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## TESTIMONY FOR DEFENDANTS.

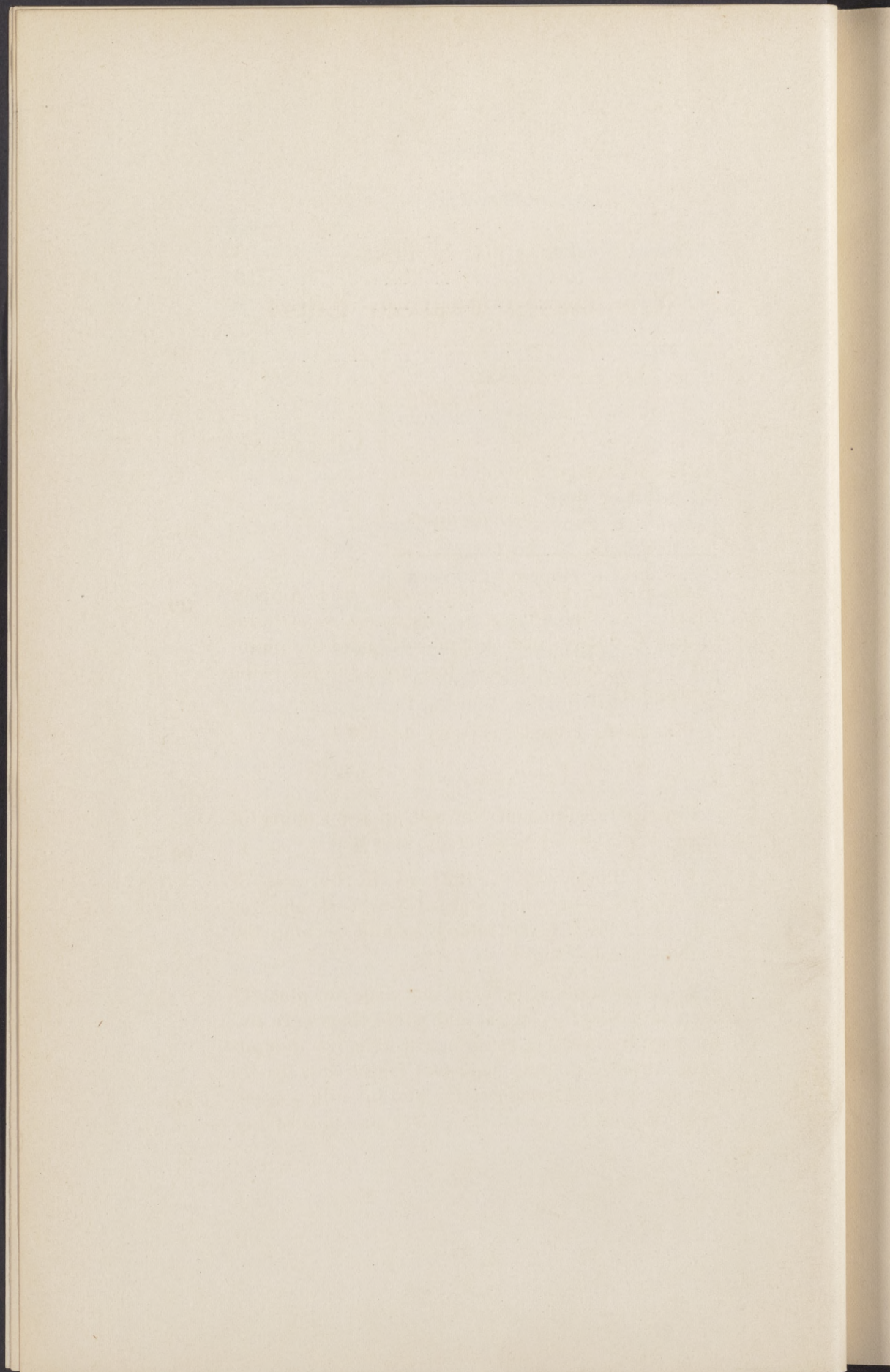
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## PLAINTIFF'S EXHIBITS.

