)

The Court: All right.

Q. Yes. Well, now, did your husband, after he said that he wanted to go back to Italy, make any further suggestions to you? A. He said I should come there and take care of his grandmother, she was all alone and there was nobody to take care of her.

40    Q. Where was she? A. She was all alone in her own house alone.

Q. What country? A. Settefrati.

Q. In Italy? A. Yes, sir.

Q. In the old country? A. In the old country.

Q. And what did he say about himself, as to what he was going to do? A. He said, "After two

*Giacinta Zezima—Direct—for Complainant.* 10

years I will be back myself. If I don't be back in two years, I will send for you again here."

Q. And did you then go back to Italy? A. I obey him.

Q. Did you go back there with your child? A. Yes, sir.

Q. With Amelia? A. Yes, sir.

Q. And how long did you stay there thereafter? A. I stayed about—1914 I came back here again. 20

Q. When did you leave, do you recall, for Italy? A. 1906.

Q. I know, but what part of 1906? A. November.

Q. During the time that you were in Italy, that is, from 1906 to 1914, did you have correspondence with your husband, letters? A. Sure, yes.

Q. And did he send you money? A. Yes, sir.

Q. How were you supported; who supported you; how did you support yourself? A. My husband. 30

Q. Yes. And he wrote you letters, did he, during all this time? A. Yes, sir.

Q. Were they affectionate letters?

Mr. Ungaro: I object to that, your Honor, please.

The Court: You should produce the letters.

Q. Have you those letters? A. I got a few, but I don't bring over here; I don't think that I needs. I don't know about that. 40

Q. Did he send you money during all this time? A. Yes, sir.

Q. What happened in 1914? A. Well, my father-in-law was here himself, but when he came over he told me he was going to let me know something about why he don't want to come back. It was seven years.

*Giacinta Zezima—Direct—for Complainant.*

10

Q. Your father-in-law, you say, was in the United States? A. Yes, sir.

Q. And whose father is that, your husband's father? A. Yes, sir.

Q. When did he come to the United States? A. He come 1914 in January.

Q. I see. A. 1913—1914.

20

Q. 1914. You said he promised you to find out why Mr. Zezima didn't want to come back? A. Didn't want to come back.

Q. Was that before you left for the United States? A. Yes.

Q. When Mr. Zezima came to the United States, did you hear from him after that? A. I was waiting for his letter to let me know about it and, all of a sudden, one letter come to his wife. He has got a second wife.

30

Q. I see. Whose wife do you refer to now, Mr. Zezima's father's wife? A. Yes.

Q. The second wife? A. The second wife. So a letter came, everywhere told him there was coming — (interrupted)

Mr. Ungaro: I object.

40

Q. Wait a minute. There was a letter came. As a result of this letter, what did you do, not what you said, what did you do? A. He was send his wife to not make me read that letter, and I thought there was something the matter with my husband and I take my paper and I come over just for that to find out just what was the matter.

Q. Well, when you came over to the United States, did you bring your daughter with you? A. Yes.

Q. When did you get here, in 1914? A. In 1914.

*Giacinta Zezima—Direct—for Complainant.* 10

Q. I see. What part of 1914? A. May, nineteenth of May I got here.

Q. Nineteenth of May, 1914? A. Yes, sir.

Q. And during the time that you were away from your husband did you ever write him about your coming to the United States? A. Yes, sir.

Q. What did he say in answer to that?

Mr. Ungaro: I object to that, your Honor, please. 20

The Court: Yes. You must produce the letter first.

Q. Well, then, when you came here, how did you locate your husband? A. He was in Long Branch and I called up that I was here and I called up on Sunday and he come on Monday. He find—he say he couldn't come the same day, but he come on Monday. 30

Q. When you called up, where did you call up from? A. From Long Branch, the place where he was.

Q. When you telephoned, where did you telephone from? A. From New York, Sixty-ninth Street.

Q. You had members of your family who lived in New York City at that time? A. Yes, sir. 40

Q. You have a brother there? A. Yes, sir.

Q. And other members of your family? A. Yes, sir.

Q. And who received you, when you came to this country, who took you off? A. His sister.

Q. And did you go to his sister's home then? A. Yes.

Q. And then you say you went to Long Branch? A. I went to Long Branch after, the year after.

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Q. Well, I mean, when you arrived in the United States in 1914,— A. Yes.

Q. —how did you get in touch with your husband?

The Court: She telephoned him.

A. I telephoned. Then he came to New York.

20      Q. And where did he come to, what place? A. He come down at the door and he let me know, he sent for me and I went over there and he told me that I should rent a room, that he couldn't stay in New York on account of his business, and he gives me money to rent a room and he tell me to tell his brother to take care of this room for me, that he was more experienced—not experienced, but he was there, he knows better how to look around to find this room.

30      Q. Now, this brother you refer to, what is his name? A. Mario.

Q. For whom was Mario working at that time? A. With him, with my husband.

Q. How old was Mario in 1914? A. About seventeen.

Q. He was about seventeen? A. Yes.

40      Q. And your husband, you say, suggested that Mario should rent a room for you? A. And then his sister did.

Q. Whose sister did? A. His sister did find a room for me.

Q. Who is who? Do you mean your husband's sister? A. Yes.

Q. What is her name? A. Louisa.

Q. And where did they find this flat for you? A. Right next door, 315 Sixty-ninth Street.

Q. She was then renting a flat in this house? A. Yes; just next door to her.

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Q. Next door to whom? A. To his sister.

Q. How many rooms did you have in this flat?

A. Three rooms.

Q. Who lived in this flat? A. My daughter and I.

Q. And who else? A. Mario, when he come back from Long Branch he stood with me about three months.

Q. Now that is your husband's brother? A. Yes. 20  
He was waiting until he was coming back to find out if he was going to make me stay there, if he was going to take me to some other place.

Q. Who was going to make you stay there? A. If he was going to go over there or either take me some other place.

Q. Who suggested that Mario should stay in your— A. His sister. 30

Q. —flat? A. To not make me stay all alone, he could have stayed there awhile to give me company.

Q. How old are you, Mrs. Zezima? A. I am forty-two years old.

Q. Forty-two? A. Yes, sir.

Q. And from the time that you arrived in the United States until the time when Mario came to live with you in this apartment, did your husband come to see you from time to time? A. Yes. 40

Q. How often did he come to see you? A. Not very often, about once a month when he was in—he was in Long Branch.

Q. And did he come to see you once a month? A. Yes.

Q. Now, who gave you the money to pay for your— (interrupted) A. He did.

Q. —expenses, and so on? A. He did.

Q. How many rooms did you have in this flat? A. Three.

10      *Giacinta Zezima—Direct—for Complainant.*

Q. How were they furnished? A. Two bed rooms and a kitchen.

Q. Who occupied one of these bed rooms? A. Mario.

Q. And who occupied the other bed room? A. I did.

Q. What is that? A. Myself and my daughter.

20      Q. Now, do you know a party by the name of Nicholas Tamburri? A. Yes, sir.

Q. During the time that you lived at this flat at 315 West Sixty-ninth Street did he live in the same house at that time? A. Yes, sir.

Q. And he is here in court? A. Yes, sir.

Q. And do you know a party by the name of Amelio Pia? A. Yes, sir.

30      Q. And where did he live at that time? A. At 319, the next building.

Q. During that time? A. Yes, sir.

Q. Were these two men, that is, Nicholas Tamburri and Amelio Pia, in the habit of calling in your flat, to see Zezima, that is Mario Zezima? A. Yes.

Q. Do you know a party by the name of Mario Palubo? A. Yes.

40      Q. Did this party live, during this time, near this house where you lived? A. 307.

Q. And did this party call frequently on Mario Zezima, during this time? A. Yes, sir.

Q. Are these people here in court? A. Yes, sir.

Q. Now, during that time that you lived at this flat, what was your husband's business? A. He was night watchman.

Q. Well, was he just alone a night watchman? A. In the summer time, and in the winter time he used to be furnace man.

Q. Well, did he do it all alone or did he have a

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lot of people working for him? A. He has his two brothers.

Q. Didn't he have a lot of other men working for him, during these times? A. In the winter time he has only his two brothers.

Q. I mean, in the summer time. A. In the summer time he has a lot of men.

Q. What do you mean by "watchman"? What does he watch? A. The houses of rich people. 20

Q. One house or the houses of lots of people? A. Lots of houses, rich men's houses, rich people's houses.

Q. Now, after you were here for a while, did he make arrangements for you to go to live elsewhere, to live at some other place? A. No.

Q. Well, didn't you go down to Long Branch? A. I did.

Q. Who arranged that you should go there? A. I write to him that my daughter needs some bathing—you know, she should go in the beach. 30

Q. Bathing in the ocean? A. Bathing in the ocean. So he didn't answer me so I wrote another letter and I says, "If you don't answer me this letter, that means that you want me to come." And I don't receive no answer neither, so then I went; I went and he told his brother to take me to the room where he is because he can't keep me in the room where he is. 40

Mr. Ungaro: I object to that, unless it is shown who was present.

The Court: What is this?

(Answer read.)

The Court: That won't do, unless she was present.

10 *Giacinta Zezima—Direct—for Complainant.*

Q. Did you go— (interrupted)

Q. (By the Court.) Were you present when he told his brother to take you? A. No.

Q. (By the Court.) Did you hear him tell his brother to take you? A. No; I didn't hear him. I was going to wait there in a strange place.

The Court: Never mind.

20

Q. Did you rent a room in a rooming house or boarding house in Long Branch? A. Yes.

Q. Do you remember the address of the place?  
A. I remember the street, but I don't remember— (interrupted)

Q. What was the name of the street? A. Jeffer.

Q. Who occupied that room with you? A. My daughter.

30

Q. Yes. And this brother, Mario, lived with you in the old country, too, didn't he, at your house?

A. When he was smaller?

Q. Yes. A. Sure.

Q. At what age did you take him into your family? A. Seven.

Q. I mean, what age was he? A. About seven or eight years old.

40 Q. Did he have any parents? A. No; his father, his mother was dead.

Q. And at whose suggestion did you take Mario into your home as a boy of seven or eight? A. The whole family was in.

Mr. Ungaro: I object, your Honor, please, seven years old.

Mr. Berger: This is a case where we want to show the relationship of people. Here is a woman who brought up a boy from child-

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hood. I think I have a perfect right. It is quite important that your Honor should know the situation.

The Court: Yes. I will admit it.

Q. Did your husband have anything to do with taking him into the home at this stage? A. Yes; he took him into the home where the family was and I took all the family. 20

Q. Oh, that is, you were taken into the house where other members of Mr. Zezima's family were living? A. The whole family were.

Q. I see. And was Mario in this home? A. Yes, sir.

Q. And did you take care of him from childhood up? A. The whole family I took care of.

Q. Up to what age did you take care of Mario, while still in the old country? A. About thirteen years old, he was. 30

Q. Until he was about thirteen? A. Yes, sir.

Q. From the age of about seven or eight until he was twelve or thirteen? A. Twelve or thirteen.

Q. You took full charge of him? A. Yes.

Q. He had no mother? A. He had no mother.

Q. And when you arrived in this country in 1914 he was then, you say, about sixteen or seventeen? A. Seventeen, something like that. 40

The Court: Seventeen she says.

Witness: Yes, seventeen.

Q. And you lived at Long Branch through the summer, did you, of 1914 or 1915? A. His brother—(interrupted)

Q. (By the Court.) No. You. Did you live at Long Branch during the summer of 1914 or the

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10

summer of 1915, which was it? A. 1915 for one month.

Q. 1915 for one month? A. One month.

Q. During this time, did you meet your husband, did you see your husband? A. I see my husband at the first night I was there. The first day I was there.

20 Q. Where did you see him then, where? At what place, what house? A. The name of the house is— (interrupted)

Q. Is it a house he was watching? A. Yes, sir.

Q. And you went to see him there, did you? A. Yes, sir.

Q. And did you have a talk with him there? A. Yes, sir.

30 Q. What did you tell him? A. I told—I went there to find out where I could go to, I have to have my daughter some bathing; so he left me; he didn't want to hear me what I was going to say. He said, "Find some room some place, because I can't take care of you," and all night I was on a porch with my daughter and he was around all night and I heard him pass by, and next morning he sent his brother and I was in a strange place, I didn't know where to go—he sent his brother to tell me I should go where he was going to take me. I said,  
40 "I don't want to go no place. I want to wait here until my husband comes, because I am going to talk to him." So he said—he told me to go with him because he not here, "You won't see him until tomorrow morning."

Mr. Ungaro: Your Honor, please, this is a talk with the brother of this defendant and I ask that it be stricken out.

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Q. Well, did you see your husband the next day?

The Court: Wait a minute. Is there an allegation of adultery with Mario?

Mr. Ungaro: Yes.

Mr. Berger: The husband charges us.

The Court: Then I suppose the conversation between this woman and Mario is pertinent. The next morning did you see your husband? 20

A. No.

Q. When did you see him next? A. I see him when he came back to New York again.

Q. When was that? A. The month of October.

Q. Well, now, did you during this time say anything to him about coming to live at home in the flat? A. Yes.

Q. Often? A. Often. 30

Q. What did he say? A. He said I should go back to Italy.

Q. Is that what he kept telling you? A. That is it all the time.

Q. What did you say about that? A. I says, "I have no courage to do that, I can't do that, I want to stay with you."

Q. What was his answer? A. He says he can't make the people left, but he make me went, that I come here and see him without his consent, because he don't send for me. 40

Q. He objected to your coming here without his consent? A. That is what he was claiming.

Q. How long a time did Mario live at your flat in 1914? A. About three months.

Q. During the time that he lived at your flat, did he keep company with a young lady? A. Yes, sir.

10      *Giacinta Zezima—Direct—for Complainant.*

Q. And did he have this young lady call to see him at your flat? A. Yes.

Q. What was her name? A. Alvina Pampa.

Q. And did he marry this young lady? A. Yes.

Q. And they are living now as husband and wife? A. They are.

Q. She is here? A. Yes, sir.

20      Q. During that time that he was staying there, this young lady called on him as his fiancee? A. Yes, sir.

Q. Did your husband come there on any of those occasions? A. Yes, sir.

Q. And did your husband's sister come into the flat during that time? A. Yes, sir.

Q. How often did the sister call to see you? A. His sister?

30      Q. His sister, the one that lived in that house with you? A. Well, often and I used to go in her house and she used to come in my house.

Q. How often would you say that you called on each other that way? A. About three or four times a day, I could say that.

Q. You were very friendly? A. Yes, sir.

Q. When did you discover that your husband had anything to do with this other woman? A. 1923.

40      Q. In 1923? A. Yes.

Q. What part of 1923? A. August, month of August.

Q. Do you know the name of this other woman? A. Yes.

Q. What is her name? A. Margaret Schaffhauser.

Mr. Berger: I have here a certificate of marriage of Zezima with this other woman. I offer it in evidence.

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The Court: Any objection?

Mr. Ungaro: No objection.

The Court: No objection. It will be admitted.

(Certificate marked Exhibit C-2.)

Mr. Berger: I have here a certificate of baptism of a child born to Mr. Zezima and this other woman, which I want to offer in evidence. 20

Mr. Ungaro: You offer the certificate without any identification and I object to it.

Mr. Berger: Well, I offer the certificate for what it shows.

The Court: What does it show?

Mr. Berger: It shows that Amelia Margaret, child of Luciano Zezima and Margaret Schaffhauser, was born on the eighth of October, 1911. 30

Mr. Ungaro: You mean the other children of Mr. Zezima?

Mr. Berger: No; the child born of Mr. Zezima and this other woman, this Margaret Schaffhauser.

The Court: Any objection?

Mr. Ungaro: No objection to that.

(Certificate of baptism marked Exhibit C-3.) 40

Mr. Berger: In order that your Honor may follow my examination, I would like to read these certificates briefly, or state what they contain, without reading them entirely. The American certificate shows that Luciano Zezima and Margaret Schaffhauser were lawfully married on the seventeenth day of November, 1907. It gives the name of the reverend who officiated and the witnesses.

10      *Giacinta Zezima—Direct—for Complainant.*

And the other certificate certifies that Amelia Margaret, the child of Luciano Zezima and Margaret Schaffhauser, the same party, was born on the eighth of October, 1911.

Q. Now, you say that in 1923 you found out that your husband lived with this other woman as husband and wife? A. Yes, sir.

20      Q. And do you know whether he has continued from that time to live with this woman down to the present time? A. Yes, sir.

Q. Do you know where they have lived during that time? A. Bradley Beach.

Q. Bradley Beach? A. Yes, sir.

Q. When you came over to the United States on your first trip, under what name did you come here? A. My name.

30      Q. What is your name? A. Colarossi.

Q. Is that your maiden name? A. Yes, sir.

Q. Did anyone accompany you on this trip to the United States, I mean, any member of your family? A. A cousin of mine.

Q. A cousin of yours? Of the same name? A. Yes, sir.

40      Q. On this trip over did you come with him on the same berth, or in the—(interrupted) A. The same berth, and there was another woman.

Q. The same bed, I mean. But did you have a room for yourself or did you come in the same room with him? A. No; everybody has their own room.

Q. Did you ever have any improper relations with this man, your cousin, Colarossi? A. No. He wrote him a letter.

Q. Who is "he"? A. My husband wrote him a letter.

Q. Wrote who a letter?

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The Court: No. That won't do.

Q. Who arranged for your coming over with Mr. Colarossi? A. My husband.

Q. Yes. And was it at his direction that you came over with him? A. Yes.

Q. And when you came over with your cousin, Colarossi, did he come to live at your apartment with your husband? A. Not right away. 20

Q. Well, when? A. About a month after, and he begged him to come up because he wanted to pass the time, to play cards at night.

Q. Your husband begged him to come and pass the time playing cards? A. Yes, sir.

Q. And your husband and this man were very friendly? A. Yes, sir.

Q. During the time that your cousin lived at your home, did your husband live there with you? A. Yes, sir. 30

Q. Your daughter, Amelia, was born, you say, in nineteen— A. Six.

Q. 1906? A. Yes, sir.

Q. Are you sure as to the time when you came here in 1905? I mean, as to the date? A. Yes, sir. The date when I came in?

Q. When you came here in 1905, are you sure as to that date? A. I don't know. I am not sure of the date. I have forgot about it. 40

Q. Well, what month? Are you sure as to the month that you came here in 1905?

The Court: Do not lead her now.

Mr. Berger: No, sir.

A. Well, I think it was in October, but I cannot remember the date.

10        *Giacinta Zezima—Direct—for Complainant.*

Q. You think it was in October. What was the reason for your coming in 1905 under your maiden name of Colarossi? A. The certificate—I don't get a certificate in time and I have to come under my name.

Q. What certificate do you mean now? A. Birth certificate; I come on my birth certificate.

20        Q. I know, but what certificate did you have to get in order to come here? A. He was calling me to come over.

Q. You had to get a certificate from him? A. That time that was supposed to be.

Q. You were supposed to have a certificate? A. Yes, sir.

Q. And you say that certificate did not come in time? A. In time.

30        Q. Who sent you the passage money? A. My husband.

Q. To pay for the trip? And he sent you the steamship ticket to come on?

Mr. Ungaro: Pardon me. Are you talking about the first or second time?

Mr. Berger: 1905.

40        Q. When did he send the money and steamship ticket? A. Sent me money.

The Court: All right. Do not waste time on that.

Q. When you came here in 1914, did you come in the name of some other man? A. No, sir.

Q. Did you come here in the company of any other men? A. I don't know nobody. I met a boys on the way to come out.

Q. You met what? A. A boy. He was seven-

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teen years of age, so he was with me when I arrived to Sixty-ninth Street, and my brother-in-law was there.

Q. Who is he? A. Mario. He saw this little boy, that was little boy—it is not a man, bring over. I heard that name mentioned, but I never heard that name. He had another name, this boy.

Q. (By the Court.) What name did you come over under in 1914? A. Colarossi, my name. 20

Q. 1914 you came in the name of Colarossi? A. Yes, sir.

Q. And, after you came over in 1914, you say that your husband never lived with you at the Sixty-ninth Street flat from— A. Only once in a while. He didn't—he used to come over to see—one week it was straight every day.

Q. Let us see. One week he would be there straight every day. A. Every day. 30

Q. That was after 1914? A. My daughter was sick and he— (interrupted)

Q. Just a minute. Let us get this straight. When you came out here in 1914— A. Yes.

Q. —to the flat on Sixty-ninth Street— A. Yes.

Q. —you say that once a week your husband used to come and stay with you every day one week and — (interrupted) A. One week, 1915, in the month of January, my daughter got sick. 40

Q. Of what year? A. 1915. It was in January.

Q. What happened to your daughter? A. She got sick.

Q. And what did your husband do then? A. He used to come and see his daughter every day and give her medicine and everything.

Q. Now, during that time he was there every day for how long a time? A. All summer—all winter.

Q. All winter, and did he live with you at the

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flat during the time that he stayed there every day?

A. Not live with me, come and visit me.

Q. Now, did he— (interrupted)

Mr. Ungaro: Just a minute.

Q. (By the Court.) Did he stay there over night?

A. He never stayed there over night.

20 Q. Mrs. Zezima, from time to time after you arrived in this country in 1914— A. Yes, sir.

Q. —until the time that your husband kept away from you entirely, did he at any time during that period stay with you as your husband? A. No; he support me and he pay money for the room, for everything.

30 Q. Well, did he act towards you as your husband during any time of that period? A. We never was alone. Any time he used to come to the house, the house was full of people.

Q. You say that he spent with you an entire week, or, at least, every day? A. Yes.

Q. When night time come, where did he go? A. I don't know.

Q. He used to leave toward night time, did he? A. (Witness pauses.)

Q. I say, did he leave at night time?

40 Mr. Ungaro: I object as leading. She said he was there in the day time and went away.

Witness: Yes.

The Court: It is leading. She has already said that he never spent the night with her.

Cross examination by Mr. Ungaro:

Q. Mrs. Zezima, when you first came here in the United States in 1905, you came at the request of your husband, did you? A. Yes, sir.

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10

Q. He sent you the papers? A. Yes.

Q. He sent you the money? A. Yes, sir.

Q. He sent you the tickets? A. No ticket.

Q. No ticket. He sent you the money for the ticket? A. Money.

Q. You bought the ticket yourself? A. Yes, sir.

Q. Will you tell the Court why did you come on that ship under the name of Giacinta Colarossi? A. I didn't get my—his certificate in time and I was supposed to leave that day, when I got it. I got this paper—he has got it; he kept it, when I came over.

20

Q. So you got the paper and you gave it to him, when you came over? A. Yes.

Q. So you had the paper that you needed to come on the ship? A. Yes.

Q. And still, notwithstanding the fact that you had the paper, you went on the ship under the name of Mrs. Colarossi. Is that right? A. Not Mrs. Colarossi. That was my birth certificate.

30

(Young lady advances to front of court room.)

Witness: I understand. Don't get afraid.

Q. What ship did you come on? What ship? A. I don't remember.

40

Q. Wasn't it La Touraine? A. I don't remember the name. I beg your pardon. I don't remember.

Q. Didn't you go on the ship under the name of Mrs. Giacinta Colarossi? A. No Missus. I came with the birth certificate. What they are going to put in the birth certificate?

Q. I don't know. A. Well, I wasn't Missus.

Q. You were the wife of Mr. Zezima, weren't you? A. Yes.

10      *Giacinta Zezima—Cross—for Complainant.*

Q. And you had your marriage certificate with you? A. Yes, sir.

Q. Yes. A. And he took it. I gave it to him when he came.

20      Q. All right. But you had it when you started from Italy, didn't you? A. That time he sent me a certificate, I should have registered, but I didn't have no time. The same morning I got the certificate I had to leave. I didn't have time to go and register it, and I got told that I don't need. My birth certificate was just enough.

Q. Let me ask you this much. A. All right.

Q. You had the certificate of marriage with you when you started from Italy, didn't you? A. Yes, sir.

30      Q. And you gave it to your husband when you came here? A. Yes.

Q. And still, having the marriage certificate, you used the name of Colarossi? A. I never used the name of Colarossi.

Q. What name did you use on the ship? A. Zezima.

40      Q. Why, you just said you came under your maiden name of Colarossi. A. That was my birth certificate that he mentioned about my name, but I was in his name.

Q. Now, Mrs. Zezima, isn't it a fact when you landed in New York that they couldn't find the name Zezima on the passenger list, and that your name was given as Mrs. Giacinta Colarossi? A. It is not that. He told a lie when he came and took me out. That is how we got in trouble because of the different names.

Q. I don't care about his troubles. I am asking you now isn't it a fact that the name on the passen-

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ger list of the ship when you came, which you came on, was Giacinta Colarossi? A. Yes, sir.

Q. Yes. That is why he couldn't find you. A. No; it wasn't for that. He can tell you the truth.

Q. You tell the truth. Don't worry about that. A. I am telling the truth.

Q. And isn't it a fact that you did not come in on the same day the ship arrived on account of the name? A. I did. 20

Q. What time did the ship arrive in New York? A. About one o'clock and I came out at night the same day.

Q. Your husband was there, wasn't he? A. Yes; he was there.

Q. You came over, you say, with a cousin of yours by the name of Peter Colarossi? A. Uh huh.

Q. And isn't that right? A. On the same boat; yes. 30

Q. On the same boat. Now, in what class did you come over from the other side? A. Third.

Q. Third class or second class? A. Third class.

Q. In the third class? A. Yes, sir.

Q. This Peter Colarossi came to live with you, didn't he, in New York? A. After a month he was—he take him home.

Q. He invited him over to the house? A. Yes. 40

Q. And kept him there? A. And was great friends.

Q. He had not seen him for five years, that was why he was so fond of him, that he asked him to come over—

The Court: Strike that out.

Mr. Ungaro: I withdraw that.

Q. He came to live in the house, didn't he? A. Yes.

10 *Giacinta Zezima—Cross—for Complainant.*

Q. And how long did Peter live in your house?

A. About a year.

Q. About a year. In the year this child was born, wasn't it? A. Uh huh.

Q. Amelia? A. Yes, sir.

Q. She was born in July? A. Yes, sir.

20 Q. Your husband went to work in the day time at that time, didn't he? A. He was working with him, they were working together.

Q. Where? A. My husband and he were working together.

Q. Where, where? A. In New York and then they went—

Q. Where was your husband working? A. In a furnace.

Q. He was working in a furnace? A. Yes, sir.

30 Q. And where was Peter working? A. In a furnace in the same place.

Q. At what time did your husband come home? A. Seven o'clock in the night.

Q. What time did Peter come home? A. The same time.

Q. Now, did you have any trouble with your husband at the time Peter was in the house? A. Never.

40 Q. Isn't it a fact that your husband wanted to put Peter out of the house and you refused to let him go? A. No.

Q. Isn't it a fact, after the child was born, you told your husband that that was not his child? A. A. I never say any words.

Q. Isn't it a fact that after this was found out you told him that you would go back to Italy and set him free? A. When?

Q. After you told him that Peter—that the child

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was not his child? A. Never. We had a fight— (interrupted).

Q. Wait a minute. Now, Mrs. Zezima—

The Court: Well, let her say. (To witness:) You had a fight?

A. I didn't want to go; I wanted to stay with him.

Q. You didn't want to go? A. No.

Q. And why did you go? A. I obey him. I 20  
went. We people obey the husband.

Q. Oh, you believe in obeying the husband? A.  
Yes.

Q. And that is why you went to Italy? A. I  
went to Italy.

Q. Although you didn't want to go? A. To obey  
him, and he promised in two years he was going to  
be back with me.

Q. You obeyed him and went? A. Yes. 30

Q. Although you didn't want to go? A. I was  
not going to go. It was no pleasure to go; I go  
just to obey him.

Q. You know Mario, of course, your brother-in-  
law? A. Yes.

Q. Mario Zezima? A. Uh huh.

Q. Didn't you tell Mario, when you came back  
from Italy in 1914 and went to live with him in  
Long Branch, that Luciano was no longer your hus- 40  
band and you were absolutely free? A. No. I was  
begging him to bring me where he was and he didn't  
want me to bring.

Q. And didn't you live with Mario Zezima as  
husband and wife for three months at Jeffers  
Street, Long Branch, New Jersey? A. No, sir.

Examined by the Court:

Q. Well, did Mario live on Jeffers Street with  
you? A. Yes; he was.

10      *Giacinta Zezima—Cross—for Complainant.*

Q. How many rooms did you have? A. How many rooms did we have?

Q. Yes. A. He used to be watchman, night watchman, and another man was with him and he is still there now, so in the night I was sleeping in the same room and at night time he was working and at night time I occupied the room. We didn't have no more room.

20      Q. There was only one room? A. Only one room.

Q. And you both occupied it for three months? A. One month.

Examined by Mr. Ungaro:

Q. Didn't you tell Mario at the time you went to live on Jeffers Street with him that you were legally separated from your husband? A. Never.

30      Q. You have made statements to your husband that you had violated your marriage vows and that you had separated from your husband in New York? A. Never.

Q. Some years before? A. Never.

Q. You never said that? A. We never separated.

Q. All right. Then you went to live in New York in 1914? A. Uh huh.

40      Q. And you kept boarders there, didn't you? A. Never; no boarders; only my daughter and I didn't occupy nobody any more after.

Q. Mrs. Zezima, you remember when the case was tried in Freehold, on the charge that you made against your husband, don't you? A. Uh huh.

Q. Do you remember a fellow by the name of Tom Colarossi who came there as a witness for you? A. Yes, sir.

Q. And you also remember a fellow by the name of Ralph Rostica, who also came as a witness for you? A. Yes.

*Giacinta Zezima—Cross—for Complainant.* 10

Q. You were present when they testified, were you? A. They didn't say anything.

Q. Wait a minute. Now, you were present in court when they testified? A. Yes.

Mr. Berger: These two men—

A. Yes; but no men were talking.

Mr. Berger: They did not testify. 20

Q. Didn't they testify that they were boarders with you in New York? A. No.

Q. You say that you lived, yourself and your daughter— A. Yes.

Q. —and Mario in the rooms in New York in 1914? A. Yes.

Q. Is that right? Now, at that time, Collarossi, Tom, didn't live with you? A. Never lived with me. 30

Q. Nor Mike Rostica, whatever his name is? A. He was passenger, he never occupied for a month steady.

Q. He was there, say, for two or three days at a time one week and then he didn't show up for another week? A. His cousin might.

Q. But he stayed there some time one full week? A. Yes, sir.

Q. And he paid you the board? A. Yes, sir. 40

Q. So he was boarding with you off and on, this Rostica? A. Miko.

Q. And you say that Tom Colarossi never lived with you in New York? A. Not live—a visitor, he came and visited me. He is a cousin of mine, too, but he never boarded with me.

Q. All these men are cousins of yours? A. Yes, sir.

Q. (By the Court.) Did this last man live with you for two or three days at a time? A. He was.

10            *Giacinta Zezima—Cross—for Complainant.*

Q. (By the Court.) What is his last name? A. Mike?

Q. Thomas Colarossi? A. Thomas Colarossi, yes, sir.

Q. Now, under what name did you come back in 1914 from Italy? A. Zezima.

20            Q. Didn't you testify that you came under your maiden name also in 1916? A. You mean on the ship?

Q. On the ship, yes. A. Yes, sir.

Q. You came under the name of Giacinta Colarossi again? A. Yes, sir.

Q. You had then the marriage certificate? A. That is usual, in the city they do that.

Q. In the city they do that? A. Yes, sir.

Q. You still considered yourself the wife of Mr. Zezima? A. Yes, sir.

30            Q. And still you used your maiden name in coming over? A. I did in order to do that.

Q. And who accompanied you? A. Nobody.

Q. Nobody accompanied you? A. My daughter and I.

Q. You don't know a man by the name of Alfred Antonelli? A. I never heard of him.

Q. Where did you land, when you came the second time? A. When I arrive? Yes.

40            Q. Yes. In New York? A. Sixty-ninth Street, yes, New York.

Q. Now, of course, you stated that you were the wife— A. Of Luciano Zezima.

Q. —of Luciano Zezima? A. Yes, sir.

Q. And they let you out on your statement that you were the wife of Luciano Zezimo? A. Yes, sir.

Q. Isn't it a fact, Mrs. Zezima, that before you could get out of Ellis Island, the husband had to be there to prove that you were the wife? A. I came

*Giacinta Zezima—Cross—for Complainant.*

10

second class and nobody bothered to ask who has came to take me, and they just let me out.

Q. Oh. In 1914 you just came out without anybody asking you any questions? A. There is my daughter to prove; I had her birth certificate that she was born over here.

Q. Where did you say you were going? A. New York City to see my husband.

20

Q. Did you know where your husband lived in New York City at the time? A. No.

Q. What address did you give in New York City to go and see your husband? A. 307. 307 West Sixty-ninth Street.

Q. And you knew that your husband was not living there? A. I don't know where he lived, but the address, when he sent me a letter, that is where he called his letter.

30

Q. How long before you came did you get a letter from your husband? A. About a month—not even a month.

Q. You have not got that letter with you, have you? A. I don't know whether I need. Maybe I got it home.

Q. As a matter of fact, Mrs. Zezima, the letter that you got contained only money for the support of your daughter. A. Nobody ever mentioned, he support my daughter, he send money to me.