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*Complaint.*

10 husband, did maliciously and by numerous conversations attack, asperse, slur and run down the character, habits and behavior of plaintiff, to persuade the said Nicola Ciaglia that she, the plaintiff, was not a good, true and loving wife to him, that she was neglecting her household duties and that the meals that she was preparing for her husband and herself were not properly cooked, that plaintiff was not a competent person to keep house for her husband, with the purpose of causing the said Nicola Ciaglia to ill treat, abuse and to abandon the plaintiff, and with the malicious intent to destroy the affection existing between the plaintiff and the said Nicola Ciaglia and to excite ill will and hatred on his part, toward her.

20 3. That she, the plaintiff, has always been a good true and loving wife to the said Nicola Ciaglia, as was known to the defendants and the said defendants so conspiring with said intent threatened that if the said Nicola Ciaglia, remained with the plaintiff and treated the plaintiff kindly and supported and maintained her according to her station in life, he should have no more to do with them.

30 4. The defendants, Antonia Ciaglia, mother of said Nicola Ciaglia, and Andrew Ciaglia and Joseph Ciaglia, brothers of Nicola Ciaglia, induced said Nicola Ciaglia to ill treat, neglect and refuse to support and maintain the plaintiff, and that as long as the said Nicola Ciaglia, would continue to treat the plaintiff in that manner and if plaintiff would leave her husband and institute any proceedings for her support and maintenance, they  
40 promised him to pay any moneys that he would be compelled to pay to plaintiff, by reason of any

*Complaint.*

said proceedings being instituted by the plaintiff against her husband.

5. On or about June 15, 1925, the said Nicola Ciaglia in consequence of the said actions of the defendants became dissatisfied and discontented with his wife, the plaintiff, and in pursuance of the wishes of said defendants and with their monetary and other aid suddenly, and without notice or warning abandoned his wife, the plaintiff, and refused to sleep with her, so that plaintiff had to leave the home that her husband had provided for her at New Milford, New Jersey, and go to her brother, in Brooklyn, New York.

10

6. That said defendants have ever since induced the said Nicola Ciaglia not to properly support and maintain the plaintiff and not to live with her as husband and wife, and since on or about June 29th, 1925, the said defendants have detained and harbored plaintiff's husband against the wishes of the plaintiff, and in opposition to her utmost peaceable efforts to obtain him from the custody, control and influence of the defendants, and refuse even to let the plaintiff know where he is or his post office address.

20

7. That on or about July 1st, 1925, the plaintiff instituted proceedings against her husband for support and maintenance in the Police Court of Bergen County. The plaintiff's husband promised that he would properly support her and that he would provide her with a home in a different location than the home of his mother and brothers, the defendants in this suit, at which time the defendants Antonia Ciaglia, plaintiff's mother-in-law and Andrew Ciaglia, plaintiff's brother-in-law were present.

30

40

*Complaint.*

8. Plaintiff relying on the promises of her husband did not prosecute said criminal proceedings against him.

10 9. That as soon as plaintiff's husband and his mother and brother left the police court aforesaid, the defendants maliciously contriving and conspiring as aforesaid, renewed their said malicious endeavors, persuasions, threats and promises in order to make said Nicola Ciaglia abandon the said plaintiff and have done so ever since to this day.

20 10. By reason of the premises the plaintiff has been and still is wrongfully deprived by the defendants of the care, love, confidence, protection, help, support, comfort and society of her husband, said Nicola Ciaglia; that by reason of said wrongful enticement and detention of her husband, plaintiff has been forced to go and live with her relatives and has been deprived of her home and of the social intercourse and confidence of her friends and is doubted by those who do not know her, and has suffered great mental pain and her reputation hurt in the community, and has been  
30 put to great trouble and expense in endeavoring to find her husband in order to re-establish happy relations between them.

Plaintiff claims as damages twenty-five thousand (\$25,000.00) dollars.