40

Q. How much did he send you? A. Could I remember how many times he send me in a year?

Q. How much money would he send at a time? A. In a time he would send one hundred lira, two hundred lira, sometimes one hundred lira.

Q. A month? A. Yes, sir.

Q. That would be how much in American money? You know that? A. I can't figure out. That time it was good money.

10 *Giacinta Zezima—Cross—for Complainant.*

Q. It would be at least five dollars? A. Not that time.

The Court: The rates have changed.

Witness: That time there was no exchange.

The Court: Normally it is worth about twenty cents.

Mr. Ungaro: Well, normally it is worth about nineteen cents.

20

The Court: The last time I was there it was only worth four.

Mr. Ungaro: It is worth now four dollars a hundred lira.

Witness: At that time it was— (interrupted)

Mr. Ungaro: At that time, 1914.

30 Q. Now, when you went to live at Sixty-ninth Street the second time you came over, who went there to live with you? A. My brother-in-law.

Q. Your brother-in-law, what is his name? A. Mario.

Q. And you had how many rooms, you say, there?

A. Three rooms.

Q. (By the Court.) What did they consist of?

A. I beg your pardon?

40 Q. (By the Court.) What kind of rooms were they? A. There is two bed rooms and one kitchen in the center.

Q. And while Mario was there, was Tom Colarossi also there once in a while? A. I don't remember. I think he was.

Q. Was Mike there, what is his name, Rostica, at the same time? A. Yes, sir.

Q. Now, you say that, after you came, you found out where your husband was living. Where was he living at the time, the second time you came

*Giacinta Zezima—Cross—for Complainant.* 10

back? A. I find out—he lived in Bradley Beach, that is where I find out.

Q. How long after you had come to the United States the second time did you find out where your husband lived? A. I find out 1923 or 1922. You got the papers.

Q. For nine years, in other words, you didn't know where your husband lived? A. No. I never could find out. I didn't have no money to investigate it to find out where he was. 20

Q. From 1914 to 1923 you couldn't find out where your husband lived? A. No.

Q. You never heard from him, did you? A. He was around, but I didn't know where he was living.

Q. Well, you never heard from him, did you, from 1914 to 1923? A. He used to be every day down at Sixty-ninth Street, his sister's house. 30

Q. Did you see him there? A. Yes; every day.

Q. Did you talk to him? A. I talked to him. He used to run sometimes. He didn't want to hear me talk.

Q. (By the Court.) Did he give you any money? A. Yes, sir.

Q. (By the Court.) Kept giving you money right along? A. Yes, sir.

Q. Now, isn't it a fact, Mrs. Zezima, that from 1914, until you made the complaint in Bradley Beach, you had never seen your husband and never heard from him? A. I see him almost every day, I am telling you. 40

Q. You saw him every day? A. To go in his sister's house.

Q. Why, you said he was working in Bradley Beach. A. In the summer time, but in the winter time he used to be in New York.

Q. Used to be in New York? A. Yes.

10      *Giacinta Zezima—Cross—for Complainant.*

Q. And you saw him every day? A. Almost.

Q. And never asked him where he was living? A. He didn't tell me.

Q. Well, did you ask him? A. I wanted him to come and live with me.

Q. Did you ask him where he lived? A. I don't know if I asked him. I don't remember.

20      Q. You don't remember. And at that time, when you saw him, you were living with Mario Zezima in New York. A. No more. Mario was living with another man, this man that is over there now.

Q. I see. What is the first time that you saw your husband after you arrived in the United States in 1914? A. When was the first time? May the twenty-third.

Q. Of what year? A. What year, 1914.

30      Q. (By the Court.) How long after your arrival was that? A. I arrived on Saturday night and he come to see me Monday morning.

Q. He came to see you Monday morning? A. Yes, sir.

Q. And you saw him often after that? A. Yes, sir.

40      Q. And still you didn't know where he was living? A. I seen him daytime only. I don't know night where he was going to go.

Q. And still you didn't go after him until 1923? A. I did go after him; he used to run to make find out not where he was going.

Q. You made a complaint against him in New York, didn't you, for non-support? A. No.

Q. Didn't you make a complaint? A. No.

Q. Did you have him arrested in New York? A. I had him arrested that it was his fault.

Q. (By the Court.) You had him arrested, did you? A. Yes, sir.

*Giacinta Zezima—Cross—for Complainant.*

10

Q. Then when the case came up— (interrupted)

A. I told him—I beg your pardon—

The Court: Wait a minute. Just answer the question. You had him arrested. Now, what is the next question?

Q. The next question is: You had him arrested and you were supposed to be in Court on Monday, weren't you, on the following Monday, in 1914, I am speaking of.

20

Q. (By the Court.) Did you go to court on Monday? A. I don't know what he means.

The Court: No. You answer the question. Did you go to court?

Witness: Yes. I was in court.

30

Q. What became of the case? A. What became of the case?

Q. Yes. A. I don't understand about that.

Q. The case was dismissed, wasn't it? A. I— (interrupted)

Q. They let him out, didn't they? A. I called him in the court to find out why he don't want to come and live with me—and he don't appear in court, and that is why he was got arrest. He didn't get arrested for anything else, just for not appearing in court.

40

Q. You knew then where he was living, when you made the complaint? A. No. I find out where he was working.

Q. Then, after he was arrested, did you go to court? A. I was in court.

Q. What became of the case? A. I never—

Q. (By the Court.) What did the judge do? Did the judge let him go? A. Well, the judge was sup-

10 *Giacinta Zezima—Cross—for Complainant.*

posed to have another case, and I didn't want to go ahead because I used to love him, and I never thought he had another wife.

Q. (By the Court.) The judge let him go, did he? A. No. The case didn't come up. I didn't go and the case— (interrupted)

Mr. Berger: Didn't go ahead with the case.  
20 The Court: She did not press the complaint, apparently.

Witness: I didn't complaint.

Q. When you went to live with Mario in Long Branch, it was in the summer of 1914, wasn't it?  
A. Summer of 1915.

The Court: Summer of 1915.

30 Q. 1915, oh, and when did you make your complaint in Freehold? A. 1922 or 1923; 1922, supposed to be.

Q. 1922 or 1923? A. I didn't remember.

Q. And the case came up for trial when, do you remember the date? A. March the fifth.

Q. Fifth and the sixth, wasn't it, two days? A. Yes, sir.

40 Q. Now, what became of that case? A. Well, he told me not supposed to live with that other wife and I can't do anything for bigamist or anything there because he was not committed a crime.

Q. And then he was let out, he was free? A. The case was not finished.

Mr. Berger: I object to this. The record of the case would be the proper evidence.

The Court: This witness cannot analyze the testimony. As a matter of fact, what was he tried for?

*Giacinta Zezima—Cross—for Complainant.* 10

Mr. Ungaro: He was tried for overlewdness and for living with this other woman. Of course, when the case went before the court, there was no proof of overlewdness and the complaint was dismissed by the court.

(Further argument.)

The Court: It seems to be admitted that he married another woman and had children by her. I think, the crux of the situation is whether or not she has been guilty of immorality, now. 20

Mr. Ungaro: That is the whole thing.

Mr. Berger: That is the whole point.

The Court: Now, let us confine the examination to that. Do you intend to try to attack the paternity of this child? 30

Mr. Ungaro: We are not attacking the paternity, but, according to her own statement— (interrupted)

The Court: Let it appear on the record that no attempt is made to attack the paternity of the child and it is admitted that the child is the defendant's daughter.

Mr. Ungaro: I want to explain my situation in this case. I did not have this case originally. The case was referred to me by some attorneys in Long Branch. 40

The Court: Yes.

Mr. Ungaro: So I do not understand that Mr. Zezima wants to attack the paternity of the child. He wants the child to have a name, although he is satisfied— (interrupted)

The Court: Well, now.

10 *Giacinta Zezima—Redirect—for Complainant.*

Mr. Ungaro: I don't want that on record. I am simply explaining.

The Court: Is there any further cross-examination?

Mr. Ungaro: No; I do not think so.

The Court: We will take a recess for five minutes.

20 Redirect examination by Mr. Berger:

Q. Now, referring to this room on Jeffers Street, Long Branch, was this room occupied by a man by the name of Nicholas Tamburri at the same time?

A. Yes.

Q. Now, Tamburri and Mario were watchmen?

A. Yes.

Q. Working for your husband? A. Yes.

30 Q. When did they go to work every day, what hour? A. Seven o'clock at night.

Q. And when did they return from work? A. About nine o'clock in the morning.

Q. Now, who occupied the room night times? A. I did.

Q. With whom? A. My daughter.

Q. What time did you generally go to bed? A. About nine o'clock or ten o'clock in the night.

40 Q. And what time were you generally up in the morning? A. Six o'clock.

Q. And was either Mario or Tamburri at any time in this room during the time that you and your daughter were there? A. Never.

Q. When did they use this room; when did Tamburri and Mario use this room? A. In the daytime.

Q. You testified before, in 1914, you came second class? A. Yes, sir.

*Giacinta Zezima—Recross—for Complainant.* 10

Q. And you came under your maiden name? A. Yes, sir.

Q. Why did you come in your maiden name in 1914? A. Because I know he don't send for me.

Q. Who is "he"? Always mention who you mean by "he". A. My husband.

Q. Yes. A. So, if I come in his name and he don't send for me and he don't take me because he don't want me, so I came second class and nobody bothered me coming out. 20

Recross examination by Mr. Ungaro:

Q. Didn't you say a little while ago that you wrote a letter to your husband, or that he wrote to you, about a month prior to the time that you came the second time? A. He didn't ask me that. 30

Q. Didn't you say in your letter that if he did not answer you, he meant that he wanted you? A. No.

The Court: That is when she went to Long Branch.

Mr. Ungaro: Oh, I beg your pardon.

The Court: That is all.

Q. What is your business, Mrs. Zezima? A. My business? 40

Q. What do you do; what do you work at now? A. I don't work now; I am sick.

Q. Have you been working all this time? A. Yes, sir.

Q. Where have you been working? A. On dresses.

Q. And how much do you make a week? A. I don't know. I do piece work. Sometime I make a little money and sometime I don't make nothing.

10 *Giacinta Zezima—Direct—for Complainant.*

Q. All right. How much money do you make?

A. Well, the biggest pay is about twenty dollars.

Q. What is the smallest pay? A. Five or ten.

Q. A week? A. A week.

Q. And you have lived, since 1914, on five or ten dollars a week? A. I live from his help, from my husband's help.

20 Q. (By the Court.) How much has your husband been giving you? A. Forty dollars a month.

Q. That was on the order of the court, the temporary order that the court made for alimony? A. The court was eighty-five dollars, then he cut me down to forty.

Q. Before that he didn't give you anything? A. He was giving me twenty-five dollars a month. My brother used to help me out.

30 Further Direct-examination by Mr. Berger:

Q. Mrs. Zezima, in reference to your earnings, have you been confined to Bellevue Hospital for treatment? A. Yes, sir.

Q. Has there been a serious illness? A. Yes, sir.

Q. And have you been under the doctor's care for some time? A. Yes, sir.

Q. Have you been operated on? A. Yes, sir.

40 Q. And have you ever recovered from the effects of your operation; have you ever gotten over all the effects of your sickness? A. Yes, sir.

Q. Well, aren't you still under doctor's treatment? A. Yes, sir; I was.

Q. Then you are not altogether well, are you? A. No; I am not supposed to work, and I cannot go to work.

Q. Have the doctors ordered you not to work? A. Yes, sir.

*Luciano Zezima—Direct—for Defendant.* 10

The Court: Now, haven't you made out a *prima facie* case?

Mr. Berger: I believe—I just want to go into the question of earnings, except on the question of earnings; I suppose I should prove that.

The Court: The question to be decided now is whether this woman is guilty of infidelity. If she is not, she is entitled to reasonable alimony. If she is, she is not entitled to anything. 20

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LUCIANO ZEZIMA, sworn for the defendant.

Direct examination by Mr. Ungaro:

Q. Mr. Zezima, you came to the United States in 1901? A. Yes, sir. 30

Q. And then you sent for your wife in 1904? A. 1905.

Q. And you sent her the money and papers to come over here? A. Yes, sir.

Q. Now, can you remember the name of the ship she was supposed to come over on? A. The Touraine, or something like that?

Q. You don't remember? A. I don't remember. 40

Q. When the ship arrived, did you go to Ellis Island to find your wife? A. While the ship— (interrupted)

Q. (By the Court.) Did you go to Ellis Island?

Q. Did you go there? A. I go; yes.

Q. (By the Court.) Did anybody go with you? Did you go alone or with somebody else? A. No; I went alone with this friend of mine, he had his wife.

10 *Luciano Zezima—Direct—for Defendant.*

Q. What is the name of your friend? A. Well, he was a friend, a cousin of mine, Zezima.

Q. After you reached Ellis Island, did you find your wife? A. No. Finally we went to the agency to get the fare on the ferry and she was not on the list, so they generally give two passes, so this cousin of mine got two passes and one for myself.

20 Q. What did you do with the passes? A. Well, we passed; and when I got to Ellis Island I went to the authority and tried to claim my wife and they says, "Your wife is not here." So I kind of bothered him and finally he ordered me out. "If you don't, I will have to have you arrested." After, of course, there was an Italian and I told him all the story how it happened, I got my wife here and in the meantime this lady came out and she told me that she was there with my wife inside.

30 Q. You finally found your wife under what name? A. Under Colarossi, Mrs. Colarossi. There was Peter Colarossi and Mrs. Colarossi, wife and husband.

Q. And, of course, your wife came out and you recognized her? A. Yes.

Q. And took her out with you? A. Yes, sir; it took me all day long.

40 Q. And Peter? A. Yes, sir.

Q. Did Peter come out at the same time? A. Yes; he come out, too.

Q. Where did you three go after you came out of Ellis Island? A. We went and met my cousin and went to the ferry and after the ferry we leave there and finally I had the room all ready, furniture— (interrupted)

Q. You went home? A. Went home.

Q. What address? A. It was 304 on the top floor.

*Luciano Zezima—Direct—for Defendant.* 10

Q. What street? A. Sixty-ninth Street—pardon me.

Q. West Sixty-ninth Street? A. Yes, sir.

Q. How long did you live there with your wife?  
A. I left her there until that was about May some-  
time and I had to go down to the seashore for the  
night watchman job.

Q. What about this fellow, Peter Colarossi? A.  
Well, Peter, of course, she compelled me to have  
him, to find him a position, see? 20

Q. Yes. A. But before—when she went for Ellis  
Island she compelled me to have this Peter Colar-  
ossi live with us and, of course, I didn't say noth-  
ing.

Q. Now, did you notice anything, any intimacy  
between your wife and this fellow, Peter? A. All  
what I know, I find out wife and husband traveled  
on the steam and finally I asked this Mrs. Zezima  
on the way home, I says, "Did you have a good  
trip?" Mrs. Zezima, she says, "Well, fair." 30

Q. I don't care about that. A. Pardon me.

Q. I am asking, when you were living at the  
house, after she came from Italy, when you were  
living at West Sixty-ninth Street, from the time  
she came out of Ellis Island until you went down  
to the shore, when this fellow, Peter Colarossi, was  
living in your house— A. Yes. 40

Q. —did you notice anything unusual between  
the two? A. Well, he was working for this cousin,  
my wife's, and sometime I found him home and  
sometime I got home before himself; only one day  
I discover that they was kind, you know, excite  
themselves, but I didn't know anything about it.

Q. Now, what happened in May, 1915, before she  
went back to Italy?

The Court: 1905.

10 *Luciano Zezima—Direct—for Defendant.*

Q. 1905, I mean. A. 1905, when I got back from the seashore— (interrupted)

Q. (By the Court.) Didn't she go back to Italy in 1905? A. 1906.

The Court: 1906.

20 Witness: No, 1907. I got back and told about my trouble and what she was doing and what she done. "Well," she said, "I won't go with him then." I said, "If you go with him, I am going to tell all my friends what you have been doing to me." Finally she said, "Well, let me think it over." I told her I was going to send back on the other side and I was willing to support the child, but not herself. She agreed, provided I would forget all this badness.

30 Q. Who did she mention she was doing all this badness with, what was the name she mentioned? A. Peter Colarossi.

Q. Did you force her to go back to Italy? A. No. No; I didn't force.

Q. What was it she said before she went to Italy? A. Oh, she said, "I am going myself," and finally I told her, "I will go for myself, I will stay with myself, but I am willing to support the child."

40 Q. Now, she went back to Italy in 1906. Did you send her money? A. I sent her money to the child, but on her name.

Q. How much money did you send her? A. Well, sometimes I sent twenty dollars and sometimes twenty-five, sometimes, according to where the child was require.

Q. Now, did you hear from your wife from 1906 until 1914? A. She wrote me quite a few letters, but I never answered to them.

*Luciano Zezima—Direct—for Defendant.*

10

Q. And the only time that you communicated was to send money for the child? A. Oh, yes, send the money and finally when she wrote sometimes she said, "Need more money for the child." Well, I sent her money, but I always was on the point myself. I didn't wait.

Q. Now, Mr. Zezima, after she came back the second time in 1914, did you know that she was coming? A. No.

20

Q. When did you find out that she was in New York? A. It was about a week after she landed here in this country.

Q. And what did you do, when you found out she had landed in this country? A. I find out she had landed; for the child I went over to Sixty-ninth Street and I met the child down the street and I gave the child eighty dollars to start her, and after that I met her and she said, "Why I am come back again." I said, "What did you come back for?" "Well, I want to trouble you." "That is what."

30

Q. Where was she living at the time? A. Well, I didn't know nothing, Judge, then.

Q. I see. Now, when did you find out that she was living with your brother, Mario? A. Well, I find out down at Long Branch that they lived on Jeffers Street.

40

Q. Yes. A. And part of it lived up at New York, but I didn't see nothing.

Q. I see. Did you know this fellow, Thomas Colarossi? A. Oh, yes.

Q. And you know this Ralph Rostica? A. Yes; I know both; we come from the same part of the country.

Q. And did you know that they were boarders with Mrs. Zezima? A. Yes; I heard this, but I never know myself.

10 *Luciano Zezima—Direct—for Defendant.*

Q. How many times, after this week that you have just mentioned, did you go to see your wife?

A. None; never did.

Q. The only time you saw your wife was one week after she landed here? A. Yes, sir.

Q. And when was the next time that you heard from your wife? A. She wrote letter and so many times I never answered to her letter.

20 Q. When did you next see her? A. On the Fall. I met her accidentally and she wants try to talk with me and I wouldn't bother at all. I say, "Kindly keep away from me."

Q. Then you were arrested in New York? A. Yes; I was arrested in New York. I was arrested on a Friday.

30 The Court: Let us not go over that. I am not interested in that. All I want to know is whether you can prove the infidelity on the part of the wife.

Mr. Ungaro: Yes, sir.

Q. Did you talk to your wife— A. No.

Q. Wait a minute, Mr. Zezima—before she went to Italy the first time, about this fellow, Peter Colarossi? A. Yes; I explained everything.

40 Q. What do you mean, you explained everything? A. I explained, "Look at the way you have been—"

Q. (By the Court.) You never saw it yourself? A. No.

Q. You never saw it yourself? A. No; I have to say the truth.

The Court: He cannot prove anything. His testimony does not amount to anything. That is all.

Cross-examination by Mr. Berger:

Q. Mr. Zezima, where do you live? A. 508 Monmouth Avenue, Bradley Beach, New Jersey.

Q. And you live at this house with Margaret Schaffhauser? A. Yes, sir.

Q. And you have lived there at this house how many years? A. Well, since 1919; at the present time near about five or six years. 20

Q. This is a one family house? A. Yes, sir.

Q. With a garage in the rear of it? A. Well, a little garage I built myself.

Q. Well, is there a garage in the rear of it? A. Yes; I got a little—

Q. And a driveway to the garage alongside of the house? A. Yes, sir.

Q. It is a house with all improvements, electric light and steam heat? A. No steam heat. 30

Q. Electric light? A. Electric lights, yes.

Q. Hot air? A. Pipe lines, furnace.

Q. And modern bathroom and so forth? A. No bathroom.

Q. There is no bathroom there? A. Well, the bedroom, I got two bedrooms upstairs. I thought you said baths.

Q. Yes, on this property? A. Yes, sir. 40

Mr. Ungaro: Pardon me. He said he thought you meant baths. He said bedrooms.

Witness: I have two bedrooms upstairs, one for the children and one for myself and wife.

Q. You own this property? A. Yes, sir.

Q. And are you a member of several clubs down there, pleasure clubs? A. No.

10 *Luciano Zezima—Cross—for Defendant*

Q. Are you a member of the Gun Club? A. Well, some— (interrupted)

Q. You are, aren't you? A. I am not.

Q. You were until recently? A. No, sir. I am not joining no club.

Q. Not at all? A. No, sir.

20 Q. Do you recall my interviewing you at your house? A. Yes; sure; I am telling you the truth.

Q. Sure, I hope so. A. Yes; the truth.

Q. And on the day I interviewed you you told me that you had been down to your club, gun club.

A. No; I went down to the place, they shoot at the club, they were shooting and I took my boy to show the way they shoot. He said, "Pop, take me down." So I took the boy down there, but I no shoot.

30 Q. You say you are not a member of the various pleasure clubs at the shore? A. I am sorry to tell you I am not.

Q. You have been in business for a number of years at the seashore, supplying watchmen for various estates? A. Yes, sir.

Q. And the people to whom you supply the watchmen— (interrupted)

40 The Court: That is not necessary.

Mr. Berger: I want to show the amount of earnings, your Honor.

The Court: Ask him how much he earns a month.

Mr. Berger: Well, I rather fear that may not result in—he naturally is interested in minimizing that.

The Court: Well, ask him and see.

Q. How much do you make a month, from the

*Luciano Zezima—Cross—for Defendant*

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first day of May to the first day of October, in this business? A. Why the year before last I made about two hundred dollars.

Q. A month? A. A month; but June till onto September the fifth they begin to leave and till the last of September, well, it is pretty quiet, everyone leaves the houses entirely and they discharge me entirely—not discharge me, but let me off. Now, last year had a very poor season; those people went to Europe and finally I secure about one hundred dollars a month.

20

Q. Now, isn't it a fact, Mr. Zezima, that you supply watchmen, or you watch these places, look after them all the year round? A. No. I patrol my men all night along, leave one man and go to the other. That is what I am doing.

Q. I ask you if it is not true that you supervise all these estates all year round? A. No, no, no, no.

30

Q. Aren't you the man who is left to look after them while people are away? A. No; they have a caretaker, a gardner, they have rooms above the garage; they take care of it themselves.

Examined by the Court:

Q. How many men do you have under you in the summer time? A. I had ten men last year.

40

Q. How much do you pay them? A. Eighty dollars a month.

Q. And you only make one hundred dollars? A. Ten men, and I make ten dollars every man; what I secured was one hundred dollars and last year I had more men and I secured more money.

Q. You say you got ten dollars a man, and ten men? A. Yes, sir.

Examined by Mr. Berger:

Q. Ten dollars a man per month? A. I secure—

10 *Luciano Zezima—Cross—for Defendant*

I have to take them home every morning on my Ford car.

Q. And you have to patrol them all night to see they are on the job? A. Yes, sir.

Q. (By the Court.) Is this ten dollars a month that the ten men get? A. The men gets eighty dollars and I am getting ten dollars out of every man.

20 Q. You say that you employ ten men? A. Yes, sir.

Q. Do you watch the property of a family by the name of Shiffer? A. Yes.

Q. And a family by the name of Kahn? A. Yes, sir.

Q. And a family by the name of Bamberger? A. Yes, sir.

Q. And a family by the name of King? A. No.

30 Q. And the estate of Judge May, Mitchell May, family by the name of May? A. Yes, sir.

Q. Judge May? A. No; not Judge, he is not Judge.

Q. Well, family by the name of Simon? A. Yes, sir.

Q. And a family by the name of Leith? A. Who?

Q. L-e-i-t-h? A. Oh, Leith, yes.

Q. And a family by the name of Mosler? A. Mosler?

40 Q. Yes. A. Well, that I don't remember, really.

Q. Well, you probably do, but you do not recall it; is that it? A. Well, I supply the men. I put the men on. Of course, I can't remember everything.

Q. Just tell me whether you are watching the estate of Mosler? A. I had Mosel, I remember. That is on Roosevelt Avenue.

Q. And a family by the name of Herman? A. Yes, sir.

*Luciano Zezima—Cross—for Defendant*

10

Q. And a family by the name of Lauer? A. Yes, sir.

Q. The estate of J. R. Simon? A. Yes, sir.

Q. And the estate of J. A. Wertheim? A. Yes, sir.

Q. And the estate of Newman? A. Yes—no, Newman, no.

Q. Sure of it? A. Well, positively. Which Newman is this? 20

Q. Any Newman. A. Well, there are so many Newmans.

Q. I will let you have your choice. A. I had one Newman. They sold the property over at the corner of Roosevelt Avenue.

Q. Are you watching—did you watch the estate of Hess? A. Yes, sir.

Q. And Lipper? A. Lipper, yes, sir.

30

Q. And Lehman? A. Lehman, yes, sir.

Q. And Nathan? A. Yes, sir.

Q. And Englander? A. Englander, yes.

Q. And Erlanger, Judge Erlanger? A. Yes.

Q. And Judge Lehman? A. Yes; Judge Lehman.

Q. Lehman, New York Judge? A. Well, now, listen; I got one Lehman I got, it is Philip Lehman.

Q. And Weil? A. Weil; yes, sir.

Q. And Bernheimer? 40

Mr. Ungaro: Ask him how many you got.

Witness: What is that?

Q. Bernheimer? A. No.

Q. Bache, the banker? A. No.

Q. Bach, maybe you pronounce it different. A. You mean Mayor Bach? Yes, sir.

Q. And Wolff? A. Which Wolff?

Q. W. E. Wolff? A. Yes, sir.

Q. And Richard Lazer? A. What?

10 *Luciano Zezima—Cross—for Defendant*

Q. Or Lazen, Norwood Avenue? A. What does he call himself?

Q. Richard Lazer at 12 Norwood Avenue? A. No.

Q. Don't watch their place? A. No.

Q. Isn't it true that each of these places, each and every one of these places— (interrupted) A. Now, every man— (interrupted)

Q. Just a moment, sir. A. All right.

20 Q. Isn't it true that each and every one of these places pay you fifty dollars a month for supplying watchmen during the summer months? A. No, sir.

Q. (By the Court.) How much do they pay? A. They pay—if you have men, they divide the price to correspond to ninety dollars a month; some pay fifteen, some ten and some twenty. They correspond to ninety dollars a month.

Q. I called off twenty-four parties. A. Yes, sir.

30 Q. Of which two, you said, you did not take care of. A. Now— (interrupted)

Q. Just a moment, sir. A. All right.

Q. That makes twenty-two estates. Do you still say you employ ten men to watch these twenty-two I called off? A. Yes. Some watch two or three houses and some one. I haven't got the list or I could explain you better.

40 Q. There are many other families whose estates you watch? A. I don't know.

Q. You don't know? A. No, sir.

Q. You don't know? A. No, sir.

Q. Well, will you say to the court now that there are not many others whose estates you watch? A. You mention, yes.

Q. I mentioned as many as I could find out.

Examined by the Court:

Q. Wait a minute. Do you watch more than

*Luciano Zezima—Cross—for Defendant*

10

twenty-two houses down there? A. You see—

Q. Answer me. A. Yes, Judge.

Q. How many more than twenty-two do you watch? A. You see, I—

Q. How many more than twenty-two do you watch? A. Well, Judge, I didn't count them. I don't want to tell lies.

Q. Well, estimate? A. I only can—

Q. Twenty more? A. Oh, no, no, Judge.

20

Q. Ten more? A. No, no, Judge, I don't think so. I don't think it is more than twenty-six or twenty-five houses.

Q. Very well. We will call it twenty-six. A. But this is not true, because I cannot—

The Court: Well, just answer questions.

Examined by Mr. Berger:

30

Q. Last summer how much did you get for yourself for each of the estates you watched, or houses that you watched, per month? A. I figure one hundred dollars for myself.

Q. No. I asked you how much did you get of each one of these people for watching these places, for yourself? A. Ten dollars.

Q. Ten dollars apiece? A. Yes; but I had to take them home every morning.

40

Q. So you had twenty-six at ten dollars each? A. No; ten men. I had to—

Q. How much does each one of these property owners pay you for supplying them watchmen? A. If they got a man for this one house only, they pay ninety dollars. If they get the man between themselves and they are all friends, he pays fifteen, he pays twenty, they arrange that between themselves.

The Court: I do not think we had better

10 *Mario Zezima—Direct—for Defendant.*

spend any more time. We will make him produce his books.

Q. You also did work in the city supplying furnace men? A. Not in the city no more.

Q. You used to, didn't you? A. Yes; I used to, but the last six or seven years I do not.

20

MARIO ZEZIMA, sworn for the defendant.

Direct-examination by Mr. Ungaro:

Q. Mr. Zezima, you are a brother of Luciano?  
A. Yes, sir.

Q. And a brother-in-law of Mrs. Zezima? A. She was; yes.

30 Q. You are married now? A. I am married now, yes; nine years.

Q. You were married in 1914, were you? A. No, sir.

Q. Did you live in New York with your sister-in-law, Mrs. Giacinta Zezima, in 1914? A. 1914, she come over 1914, but I didn't live right away. I went down to Long Branch for three months; that is my season down there, three months; and I came back September, around the tenth or fifteenth, and I went to live with my sister.

40

Q. How many months did you live with her? A. Six months.

Q. Did you ever live with her in Long Branch?  
A. Three months.

Q. Where? A. In Jeffers Street.

Q. Now, Mario, did you live with her as husband and wife? A. So far.

Q. You mean you did? A. Yes, sir.

*Mario Zezima—Cross—for Defendant.*

10

Q. (By the Court.) You mean to say you are admitting now that you had intercourse with her?

A. Well,—

Q. (By the Court.) You know what that means?

A. I know what that means.

Q. (By the Court.) That is a serious matter. Is it true? A. It is true.

Mr. Ungaro: That is all. Cross-examine. 20

Cross-examination by Mr. Berger:

Q. How old are you, Mario Zezima? A. Thirty-one years old.

Q. (By the Court.) Thirty-one? A. Thirty-one now.

Q. (By the Court.) How old were you in 1914?

A. I was eighteen—nineteen years old. Right after —three years I got married, I was twenty-three years old when I got married, but I am sure I was nineteen years when I lived—nineteen or twenty. 30

Q. You are thirty-one years old now? A. Yes, sir.

Q. And you say that in 1914 you were nineteen years old? A. I was around eighteen or nineteen or twenty, I am sure.

The Court: That would about make it. 40

Q. What was your wife's maiden name? A. Alvina Pampa.

Q. When did you start keeping company with your wife? A. Well, I didn't keep company.

Q. Well, you went out with your wife? A. I didn't go out with my wife, I didn't go out with my sweetheart.

Q. When did you first become acquainted with your sweetheart? A. I went over there. It was

10 *Mario Zezima—Cross—for Defendant.*

1915 or 1916 when I met my sweetheart and I didn't go off for two years, for three years, for six months.

Q. Don't talk so much. You were going about with your wife in 1914 and 1915, were you not? A. Fourteen?

20 Q. In the year 1914 and in the year 1915 you were going out with your future wife? A. I was sixteen years old, I mean, not fifteen.

Q. No. You are not understanding. I asked you whether in the years 1914 and in the year 1915 you were going around with your wife, who was then Alvina Pampa? A. Yes, sir.

Q. And she used to call on you at the flat on Sixty-ninth Street, did she not? A. No.

30 Q. She never came there? A. She never came there.

Q. Now, do you know Nicholas Tamburri? A. Yes, sir.

Q. He was a very close friend of yours during that time? A. Yes, sir.

Q. And, during the time that you lived at the Sixty-ninth Street flat, he came to see you very often, didn't he? A. Never.

Q. Never came to see you? A. Never, never.

40 Q. Do you know Amelio Pia? A. Amelio?

Q. Do you know him? A. Amelio Pia?

Q. Yes. A. I don't know him at all, because he never talked to me, never be friends with me.

Q. Never heard of him, I suppose? A. No, sir.

Q. Do you know Mario Palumba? A. Yes, I used to buy fruit, got a grocery down the street.

Q. Do you know him? A. Yes, sir.

Q. Do you know Marie Conese, Mrs. Conese? A. Yes; I know her.

*Mario Zezima—Cross—for Defendant.*

10

Q. You said a moment ago that you lived as husband and wife with Mrs. Zezima? A. I did.

Q. When did you do that? A. That was in 1914 she came and I stood 1915 away. I came back from the season down at Long Branch. I went to live with her and then she come down to Long Branch.

Q. Just a moment. What month did that begin in 1915? A. What month? 20

Q. Yes. A. If she came on the fourteenth it was on the fourteenth, not on the fifteenth, because I come back 1914 around the fifth or tenth of September.

Q. When did you start this relationship with Mrs. Zezima; was that in 1914 or 1915? A. 1914.

Q. What month? A. I told you September, when I came back from the country. 30

Q. When you came back from the country in September, did you go to live at her flat? A. Yes, sir.

Q. At what address? A. 315 West Sixty-ninth Street.

Q. Did you see her before you came back? A. I see her? Yes, I did see her.

Q. When did you first see her? A. I see her when she landed. 40

Q. That was when? A. When she come out in 1914.

Q. How long after she landed did you see her? A. I didn't see—well, I went down to the country and when I come back from the country.

Q. You say when she came here from Europe you saw her right away? A. I saw her right away down the street and then I left Sixty-ninth Street and then I went down to the country, down to Long Branch.

10 *Mario Zezima—Cross—for Defendant.*

Q. Where were you living at that time? A. I was living down at a party's,—I don't remember what it was, I was living at that time.

Q. Didn't you have a sister who lived on the same floor with Mrs. Zezima at that time at the Sixty-ninth Street house? A. I didn't— (interrupted)

20 Q. Didn't you have a sister living there? A. Yes, sir.

Q. What is her name? A. Louisa Pia.

Q. She lived on the same floor as Mrs. Zezima? A. Yes.

Q. Did you during the summer of 1914 call at the Zezima flat? A. No, sir; I don't know nothing about that time.

30 Q. Now, when you came back in September, 1914, you went to live at her flat? A. Yes.

Q. Who arranged that you should go to live there? A. Nobody.

Q. Well, how did it happen? A. Well, she had— she talked to me on the station that I should go there while my brother was going to be there.

Q. How is that again? A. That my brother was going to be there, to find out some place for my brother.

40 Q. She was trying to find out from you whether your brother was going to be there? A. Yes; or not.

Q. Or not. A. Yes.

Q. What did you tell her? A. I don't know nothing about.

Q. Is that what you said? A. Yes.

Q. And then what did she say? A. "Well, I will see."

Q. Is that all she said, "I will see"? And nothing further happened that time? A. No.

*Mario Zezima—Cross—for Defendant.*

10

Q. Well, when did you next talk to her, when did you talk to her again? A. Well, I live over there; we talked every day.

Q. Who asked you to come to live there, did she? A. She? Yes, sir.

Q. She asked you to come to live there? A. Yes, sir.

Q. How did it happen that you called to see her on this particular day, when you didn't come into her flat during all of the summer of 1914? A. There was—I seen when she came out, when she landed this country. Then I went down to the country and I see her back, the fifth or the tenth, and I stay six months in the house; then I went down to the country again. 20

Q. She invited you to come and stay at her flat? A. Yes, sir.

Q. Where did she meet you to invite you, in the street, or did you come into her flat? A. Well, I didn't remember. 30

Q. You don't know where she met you? A. No.

Q. It may have been out in the street or it may have been in the flat? A. In the house, but I can't remember, I don't remember.

Q. How many rooms did you have in this flat? A. Three. 40

Q. Did she have Amelia, this young lady, living there at the time? A. Yes, sir.

Q. Amelia was a girl about nine then? A. Seven or eight, nine, something like that.

Q. And how were the rooms fixed up? A. Well, I didn't remember.

Q. You don't remember that? A. No, sir.

Q. How many bedrooms were fixed up in this place? A. Two.

*Mario Zezima—Cross—for Defendant.*

10

Q. Who occupied one of the bedrooms? A. Myself.

Q. And who occupied the other? A. The daughter and the mother.

Q. The daughter and the mother? A. Yes, sir.

Q. And in the bedroom that the daughter and the mother occupied there was one bed; isn't that so?

A. One bed.

20

Q. And that is the bed that they used? A. Yes, sir.

Q. Your sister used to come into this flat of Mrs. Zezima's regularly, didn't she; she used to visit her? A. No, sir.

Q. Never did? A. Never.

Q. You are sure of that? A. Supposed it. They fight; month later they fight each with the other.

30 Q. Now, Mr. Zezima, you knew that Mrs. Zezima was married then to your brother, did you not? A. Yes, sir.

Q. And you knew that your brother was then her husband, didn't you? A. I don't know.

Q. You did, didn't you? A. I heard the people, but I don't see my brother living there; I didn't see my brother on the other side, because I was only five or six years when she claimed she married my brother, but I didn't see my brother and I didn't see her. She only stayed three months in my house and she went back to his mother.

40

Q. When you were a small boy you lost your mother, didn't you? A. I lost my mother; yes, sir.

Q. And who brought you up? A. My sister.

Q. Who is that? A. **Louisa Pia.**

Q. When did your sister go to the United States? A. To the United States?

Q. When did your sister come from Italy? A. 1911 or 1912, something like that.

*Mario Zezima—Cross—for Defendant.*

10

Q. 1911? A. Yes, sir.

Q. When did you come to the United States? A. I come in 1911, 1910.

Q. In 1910? A. Yes, sir.

Q. Was your sister, up to the time that you came to America, a single woman or a married woman?

A. She was then married.

Q. Yes. Had a husband and her own family? A. Yes.

20

Q. And did she live in the same house with you? A. No.

Q. You did live in the same house with Mrs. Zezima while you were a little boy, did you not, in Italy? A. Oh, no. I didn't remember, because I was four or five years, I don't know nothing about.

Q. Yes. A. She only married. She stayed three months in our house, after my brother, he left to come over to the United States and she fight with my old man, my father, and she went back to his mother.

30

Q. Didn't it occur to you that it was a wrong thing—

The Court: No.

Mr. Ungaro: I object.

The Court: I will sustain the objection.

40

Of course it was wrong, if it is true.

Q. When did this occur, in the day time or night time? A. I don't know that.

Q. You don't know that? A. No.

Q. Do you know what month it happened in? A. What month?

Q. Yes. A. Can't tell you what month.

Q. Don't know that either? A. No, sir.

Q. Well, did it occur during the month of Sep-

*Mario Zezima—Cross—for Defendant.*

10

tember, 1914? A. I don't know. I didn't remember what date.

Q. How often did this happen? A. I told you I don't know when it happened.

Q. You don't know when it happened? A. No, sir.

Q. And you don't know when it happened? A. No.

20

Q. Now, did you go to live with Mrs. Zezima as husband and wife in the room at Jeffers Street, Long Branch? A. I slept in the day time and she slept in the night there.

Q. You and Tamburri were working? A. No, sir. Tamburri was living in one big room. I used to sleep with Tamburri and Louis Pampa, he died two years ago, so that is good, he is dead, he can't come over and prove.

30

Q. Otherwise you would have him as a witness? A. I would have him. I sleep in the daytime in this room and Tamburri and Louis Pampa sleep in that big room in front of the house and I sleep in the rear.

Q. I see. During the time that you slept in the room in the day time was there any wrong doing between you and Mrs. Zezima? A. I don't know.

Q. You don't know what? A. I don't know.

40

Q. Isn't it a fact that she was there with her daughter during that time? A. I can't tell you.

Q. Eh? A. I don't know.

Q. Didn't she have Amelia there with her during that time? A. Amelia?

Q. This girl (indicating)? A. Yes, sure she was.

Q. And they slept in this room during the night time? A. I sleep in the day time; she sleep with the mother and daughter in the night time.

Q. In the night time? A. Yes.

*Mario Zezima—Cross—for Defendant.*

10

Q. Was Mrs. Zezima there during the time that you slept there in this room? A. Well, she come up there to bother me, but I didn't (interrupted)

Q. You didn't want to have anything to do with her? A. No.

Q. I see. Who arranged for the taking of this room at Jeffers Street? A. Who arranged?

Q. Yes. A. I don't know, because she come up there and I had my room. We had three boys, we all sleep together in a big room and she came up there, so we divided to get this room and then she said, "You better sleep in this room and I take care of this room, because I don't like that you sleep with this other boy." 20

Q. She said that to you? A. She said that to me. "You can sleep on this bed because I can take care of it. I can wash the sheets and all." 30

Q. So, during the time that you were in Long Branch and during the time that Mrs. Zezima was there you say that you did not stay in the room with Mr. Tamburri at all? A. I don't stay with Mr. Tamburri at all. Mr. Tamburri know nothing about. Tamburri was there, but he can prove right in that I was sleep there in this room. 30

Q. So that nothing wrong ever happened between you and Mrs. Zezima at Long Branch? A. She came over there, but I won't bother. 40

Q. So nothing happened there? A. Nothing happened there.

Q. And she came to bother you in the New York room? A. Yes, sir.

Q. And nothing happened there? A. No.

Mr. Berger: That is all.

10 *Mario Zezima—Redirect—for Defendant.*

Redirect-examination by Mr. Ungaro:

20 Q. Do you understand the word "nothing"? A. I got to state the truth. Nothing happened. She came to bother me. The time she came there I kept company with a girl, some young lady so—and the mother, she raised hell, not because this man, I think, was got something to do with this lady, because I can see them sleep together, and tell the daughter not to do anything like that.

Q. You stated before—without going into particulars—that you lived with Mrs. Zezima as husband and wife, both in New York and Long Branch. A. Yes, six months, that is all.

30 Q. Now, what do you mean, then, that you did not bother and what do you mean that she bothered you? A. She used to come over and see me, and things like that.

Examined by the Court:

Q. Try to tell us the truth. Did you have sexual intercourse with her? A. No.

Q. Never in your life? A. No.

Q. Then you have entirely changed your testimony. Is that the idea? A. It is true.

Examined by Mr. Ungaro:

40 Q. Now, listen, Mr. Zezima; you are in court and you should not be ashamed of telling the truth. A. Well, it is a fact.

Q. What is the fact? That is what we are trying to find out. A. It is a fact because she come over to the room to find out what was there, but I didn't bother.

Q. That is not the point. A. When I see the things I walked away from the room.

Q. That is not the point, Mr. Zezima. Just wait a minute. The Court has asked you, did you have

*Mario Zezima—Redirect—for Defendant.* 10

at any time, while living in New York or Long Branch, any sexual intercourse with your sister-in-law? Do you know what "sexual intercourse" is?  
A. I know.

Q. Why did you say, then, that you lived with her as husband and wife? A. Well, I did live, because the people talked that way, as husband and wife; the people call them wife and husband down at Jeffers Street. 20

Q. Well, did you live with her? A. I sleep on the same room, but she come up there to bother me, but I didn't. Of course, I was ashamed; I was only seventeen or eighteen years old. I didn't.

RAFFAELE PIA, sworn for the defendant: 30

Direct-examination by Mr. Ungaro:

Q. Where do you live, Mr. Pia? A. Long Island.

Q. What city, did you say? A. Long Island.

Q. What city? A. Long Island.

Q. Do you know Mr. Zezima? A. Oh, yes; he is my brother-in-law.

Q. Your what? A. My brother-in-law.

Q. And you know Mrs. Zezima, his wife? A. Yes, sir. 40

Q. You know Mario Zezima, don't you? A. Yes, sir.

Q. Did you ever have any occasion to visit the house of Mrs. Zezima in New York in 1914 and 1915? A. Oh, yes; I am living on the same floor.

Q. You lived on the same floor? A. Yes, sir.

Q. Did you see Mario around there—Zezima? A. Well, Mario is live in this house.

Q. Mario was living in the house? A. Yes, sir.

10                   *Raffaele Pia—Direct—for Defendant.*

Q. With whom? A. Well, in the house.

Q. With Mrs. Zezima, you mean, Mrs. Zezima's house? A. Yes; Mrs. Zezima's house.

Q. Who else was living there at the time besides Mario? A. Amelia.

Q. The daughter? A. And nobody else.

Q. Nobody else. Never saw the boarders there?

A. No.

20                   Q. Now, did you have occasion to notice the way Mrs. Zezima and Mario Zezima were getting along in the house? A. Well, I can't say anything, I never saw anything. They lived in the house.

Q. The only thing you know they lived in the house? A. Yes, sir.

Q. And you were not in the house and did not see anything yourself with your own eyes? A. I didn't see nothing.

30                   Q. But what was your impression of the actions of the two?

Mr. Berger: I object to that.

The Court: I will sustain the objection.

It is for the Court to get the impression.

Mr. Ungaro: All right; yes.

40                   Q. For how long did they live there? A. Who, Mario?

Q. For how long did Mario live there? A. For about five or six months.

Q. Do you know when Mrs. Zezima went to live in Long Branch? A. (Witness nods no.)

Q. You don't know that.

The Court: All this is admitted. Do you want to cross-examine?

Mr. Berger: No, your Honor.

The Court: That is all.

*Alvina Zezima—Direct—for Defendant.*

10

ALVINA ZEZIMA, sworn for the defendant :

Direct-examination by Mr. Ungaro :

Q. You are the wife of Mario Zezima? A. Yes.

Q. And what was your name before you married him? A. Alvina Pampa.

Q. You were keeping company with Mario in 1914 and 1915? A. I kept company with him, yes, I kept company with him for a few months. 20

Q. In which year? A. But not the whole year. In 1914.

Q. Now, when did you break off with him? A. I broke off with him before Christmas. I don't know exactly, I don't exactly remember, but I think it was in October or November.

Q. October or November. A. Yes; something like that. I don't remember the date. 30

Q. Did you use to visit Mrs. Zezima from the time she came from Italy until October or November of 1914? A. No; I never visited her while I was keeping company with my husband. It was when I broke off with my husband I visited her once, but I had nothing to do. He returned everything to me. I had nothing to do—at that time he was only my friend. 40

Q. Yes. A. And I visited her and she admitted to me that she was the one that kept my husband away from me. At that time he was my sweetheart and she admitted herself. Then I made up with him and she done the same thing the following year.

Q. What do you mean "she done the same thing"? A. We made up and then after we made up after Christmas and he went down as a night watchman and she done the same thing, she kept

10 *Nicholas Tamburri—Direct—for Complainant.*

him away from me, too, and later on I found out that— (interrupted)

Mr. Berger: I object to that.

Q. No. Do not say what you found out from other people. Did you talk to her later on? A. Yes; I talked to her.

20 Q. And what did she tell you? A. She told me that she kept him away.

Mr. Ungaro: Cross-examine.

Mr. Berger: No cross.

The Court: That is all.

30 NICHOLAS TAMBURRI, sworn for the complainant:

Direct-examination by Mr. Berger:

Q. Where do you live? A. I live Kearny, number 5 Winthrop Street.

Q. Long Island? A. Yes, sir.

Q. How long have you known Mario Zezima? A. Well, I know Mario Zezima since he was a little boy; we used to go to school together.

40 Q. And do you remember the time when he came to live at the Sixty-ninth Street flat of Mrs. Zezima? A. Yes, sir.

Q. How often did you come to visit there during that time? A. Well, I used to go over there once in a while, not all the time.

Q. Did you ever see anything wrong going on there between them? A. No, sir.

Q. Do you remember the summer of 1915 when Mrs. Zezima came out to Long Branch with her daughter, Amelia? A. Yes, sir.

*Nicholas Tamburri—Direct—for Complainant.* 10

Q. Where did you live at that time in this summer, 1915? A. I used to live with Mr. Zezima together, I can't remember the street. I don't know the number of the house, either. We used to sleep together and was have big room, me and him sleep together; used to go to work in the morning and take the bicycle and get back about seven o'clock at night and come back; he used to go to work washing cars in the morning and I used to go home before him and used to come home ten or eleven o'clock, sometimes nine o'clock, half-past eight in the morning. 20

Q. Now, during this time you were a night watchman the same as he was? A. Yes.

Q. You worked together? A. We used to work --I was two block away from him.

Q. Did you use to see each other while on the job? A. Once in a while in the night used to see him and see him in the morning. 30

Q. Did you ever see anything improper or wrong between Mrs. Zezima and himself during that time? A. No, sir.

Q. Do you remember whether Mrs. Zezima had Amelia with her during that month? A. Yes, sir.

Q. And do you know whether or not they occupied that room, this Amelia, Mrs. Zezima and the child, at night? A. Yes, sir. 40

Q. (By the Court.) Were you in that room with Mario? A. Yes, sir.

Q. (By the Court.) In Mrs. Zezima's house? A. Mrs. Zezima was sleep there at night time.

Q. (By the Court.) And who slept there in the day time? A. Me and Mario. There was another fellow, but he is dead.

10 *Nicholas Tamburri—Cross—for Complainant.*

Cross-examination by Mr. Ungaro:

Q. Isn't it a fact that you slept in the big room?

A. Yes, sir.

Q. And there was two rooms then, a big room and a small room, wasn't it? A. We used to have big room and the kitchen downstairs. That is all I know.

20 Q. And isn't it a fact that you slept in the big room with the other fellow? A. Yes.

Q. And that Mario slept in Mrs. Zezima's room in the day time? A. No, sir; they used to sleep in the same room, me and Zezima in the night time and in the day times Mrs. Zezima used to sleep there, her and her daughter.

30 Q. What time did you use to go to work? A. Seven o'clock in the night.

Q. What time did you go home from work? A. Eight o'clock; half-past seven, eight o'clock, nine o'clock; used to meet each other, used to go home together.

Q. Didn't you say a minute ago that sometimes you would get in at eleven o'clock? A. Eleven o'clock in the night. You can't leave the house eleven o'clock at night.

40 Q. In the morning? A. In the morning, that is the time it was, not later than seven o'clock; we couldn't go in and out, because we used to leave the house seven o'clock in the morning and it took pretty near three-quarters of an hour to go home; get there about eight o'clock.

Q. Did you sleep in Mrs. Zezima's bed during the day time? A. Yes.

Q. You did? A. I can't deny. I say yes.

Q. And you say now that Mario slept with you in Mrs. Zezima's bed? A. Yes; I used to go out all

*Amelia Zezima—Direct—for Complainant.* 10

the time with him and have a bicycle ride and many times I fall and there were four or five fellows together.

Q. And isn't it a fact that many times you came in the house after Mario had been in the house? A. Never. Many times I used to go home before him.

Q. Many times you used to go home before him?  
A. Because he used to wash the cars in the morning. 20

AMELIA ZEZIMA, sworn for the complainant:

Direct-examination by Mr. Berger:

Q. You are a daughter of Luciano Zezima and Giacinta Zezima? A. Yes, sir.

Q. How old are you? A. I am eighteen.

Q. And have you lived with your mother all your life? A. Yes, sir. 30

Q. Do you recall the time that you lived in West Sixty-ninth Street? A. Yes, sir.

Q. When you came to this country? A. Yes.

Q. Do you have a clear recollection of that? A. Yes, sir; I was eight years old.

Q. Now, do you remember when your uncle, Mario, came to live there at the flat? A. Yes, sir.

Q. Did he occupy a room? A. Yes, sir. 40

Q. Did he occupy a room of his own? A. Yes, sir.

Q. And what room did you and your mother occupy? A. The other bedroom.

Q. Did you take sick sometime in the latter part of 1914 or the beginning of 1915? A. Yes; in 1915.

Q. And, during that time, did your father come to see you very often? A. Yes, sir.

Q. How much time did he spend with you? A. Well, he would come in and he would talk to me a

10 *Amelia Zezima—Direct—for Complainant.*

while concerning school and such, being I was a child, and then he would leave at times, he had to report to the furnaces, to tend the furnaces.

Q. And was he there very often? A. Yes; while I was ill he was in every day.

Q. Your uncle, Mario, was living there at that time? A. Yes, he was living in the other room.

20 Q. Now, did your uncle, Mario, ever come into the room that you and your mother had? A. While I was ill he would come in and see me.

Q. While you were ill? A. But not otherwise.

Q. Now, do you recall in the summer of 1915 your mother took you to the shore on account of your recent illness? A. Yes, sir.

30 Q. And do you remember who arranged to let you stay there in this room on Jeffers Street? A. Yes. You see, we went there at night and we saw my father and he was on the job and could not take care of us, so we stayed on the porch all night and it rained hard and we had quite a few difficulties, but early in the morning my uncle, Mario, came and said that, through the orders of my father, he was to take us to a room where he was living, that he would take care of us while we were at the seashore.

40 Q. Well, now what was done about that room, in fact, who occupied it at night and who in the daytime? A. Well, in the daytime there was my uncle, Mario, and Mr. Tamburri and another fellow which died recently and—

Q. Yes. A. At night my mother and I slept in the same bed.

Q. I see. And did you see your father during this month that you were up there at Long Branch? A. No; only the night we were there.

Q. The first night? A. Yes; the first night.

*Amelia Zezima—Direct—for Complainant.* 10

Q. Did you, during this month, sleep with your mother every night? A. Yes; every night.

Q. What time did you and your mother retire, as a rule? A. Why, about nine or ten o'clock. You see, we would go to the seashore early in the morning and stay there— (interrupted)

The Court: No. That is enough.

Q. Did you ever stay away from your mother at any time during that time? A. No, sir; I was always with her. 20

Cross-examination by Mr. Ungaro:

Q. You were eight years old? A. Yes, sir.

Q. And you remember perfectly all that happened? A. Yes, sir. 30

The Court: I think the question is really one I shall have to think over a little. I will think it over while I am out at lunch and let you know at two o'clock.

Mr. Berger: I will hold my witnesses?

The Court: I do not think it is necessary, if these witnesses are simply going to say that they called on these people and reiterate what all agree—all except Mario, and as far as his testimony is concerned, it is practically worthless, because he has contradicted himself and stultified himself on the stand, but all the rest of them say that these two men slept there in the daytime and that the women slept there at night. Now, that is admitted. 40

Mr. Berger: That is admitted.

The Court: That is a fact, and as far as the flat in New York is concerned, Mario

10 *Amelia Zezima—Cross—for Complainant.*

occupied one room and the little girl and her mother occupied the other, that seems to be admitted.

Mr. Berger: Yes, and I have enumerable witnesses.

20 The Court: The witnesses are simply going to reiterate that. There is no dispute about that. The only question now is whether there was sufficient opportunity under the circumstances as presented, to justify me in saying that, in spite of Mario's denial, there was an improper relationship between them. I will think that over and let you know at two o'clock and you need not keep any witnesses. I think we had better consider the case closed except as to the financial ability of this man, if I should decide it was necessary for him to pay.

30

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Noon Recess.

Mr. Berger: I would like to continue the proofs in rebuttal of the testimony given by the witnesses for defendant,

40 The Court: I thought the case was closed, Mr. Berger.

Mr. Berger: I thought your Honor stated you would think over the question as to whether you wanted to listen to further testimony.

The Court: It does not seem to me that any further testimony is necessary. This is just merely cumulative.

Mr. Berger: The testimony would be of the nature to show the surrounding circumstances of these parties, bearing particularly

*Amelia Zezima—Cross—for Complainant.* 10

on the question of desire and opportunity. I think I have several witnesses whose testimony would throw considerable light on that subject.

The Court: The Judge must have an opportunity.

Mr. Ungaro: Yes. I must have an opportunity to bring my witnesses to prove the contrary, and we will never get through. 20

Mr. Berger: They made their issue and put in their case and now we are on the subject of rebuttal. I am merely going to rebut such testimony as they offered in their case. I do not propose to bring up new matter.

The Court: Mr. Berger, you said when we adjourned for lunch that the case was closed and I said that I would think over what I was going to do and announce it when I came on the bench. 30

Mr. Berger: If I gave your Honor that impression I will stand by it. I did not intentionally do so.

The Court: I do not want to cut you out of any evidence you think is necessary; if you feel you want to put these witnesses on the stand, I shall reopen the case, with the understanding that the Judge shall have his chance also. 40

Mr. Berger: I have no objection to that, your Honor.

The Court: Very well.

Mr. Berger: Your Honor, I will close my case.

The Court: Oh, no. Now, I do not want you to do that, Mr. Berger. If you feel you ought to have these witnesses, I want you to

10 *Michael Colarossi—Direct—for Complainant.*

have the opportunity to have them heard. I do not want to shut you off at all.

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MICHAEL COLAROSSO, sworn for the complainant:

20 Direct-examination by Mr. Berger:

Q. You are a brother of Giacinta Zezima? A. Yes, sir.

Q. The complainant in this case. And during 1914 and 1915 where did you reside? A. At 364 Amsterdam Avenue.

Q. New York City? A. New York City.

30 Q. And how often did you call at the apartment of your sister, at Sixty-ninth Street, during the time that she lived there in 1914 and 1915? A. As it is I probably called there twice or three times a week.

Q. Do you recall the time when Mario Zezima lived at this apartment? A. Yes, sir.

Q. Did you ever see any conduct on the part of either your sister or on the part of Mario Zezima that would show any intimacy between them? A. Absolutely not.

40

The Court: Cross-examine.

Mr. Berger: Cross-examine.

The Court: No cross-examination. That is all, sir.

*Thomas Colarossi—Direct—for Complainant.* 10

THOMAS COLAROSSO, sworn for the complainant:

Direct-examination by Mr. Berger:

Q. Mr. Colarossi, you are a cousin of Mrs. Zezima? A. Yes, sir.

Q. In the years 1914 and 1915 did you reside in New York City? A. Yes, sir.

Q. And did you know the apartment where Mrs. Zezima lived during those years? A. Yes, sir. 20

Q. How often did you call at the apartment of Mrs. Zezima during that period? A. Sometimes twice a day, sometimes once a week, twice a week and three times a week.

Q. Do you remember the time when Mario Zezima lived at this apartment? A. Yes, sir.

Q. Did you observe any conduct or any act on the part of either Mrs. Zezima or Mario Zezima that would indicate any intimacy or any improper conduct on the part of either of them to the other? A. No, sir. 30

Cross-examination by Mr. Ungaro:

Q. You boarded with Mrs. Zezima, didn't you? A. No, sir.

Q. Eh? A. No, sir.

Q. You did not? A. I stopped there. I went there when I was living out of town. 40

Q. And didn't you stop there for a week at a time and sometimes three days? A. Sometime three days, but I was not boarding.

Q. And slept in the house? A. I slept in the house when I was out of town. It would be too late for me to go out, I would stay there all night and go home next morning early.

Q. Was Mario there when you stopped there? A. No, sir.

10 *Marie Conese—Direct—for Complainant.*

MARIE CONESE, sworn for the complainant:

Direct-examination by Mr. Berger:

Q. Mrs. Conese, where do you live? A. 315 West Sixty-ninth Street.

Q. Is that the house where Mrs. Zezima lives? A. Yes, sir.

20 Q. How long have you lived at that house? A. Nineteen years.

Q. And do you remember Mrs. Zezima moving into that house? A. Yes, sir.

Q. In 1914? A. Yes.

Q. Has she lived there ever since? A. Yes, sir.

Q. On what floor do you live? A. Top floor.

Q. On what floor does she live? A. Top floor. I live in the front and this lady lives just a little this way (indicating with hands).

30 Q. And do you remember the time when Mario Zezima boarded there? A. No.

Q. Well, do you remember when Mario Zezima was living in the same flat where Mrs. Zezima and her daughter lived? Do you remember that? A. Yes.

Q. During that time how often did you go into Mrs. Zezima's flat? A. I can't tell. I go all the time.

40 Q. How many times a day do you think? A. I think ten times, fifteen times, because I just live near.

Q. You kept going in all the time? A. All the time.

Q. You were very friendly? A. Sometimes I knocked at the door night time and day time, when I get up and when I sleep.

Q. Yes. Now, did you see Mario Zezima and

*Marie Conese—Cross—for Complainant.*

10

Mrs. Zezima when they were in the room at the same time when they were there? A. Yes; the same time.

Q. Did you ever see them do anything wrong?  
A. No, sir.

Q. Or did they ever make love to each other or anything like that? A. No, sir.

Mr. Berger: That is all.

20

Cross-examination by Mr. Ungaro:

Q. When did you see Mario, what time did you see Mario in the room? A. When he came to work day time or night time, any time, because he lived right there.

Q. What time of the day did you see Mario? A. Well, sometime one week, sometime one day, sometime when he would come, see, comes from the work any time.

30

Q. What time did he come from work? A. He comes morning, night; he works morning or night. I don't know myself. Of course, his sister lived right there, three houses, just all together.

Mr. Berger: Three flats.

Witness: One flat and opening door all the time.

40

Q. You said you saw Mario in the room? A. I did; yes, in the kitchen.

Q. How many times did you see him? A. One time a week.

Q. One time a week? A. One time a weeks, one time a day, any time of the day he come.

Q. Which is it, one time a week or one time a day? A. Sometime he go to the country and come

10 *Marie Conese—Cross—for Complainant.*

sometime once a week and this time he come every day because he lived with the sister.

Q. He lived with the sister? A. With the sister, yes.

Q. You weren't in the rooms at night time? A. No.

Redirect-examination by Mr. Berger:

20 Q. Were you there in the evening? A. The evenings, yes.

Q. Lots of times? A. Lots of times.

Mr. Berger: We rest, your Honor.

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PALMA ZEZIMA, sworn for the defendant:

Direct-examination by Mr. Ungaro:

30 Q. Are you a relation of Mrs. Zezima? A. Sister-in-law.

Q. Sister-in-law? A. Yes.

Q. Which Zezima did you marry? A. Mr. Zezima's brother.

Q. Mr. Zezima's brother; what is the name? A. Mr. Filimento Zezima.

40 Q. Now, where did you live in 1914 and 1915? A. Not 1914. I was not married. I am married 1916.

Q. 1916? A. The year 1917 I went to live with Mrs. Zezima in one of her rooms.

Q. And when did you get married, did you say? A. 1916, at the end of 1916.

Q. Where did you live with Mrs. Zezima? A. In April, 1917, I went to live there.

Q. And how long did you stay there? A. Until November, 1917.

Q. And why did you get out?

*Palma Zezima—Direct—for Defendant.*

10

Mr. Berger: I object to it as immaterial. It is long past the time of this alleged period of misconduct.

The Court: When is it, 1916?

Mr. Berger: 1917.

The Court: Well, Mario was not there.

Witness: No; not at that time.

Mr. Ungaro: I am not giving any testimony of Mario.

20

The Court: What do you want?

Mr. Ungaro: On the acts of this complainant even after Mario left.

The Court: All right. I will admit it.

Mr. Berger: I pray for an exception.

The Court: Not necessary in this court.

Q. Why did you leave Mrs. Zezima's rooms? A. I had to leave because I didn't like the friendship between Mrs. Zezima and my husband.

30

Mr. Berger: I move to strike this out because it is not relevant to this issue; her friendship with this lady's husband is not in issue in this case.

The Court: What is the— (interrupted)

Mr. Ungaro: Mr. Berger is trying to show desire and opportunity of this woman at the time that Mario was there and I am trying, if your Honor will permit, to show that she acted also with other people the same way.

40

The Court: I will allow it.

Mr. Berger: I pray for an exception.

Q. What do you mean, the friendship between Mrs. Zezima and your husband? A. Well, one day I was out and I just happened to come up and my

10     *Palma Zezima—Direct—for Defendant.*

door was locked, leading into her apartment with three rooms, so I pulled out my latch key and I opened, and finally I found her in my room with my husband, and I got so aggravated because they acted very funny, that the people outside living around heard me and come out, and there is one witness in here already.

20     Mr. Berger: I move to strike that out on the ground it is irrelevant and immaterial to this issue.

The Court: I will deny the motion.

Mr. Berger: I pray for an exception.

Q. What is the name of the witness that you say heard all this? A. Cesidio Pia.

30     Mr. Berger: No cross.

CESIDIO PIA, sworn for the defendant:

Direct-examination by Mr. Ungaro:

Q. Mr. Pia, where do you live? A. 215 West Ninety-sixth Street—now?

40     Q. (By the Court.) Yes. A. 3760 Fifteenth Street, Elmhurst, Long Island.

Q. Where did you live in 1915 and 1916 and 1917? A. Two fifteen West Sixty-ninth Street.

Q. Now, do you remember the occasion where this young lady who was just on the stand was hollering? A. Yes, sir.

Mr. Berger: I want to enter my formal objection to this on the ground that it is immaterial to this issue.

The Court: All right.

*Cesidio Pia—Direct—for Defendant.*

10

Q. And what did you see yourself? A. I see when she and when Mr. Zezima go out from the door.

Q. You saw Mrs. Zezima coming out from this apartment? A. From this apartment; yes.

Q. And you saw Mrs. Zezima here, the one that was on the witness stand, outside the door hollering? A. Yes.

20

Mr. Ungaro: That is all.

Mr. Berger: No cross.

The Court: Is the case closed now?

Mr. Berger: The case is closed.

The Court: Do you want to recall Mario?

Mr. Ungaro: Just as your Honor says.

The Court: No. It is not up to me to say anything. If the case is closed, I will proceed.

30

Mr. Ungaro: It is.

The Court: This is a case for separate maintenance by the wife from the husband.

It is admitted that the husband, without any legal warrant, went through a form of marriage with another woman. Also it is admitted that on two different occasions his legal wife went to Europe, but in one instance, at his suggestion, returned. In 1914 she returned of her own volition, because, apparently, her husband did not send her the necessary funds.

40

After she returned, she went to live in an apartment on West Sixty-ninth Street with her young daughter and with the brother of her husband, who was a boarder. In this place there were two bedrooms, in one of which, it was testified, the mother and daugh-

10 ter slept, and in the other, the brother-in-law, Mario.

Mario at that time was about nineteen or twenty years old. Some time later she went to Long Branch and there took a single room, which she and her daughter and Mario occupied. He was a night watchman and was out all night, slept there in the day time, the mother and daughter occupying the bed at night. There is some controversy as to whether the bed in the daytime was occupied by another man.

20 Mario on the witness stand testified at first that he had improper relations with the complainant. Thereafter he denied any such immoral relations. There is in the files in this case an affidavit made by Mario in which he avers that he did have improper relations and I shall direct that this affidavit shall be introduced in evidence and marked as an exhibit.

30 The question, therefore, arises as to whether there was sufficient desire and opportunity for acts of infidelity on the part of the wife.

I am not inclined to place much credence on Mario's statement that he did have improper relations, and his denial of it. That I shall not discuss. But the question I must decide is whether, under the circumstances and under the cases in this state, there was such opportunity for improper relations as can lead the Court to the conclusion that the woman was guilty of infidelity.

40 Much as I must deprecate the action of the husband in neglecting his wife and living with another woman, I cannot see that she,

under those circumstances, was justified in  
beginning or continuing improper relations 10  
with another man. I cannot escape the con-  
clusion that she has been guilty of infidelity  
with this man, Mario.

I shall, therefore, deny her petition for  
separate maintenance.

There is another matter that the Court  
should take into consideration, and that is 20  
the proper support and maintenance of the  
child of this marriage, Amelia. I think that  
some proper allowance should be made to  
this young lady, until she reaches an age  
where she can reasonably support herself.  
As I understand it, she is now about seven-  
teen or eighteen years old. I also under-  
stand that a certain amount of money per  
week has been sent for her support. How  
much? 30

Mr. Berger: Twenty dollars.

Mr. Ungaro: I think at the time your  
Honor made the alimony for the wife and  
the child forty dollars a month.

The Court: Twenty?

Mr. Berger: The Court made eighty-five.  
I think I am more familiar with the situa-  
tion than Mr. Ungaro, because I was in the  
case at the time and he was not. 40

Your Honor made an order for eighty-five  
dollars per month. Later there was an ap-  
plication made to the Court to reduce that  
amount on the ground that Mrs. Zezima  
was earning money and was able to partly  
contribute toward the support of herself,  
and the child and the question was raised  
as to her past ability to get along with  
about this amount, and it was decided that  
pending the— (interrupted)

10           The Court: Who decided?

Mr. Berger: Vice Chancellor Foster. Your Honor was away on a vacation and Vice Chancellor Foster looked after the case, in the absence of your Honor, and the question was settled on that point that, pending the preliminary proceedings in this case, until the final hearing, that this matter—that the amount be cut down to forty dollars a month.

20           The Court: For the wife and daughter?

Mr. Ungaro: Yes, sir.

Mr. Berger: For the wife and daughter. That was based entirely on the question of the mother being able to make provision for both of them with her earnings. She was then earning, and we admitted it, twenty dollars a week. That amount is entirely cut out. The woman is now under the doctor's

30           care.

The Court: I understand the woman now is or has been in the hospital and she is no longer able to work. Under the decisions I have made, she is not entitled to any support or maintenance, but the daughter is.

I will allow thirty dollars a month for the daughter.

40           Mr. Ungaro: May I suggest to your Honor, before your Honor makes the order, that the daughter, as I now understand, works and earns from eighteen to twenty dollars a week?

The Court: Yes, eighteen or twenty dollars a week.

Mr. Ungaro: Yes. Your Honor can ask her. I think she will tell the truth.

The Court: I have no doubt she will. If she is earning twenty dollars a week—

Mr. Berger: This young lady tells me she is earning eighteen dollars a week. 10

The Court: Do you work steadily?

Amelia Zezima: Well, yes, for the last six months I have been working steadily.

The Court: Well, if she is earning eighteen or twenty dollars a week, that is one hundred dollars a month; that is twelve hundred dollars a year.

Mr. Berger: She says eighteen dollars a week, your Honor. 20

The Court: I will fix it at twenty dollars a month, with the right of either side to apply for an increase or a reduction.

### Exhibit C-1.

#### PROVINCE OF CASERTA.

30

Community of Settefrati.

#### MATRIMONIAL CERTIFICATE.

The undersigned official of the Civil State of the Community of Settefrati, certifies that from the register of matrimony of the year nineteen hundred (1900) volume I, part I, number 17, states that on the sixth day of December, nineteen hundred (1900) were joined in matrimony Luciano Zezima, son of Nicola and of the late Emelia Tortolani, and Giacinta Colarassi, daughter of the late Lorenzo and of Angela Lustici. 40

With Faith,

Is released by request of Giacinta Colarassi.

Settefrati, May 2, 1914.

Officer of the State Civil

L. TERENCE.

(Translation).



## Ex. C 3.

10

## CERTIFICATE OF BAPTISM.

THIS IS TO CERTIFY that Emily Margaret ,.....  
 Child of Louis Zemo . . . .  
 and Margaret Schaffhauser.

born on the 8th day of October, 1911  
 and Baptized on the 29th day of October, 1911  
 in the Parish of St. Joseph, Yorkville, New York  
 City.

20

ACCORDING TO THE RITE OF THE ROMAN  
 CATHOLIC CHURCH

by Rev. Geo. A. Barthel

Sponsors:

Edward Widmar

Maria Widmar

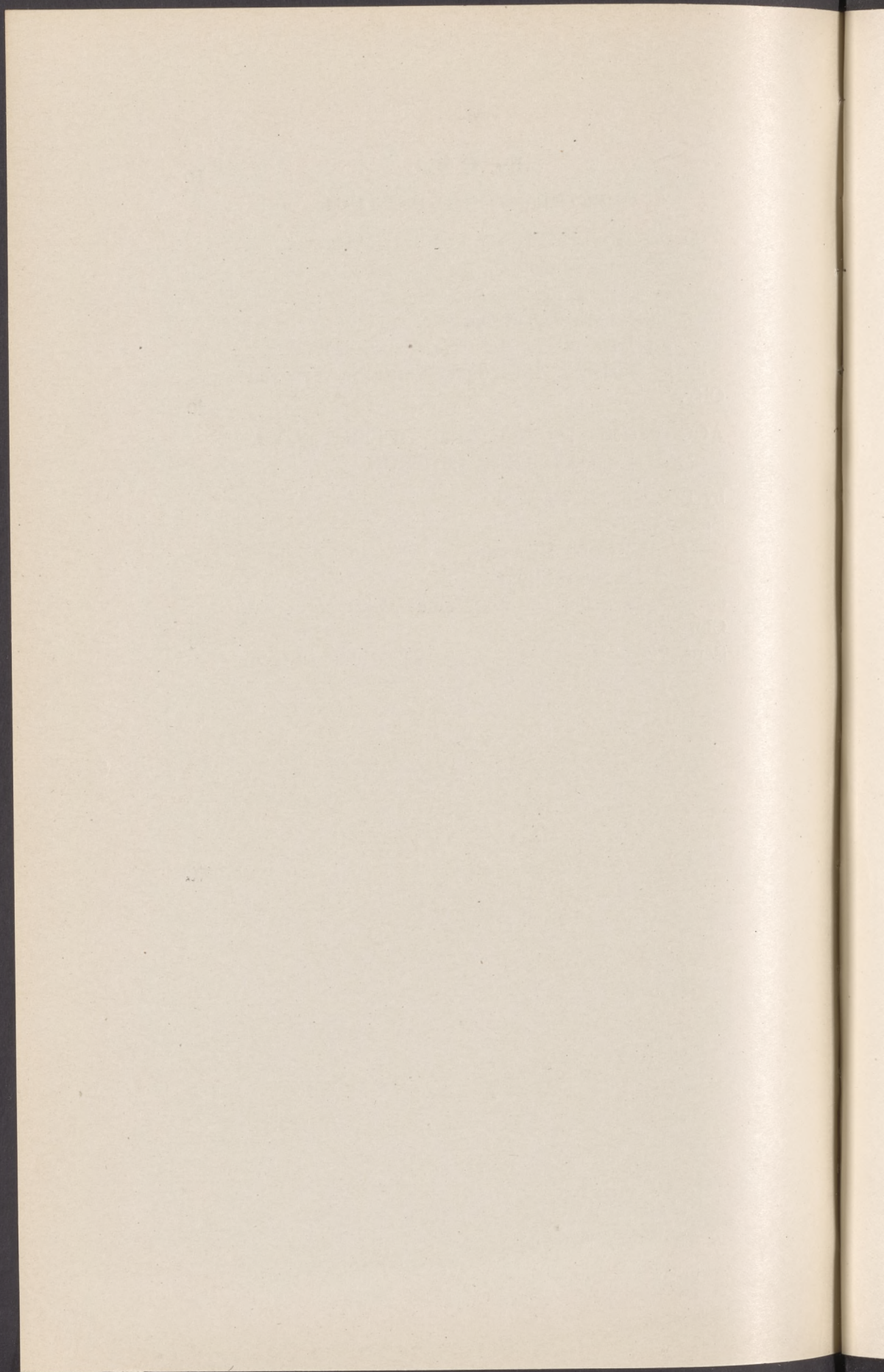
as appears from the Baptismal Register of said  
 Church.

Sept. 18, 1

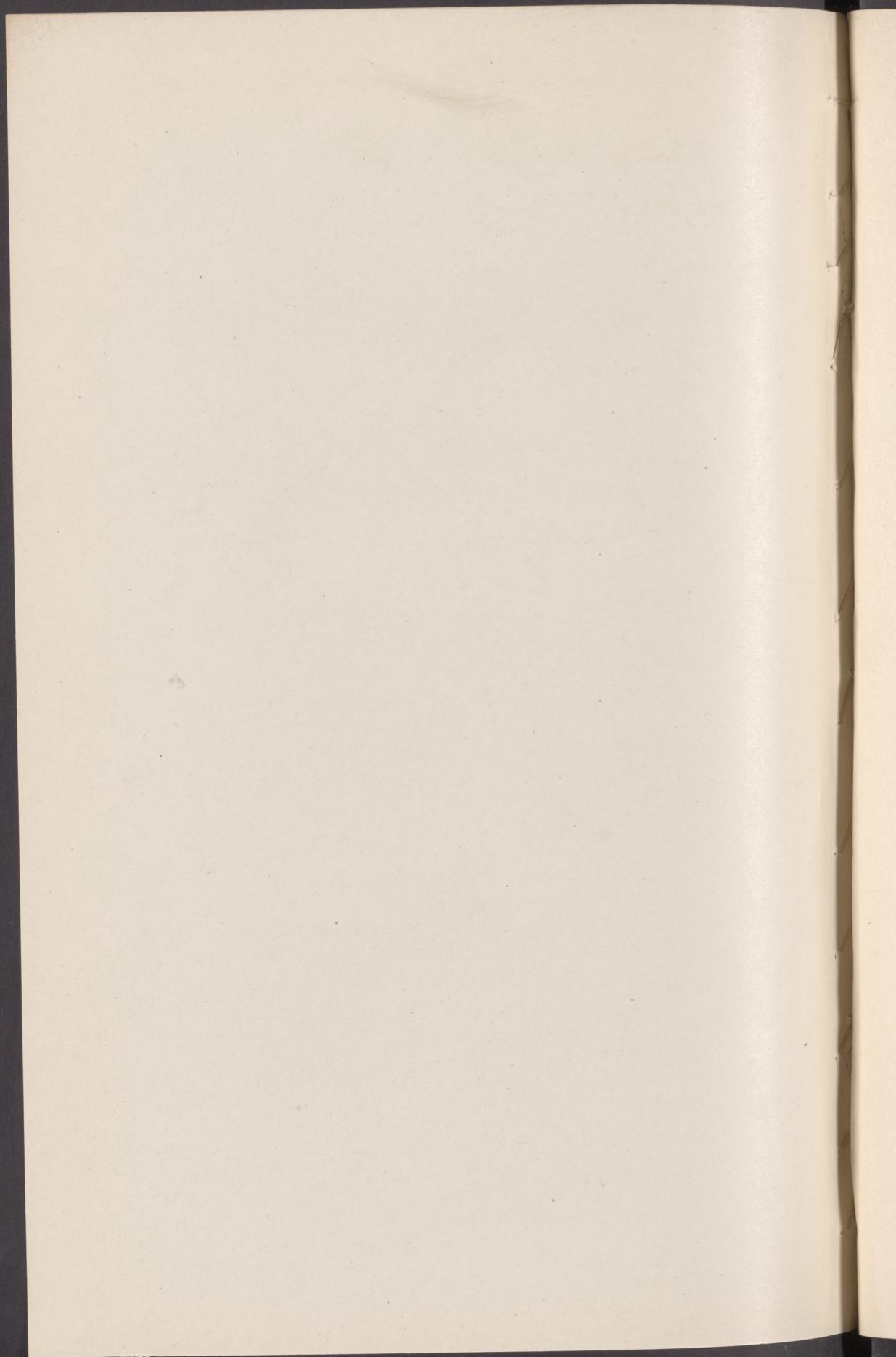
G. Dinder, Rector.

30

40







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

# New Jersey Court of Errors and Appeals

*Between*

GIACINTA ZEZIMA,  
*Complainant-Appellee,*

*and*

LUCIANO ZEZIMA,  
*Defendant-Appellant.*

*On Appeal  
from Decree  
in Chancery.*

## BRIEF OF APPELLANT.

### Statement of Facts.

#### THE PLEADINGS.

1. The complainant-appellant filed a bill in Chancery alleging that she was married to her husband, the defendant-appellee, on December 6, 1900, in Italy, where she resided until March 1, 1901, when the defendant left the complainant in Italy, and departed for the United States of America, where he has lived ever since. In October, 1905, complainant came to the United States of America, and took up her residence with the defendant, in New York City, where they resided until November, 1906. In July, 1906, a child was born to the complainant and defendant, named Amelia Zezima, who was sixteen years of age, at the commencement of this suit in June, 1923. In November, 1906, complainant and Amelia, at the defendant's request, returned to Italy, where they resided until May, 1914, when they returned to New York City. Upon their return, the defendant refused to reside with them, insisting upon their return to Italy. Defendant maintained a furnished room for himself, in New York, and provided very meager support for com-

plainant and Amelia, until March 1, 1923, when he ceased contributing anything whatsoever to their support.

2. The bill charges further, that on November 17, 1907, the defendant married one Margaret Schaffhauser, with whom defendant has since co-habited; that two children were born to defendant and to Margaret Schaffhauser, whom the defendant holds to be his lawful children. A copy of the marriage certificate of said marriage is annexed to the bill of complaint (Exhibit C. 2, p. 104, State of Case).

3. The bill charges that the defendant, without any justifiable cause, has separated himself from complainant, and refused to maintain and provide for her and their child, and prays for a decree for separate maintenance.

4. The defendant failed to file any answer until after the case was tried, although complainant's counsel was led to believe that an answer had been filed. However, defendant's counsel was given permission to file said answer out of time. The answer admits paragraphs 1, 2, 3 and 4 of the complaint. Paragraph 4 charges defendant's marriage with Margaret Schaffhauser, and charges the birth of the two children born of said marriage. The defendant attempts to justify this, by stating that "he was informed that his wife, the complainant, having been guilty of adultery, the marriage to her was void."

The answer contains a counter-claim against the complainant, charging that the complainant committed adultery with defendant's brother, Mario Zezima, and with divers other persons, unknown to the defendant, in the year of 1914 and the early part of 1915, at Long Branch, New Jersey, and in New York City.

6. The complainant filed a replication, denying these charges.

#### EVIDENCE FOR COMPLAINANT.

The complainant's case was proved by her own testimony, and at the close of the case (State of Case, p. 57), the learned Vice-Chancellor put this question to the counsel for the complainant: "Now, haven't you made out a *prima facie* case? The question to be decided now is whether this woman is guilty of adultery. If she is not, she is entitled to reasonable alimony. If she is, she is entitled to nothing."

The Court, in its opinion (State of Case, p. 99) says: "It is admitted that the husband, without any legal warrant, went through a form of marriage with another woman."

On page 53, State of Case, can be found the following:

"The Court: It seems to be admitted that he married another woman and had children by her. I think, the crux of the situation is whether or not she has been guilty of immorality, now."

"Mr. Ungaro: That is the whole thing."

"Mr. Berger: That is the whole point."

The defendant's case consists of his own testimony, that of his brother, Mario Zezima, of his brother-in-law, Raffaele Pia, and of his sister-in-law, Alvina Zezima, wife of Mario Zezima. At the end of the defendant's testimony, the learned Vice-Chancellor, referring to the defendant, says:

"He cannot prove anything. His testimony does not amount to anything" (State of Case, p. 62).

Mario Zezima, on direct examination, testified in part, as follows (State of Case, p. 70):

“Q Did you live in New York with your sister-in-law, Mrs. Giacinta Zezima, in 1914?  
A 1914, she come over 1914, but I didn't live right away. I went down to Long Branch for three months, that is my season down there, three months; and I came back September, around the tenth or fifteenth, and I went to live with my sister.

Q How many months did you live with her? A Six months.

Q Did you ever live with her in Long Branch? A Three months.

Q Where? A In Jeffers street.”

and he continued on page 71 as follows:

“Q (By the Court.) You mean to say you are admitting now that you had intercourse with her? A Well \* \* \*

Q (By the Court.) You know what that means? A I know what that means.

Q (By the Court.) This is a serious matter. Is it true? A It is true.”

When Mario Zezima was questioned as to his alleged misconduct with the complainant, he testified as follows (State of Case, p. 77):

“Q When did this occur, in the daytime or nighttime? A I don't know that.

Q You don't know that? A No.

Q Do you know what month it happened in? A What month?

Q Yes. A Can't tell you what month.

Q Don't you know that either? A No, sir.

Q Well, did it occur during the month of September, 1914? A I don't know. I didn't remember what date.

Q How often did this happen? A I told you I don't know when it happened.

Q You don't know when it happened? A No, sir.

Q Now, did you live with Mrs. Zezima as husband and wife, in the room at Jeffers

street, Long Branch? A I slept in the daytime and she slept there at night.

Q You and Tamburri were working? A No, sir, Tamburri was living in one big room. I used to sleep with Tamburri and Louis Pampa, he died two years ago, so that is good, he is dead, he can't come over and prove.

Q Otherwise, you would have him as a witness? A I would have him. I sleep in the daytime in this room, and Tamburri and Louis Pampa sleep in the big room in front of the house, and I sleep in the rear.

Q I see. During the time that you slept in the room in the daytime was there any wrong doings between you and Mrs. Zezima? A I don't know."

Mario Zezima, describing the conditions at the home in New York, where he lived with his sister-in-law, and her daughter, testified as follows (State of Case, p. 75):

"Q How many rooms did you have in this flat? A Three.

Q Did she have Amelia, this young lady, living there at the time? A Yes, sir.

Q Amelia was a girl about nine then? A Seven or eight, nine, something like that.

Q And how were the rooms fixed up? A Well, I didn't remember.

Q You don't remember that? A No, sir.

Q How many bedrooms were fixed up in this place? A Two.

Q Who occupied one of the bedrooms? A Myself.

Q And who occupied the other? A The daughter and the mother.

Q The daughter and the mother? A Yes, sir.

Q And in the bedroom that the daughter and the mother occupied there was one bed; isn't that so? A One bed.

Q And that is the bed that they used? A Yes, sir."

When cross examined, Mario Zezima testified (p. 79):

“Q Was Mrs. Zezima there during the time that you slept there in this room? A Well, she come up there to bother me, but I didn’t (interrupted)

Q You didn’t want to have anything to do with her? A No.”

and he continued (p. 79) as follows:

“Q So nothing wrong ever happened between you and Mrs. Zezima at Long Branch? A She came over there, but I won’t bother.

Q So nothing happened there? A Nothing happened there.

Q And she came to bother you in the New York room? A Yes, sir.

Q And nothing happened there? A No.”

In his examination by the Court, Mario Zezima says (State of Case, p. 80):

“Q Try to tell us the truth. Did you have sexual intercourse with her? A No.

Q Never in your life? A No.

Q Then you have entirely changed your testimony. Is that the idea? A It is true.

*Examined by Mr. Ungaro.*

Q Now, listen, Mr. Zezima, you are in court, and you should not be ashamed of telling the truth. A Well, it is a fact.

Q What is a fact? That is what we are trying to find out. A It is a fact because she come over to the room to find out what was there, but I didn’t bother.”

The Vice-Chancellor, in his opinion (State of Case, p. 99) speaking of the conditions surrounding complainant and Mario Zezima, says:

“She (the complainant) went to live in an apartment on West Sixty-ninth street with her young daughter and with the brother of her husband, who was a boarder. In this place there were two bedrooms, in one of which, it was tes-

tified, the mother and the daughter slept, and in the other, the brother-in-law, Mario.

Mario at that time was about nineteen or twenty years old. Some time later she went to Long Branch and there took a single room, which she and her daughter and Mario occupied. He was a night watchman and was out all night, slept there in the daytime, the mother and daughter occupying the bed at night. There is some controversy as to whether the bed in the daytime was occupied by another man.

Mario on the witness stand testified at first that he had improper relations with the complainant. Thereafter he denied any such immoral relations. I am not inclined to place much credence on Mario's statement that he did not have improper relations and his denial of it. That I shall not discuss."

The Vice-Chancellor concludes his opinion as follows:

"The question I must decide is whether, under the circumstances and under the cases in this State, there was such opportunity for improper relations as can lead the Court to the conclusion that the woman was guilty of infidelity.

Much as I must depreciate the action of the husband in neglecting his wife, and living with another woman, I cannot see that she, under those circumstances, was justified in beginning or continuing improper relations with another man. I cannot escape the conclusion that she has been guilty of infidelity with this man, Mario.

I shall, therefore, deny her petition for separate maintenance" (State of the Case, pp. 100-101).

**ARGUMENT.****POINT ONE.**

The Vice-Chancellor erred in denying the relief prayed for in the complaint.

The complainant proved all of the elements necessary to support an action for separate maintenance. She testified, and all this was not denied, that she returned to the United States in May, 1914; that she located her husband in Long Branch; that she called him on the telephone and he came to see her, and told her to rent a room; that he could not stay in New York on account of his business and he gave the complainant money for the rent and told complainant to tell his brother (Mario) to take care of this room for her (State of the Case, pp. 23-24), and that from that time on, the defendant came to visit the complainant about once a month (State of the Case, p. 25, folio 40). The complainant put in evidence Exhibit C. 2 (State of the Case, p. 104) showing that the defendant was married to Margaret Schaffhauser on November 17, 1907. She also put in evidence Exhibit C. 3 (State of the Case, p. 105), showing that on October 29, 1911, a child, named Amelie Margaret, was baptized as a child of the defendant and Margaret Schaffhauser; that the birth of this child is given as October 8, 1911.

The complainant further testifies as to the manner in which she was treated by the defendant (p. 30, State of Case). She tells of being out on a porch all night, with her daughter, to the knowledge of the defendant, who refused to come to see complainant and their daughter, although they were in a strange place and did not know where to go. Instead he sent his brother, Mario, to tell them to go where the brother would take

them; that the next time the complainant saw the defendant, was in New York, in the month of October, 1915 (State of the Case, p. 31, folio 25); that at that time the defendant insisted that the complainant return to Italy; that the complainant in answer to this proposition, said, "I have no courage to do that, I cannot do that, I want to stay with you," that the defendant objected to the complainant's coming to this country (State of the Case, p. 31).

Aside from the testimony of the complainant, as to the treatment accorded her by the defendant, the conduct of the defendant would bring the case within the provisions of the Tenth Section of the Divorce Act.

In the case of *Fred v. Fred*, 67 N. J. Equity, page 495, it was held that a wife is not bound to live with her husband and her own daughter, when at the same time, the husband was living in open adultery, with another woman, whom he recognized as his wife.

In the case of *Weigand v. Weigand*, 41 N. J. Equity, page 202, it is held that, "whenever a husband commits a matrimonial offense which entitles his wife to a divorce, he does that which justifies his wife in leaving him."

In the opinion of the Court in this case, it is laid down that there may be an abandonment within the meaning of the statute, while the parties continue under the same roof, as where the husband refuses to have any intercourse with his wife and excludes her from that part of the house which he occupies (*Anshutz v. Anshutz*, 16 N. J. Equity, page 162), and so a husband is guilty of abandonment, when he compels his wife, by cruel and abusive treatment, to leave him, citing *Star-*

*key v. Starkey*, 21 N. J. Equity, page 135. If, in consequence of his conduct, she is compelled to leave his house, either to preserve her honor and self-respect or to secure safety, he is the cause of the separation and must be judged to be the wrong-doer. A husband, who, by criminal and lewd conduct, renders his house an unfit home for his wife, should, as a matter of law, be understood to open his doors and turn her away. Whenever a husband commits a matrimonial offense, which entitles his wife to a divorce, he does that which justifies his wife in leaving him.

This doctrine is cited with approval in the case of *Dummer v. Dummer*, 41 A. R., page 149.

It is urged that the complainant has established her main suit by an overwhelming and undisputed weight of proofs.

#### POINT TWO.

**The Vice-Chancellor's conclusion that the complainant was guilty of infidelity was incorrect and should be reversed.**

The defendant's case, on his counter-claim, is wholly without any support, other than the testimony of the alleged paramour, and even he admitted that no wrong-doing ever occurred between him and the complainant. There was not another witness in the case whose testimony, in any way, could possibly indicate either opportunity or desire on the part of the complainant and the alleged paramour to commit adultery.

The family relationship of the complainant and Mario Zezima is important in this connection. This boy was an orphan, eight years of age, when the complainant took him into her home, after she had married the defendant, and took

care of him and had full charge of him, until he was thirteen years of age. In 1914, when the complainant took up her residence in New York and Mario Zezima came to board with her, he was seventeen years of age (State of the Case, pp. 28 and 29). While Mario Zezima boarded with complainant at the New York apartment, according to his own testimony, quoted above, there were two rooms, one occupied by the complainant and her daughter, eight years of age, and the other by Mario Zezima.

The complainant, to offset any possible suspicion of wrong-doing on her part, produced the testimony of Nicholas Tamburri (State of the Case, p. 84), who was a lifelong friend of the alleged paramour and who testified as to the living conditions both at the New York apartment and at Long Branch; and the testimony of Amelia Zezima, daughter of the complainant (State of the Case, p. 87), to the same effect; and that of Michael Colarossi (State of the Case, p. 92), and the testimony of Thomas Colarossi (State of the Case, p. 93), and of Marie Conese (State of the Case, p. 94), which overwhelmingly showed that there was no opportunity or inclination on the part of complainant to commit adultery.

In the case of *Berckmans v. Berckmans*, 16 N. J. Equity, page 122, it was held by Chancellor Green that "The testimony of one witness uncorroborated, unsupported and in its details improbable, is not sufficient to establish the charge of adultery against the full and explicit counter-testimony of the person accused." At page 140, in this case, Chancellor Green continues as follows, "To establish the existence of adultery, the circumstances must be such as would lead the guarded discretion of a reasonable and just man to that conclusion. It must not be a rash and in-

temperate judgment, moving upon the appearances that are equally capable of two interpretations. The facts proven must be such as cannot be reconciled with probability and the innocence of the parties. Mere imprudence, indiscretion or folly, is not conclusive evidence of guilt. The mind of the Court must be satisfied that there was an intimacy between the parties, entirely inconsistent with the duty which a virtuous wife owes to herself and to her husband. Guided by these principles, I do not feel warranted in pronouncing the defendant guilty of adultery. While there is much in her conduct to regret and censure as indiscreet and ill advised, I do not find in the evidence satisfactory proof of guilt. Where the conduct of a party admits of two interpretations, equally consistent with probability, the one involving guilt and the other consistent with innocence, the rule of evidence as well as the dictates of justice, require that the interpretation should be favorable to innocence. The burden of proof is upon the complainant, and it must be clear to justify the Court in condemning a young wife to a life of dishonor, and her children to shame."

In the case of *Reid v. Reid*, 17 N. J. Equity, page 101, it is held, that "To justify a decree for divorce on the ground of adultery, the evidence of defendant's guilt must be clear and satisfactory. A full and explicit denial of the charge, by the defendant and his alleged *particeps criminis*, should be regarded as decisive in a case of doubt."

In the case of *Cartan v. Cartan*, 93 N. J. Equity, page 175, the above proposition of law, quoted from the case of *Reid v. Reid*, was quoted with approval, and applying this principle, this Court affirmed the dismissal of the petition for failure to show the truth of its allegations.

In the case of *Messick v. Messick*, 93 N. J. Equity, page 220, this Court held that "In a suit for divorce, the finding of adultery must be supported by proofs of a clear and convincing character."

In the case of *Torrens v. Torrens*, 94 N. J. Equity, page 480, the same principle is re-asserted by this Court, holding that "There must be proof of a criminal disposition or desire in the mind of both the defendant and his *particeps criminis* and an opportunity to commit the crime," citing *Berckmans v. Berckmans*, *supra*, and *Black v. Black*, 30 N. J. Equity, page 228. The Court continues its opinion as follows: "The only apparent ground for the charge of adultery against the defendant is the fact that he and the housekeeper have been living together, by themselves, in the same apartment, but considering the circumstances under which they came about, we cannot say that they were such as should lead the guarded discretion of a reasonable and just man to the conclusion of guilt," which was the standard laid down in the case of *Hurtzig v. Hurtzig*, 44 N. J. Equity, page 329, affirmed in 45 N. J. Equity, page 869, where the Court also held that "the judgment must not be rash and intemperate, moving upon the appearances that are equally capable of two interpretations. If the circumstances taken both singly and together, reasonably admit of two interpretations, that interpretation which favors innocence should be adopted." The Court goes on to say, that "While there was proof of opportunity to commit adultery, there was no proof of desire or inclination to commit the offense, and the excess of proof of one element cannot supply the deficiency in the other."

In the case of *Rankin v. Rankin* (121 Atl. Rep., page 778, not yet reported in State Reporter), Vice-Chancellor Bentley, in his opinion, holds that pretended proof of adultery should be most closely scrutinized, where it depends upon the testimony of a party corroborated only by that of a *particeps criminis*."

In the case of *Hollis v. Hollis*, 95 N. J. Equity, page 690, the Court re-affirms the necessity of proofs to establish a charge of adultery of a character as would lead the guarded discretion of a reasonable and just man to that conclusion.

See to the same effect *Day v. Day*, 4 N. J. Equity, page 445; and *Culver v. Culver*, 38 N. J. Equity, page 163.

In the case of *Grundy v. Grundy*, 92 N. J. Equity, page 687, decided by this Court, this Court, in reversing a decree for divorce granted on the ground of adultery, refers to *Berckmans v. Berckmans*, *supra*, citing the reasoning of Chancellor Green as to the quality of proof required to support a finding in favor of petitioner in a case of this nature.

In the case of *Kloman v. Kloman*, 62 N. J. Equity, page 153, the charge was adultery, and the only proofs offered were the admissions of the defendant and her alleged *particeps criminis*. Vice-Chancellor Reed held that the statements of the paramour were not in evidence. There is a lengthy discussion in the opinion in this case, as to the well-established proposition of law, that the admission of the defendant, unless supported by strong corroborating evidence will not support a decree for divorce on the ground of adultery.

See *Frost v. Frost*, 85 N. J. Equity, page 571, to the same effect.

In the case of *O'Brien v. O'Brien*, (30 A. R., page 875, not reported in State Reporter), a number of cases dealing with this question are cited, commencing with the Fuller case, 41 N. J. Equity, page 461, in which it said that the Judge in an action for divorce, on the grounds of adultery, must not allow himself to be duped or misled. He must look at the evidence as other men of discernment would view it, giving credit to what seems to him, in the exercise of a cautious judgment to be true, and rejecting what seems to him to be improbable and false. The Court is never obliged to adjudge that adultery is proved merely because a witness swears to it, or swears to facts from which it may be inferred. To justify such an adjudication, the Court must be satisfied that the witnesses who swore to the circumstances showing guilt are honest, that they are not mistaken, and that their testimony is true.

In the case of *Clare v. Clare*, 19 N. J. Equity, page 37, the Chancellor, on page 39, says, "When divorce courts require adultery to be clearly proved before a divorce will be decreed for that cause, they do not merely mean that it must be clearly and directly sworn to, but that the proof must be entitled to and command belief."

In the case of *McGrail v. McGrail*, 49 N. J. Equity, page 348, the Court of Errors and Appeals reversed the decree in Chancery based on positive evidence of the wife's guilt, unimpeached, except by the testimony of the wife and the alleged paramour. No opinion was filed, but the reversal must have been on the ground that the testimony showing adultery was not to be credited, because of its improbability.

In determining whether there was a relationship between the complainant and Mario Zezima,

brother of the defendant, the uncontradicted testimony of the complainant, quoted below, is of far-reaching importance:

“Q Yes. And this brother, Mario, lived with you in the old country, too, didn't he, at your *house*? A When he was smaller?

Q Yes. A Sure.

Q At what age did you take him into your family? A Seven.

Q I mean, what age was he? A About seven or eight years old.

Q Did he have any parents? A No; his father, his mother was dead.

Q And at whose suggestion did you take Mario into your home as a boy of seven or eight? A The whole family was in” (State of the Case, p. 28, folio 30).

It is revolting to think that this woman, who was virtually a mother to the alleged paramour, should be branded with the charge of committing adultery with this boy, on so little or no evidence to support the charge.

It is respectfully urged in behalf of the complainant, that the decree of the Court of Chancery should be reversed and a decree entered in favor of the complainant, on her bill for separate maintenance.

NATHAN H. BERGER,  
Solicitor for and of Counsel  
with Complainant.