THOMAS BRUNETTO,  
Attorney of Plaintiff.

**Answer.**

(Filed March 3, 1928.)

Defendants, residing at New Milford, in the County of Bergen and State of New Jersey, say that:

1. They deny the truth of the matters contained in the Complaint.

10

ARTHUR M. AGNEW,  
Attorney for Defendants.

**Postea.**

This case was tried before Hon. Nelson Y. Dungan, Circuit Court Judge, with a jury, at the Essex Circuit, on March 19, 20, 21, 1929.

20

The jury rendered a general verdict against the defendants and in favor of the plaintiff for ten thousand dollars (\$10,000).

Whereupon it is adjudged that the plaintiff Eleanora Ciaglia do recover of the said defendants Antonia Ciaglia, Joseph Ciaglia and Andrew Ciaglia, the sum of Ten thousand dollars damages together with her costs which have  
\$10,000.00 been taxed at the sum of Eighty-two  
82.66 dollars and sixty-six cents making in  
the whole the sum of Ten thousand  
\$10,082.66 and eighty-two dollars and sixty-six  
cents.

30

Judgment signed and entered March 22, 1929.

WM. S. GUMMERE,  
C. J.

40



**Order of Substitution.**  
NEW JERSEY SUPREME COURT,  
ESSEX COUNTY.

<p style="text-align: center;">ELEANOR CIAGLIA, <i>Plaintiff,</i></p> <p style="text-align: center;"><i>v.</i></p> <p style="text-align: center;">ANTONIA CIAGLIA, ANDREW CIAGLIA and JOSEPH CIAGLIA, <i>Defendants.</i></p>	}	<p style="text-align: center;">Action at Law. Substitution.</p>
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This matter being opened to the court by Joseph H. Gaudielle, and upon reading the annexed consent of Arthur M. Agnew, Esquire;

20

It is on this 26th day of April, 1929, Ordered that Joseph H. Gaudielle, Esquire, be and he hereby is substituted as attorney of record in this case.

LUTHER A. CAMPBELL,  
Justice, N. J. Supreme Court.

Entered May 11, 1929.

On motion of  
JOSEPH H. GAUDIELLE,  
Attorney of Defendants.

30

40

**Affidavit of Service.**

NEW JERSEY SUPREME COURT,  
ESSEX COUNTY.

10

ELEANOR CIAGLIA,  
*Plaintiff,*

*v.*

ANTONIA CIAGLIA, ANDREW CIAGLIA  
and JOSEPH CIAGLIA,  
*Defendants.*

Affidavit.

20

I, MARCONI V. A. CAPORALE, of full age, duly sworn according to law on my oath depose and say that I am a clerk in the office of Joseph H. Gaudielle, attorney for defendants, that I personally served Miss Lucille Andreach, a stenographer in the office of Thomas Brunetto, attorney for the plaintiff with a copy of a notice of appeal on April 17, 1929.

MARCONI V. A. CAPORALE.

Sworn to and subscribed before me }  
on this 18th day of April, 1929. }

30

MABELLE J. SHUART,  
Notary Public of New Jersey.

40

**Grounds of Appeal.**

NEW JERSEY SUPREME COURT,  
ESSEX COUNTY.

<p style="text-align: center;">ELEANOR CIAGLIA, <i>Plaintiff,</i></p> <p style="text-align: center;"><i>v.</i></p> <p style="text-align: center;">ANTONIA CIAGLIA, ANDREW CIAGLIA and JOSEPH CIAGLIA, <i>Defendants.</i></p>	}	<p>10</p> <p>Action at Law.</p>
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To: Thomas Brunetto, Attorney for Plaintiff

TAKE NOTICE that the grounds upon which the defendants appeal from the verdict rendered in the above cause are as follows: 20

1. The trial court erred in not granting defendants' motion for a nonsuit on the ground that the same was not brought within the proper time, and that the action was barred by the Statute of Limitations.

2. The trial court erred in not granting defendants' motion for a nonsuit on the ground that the venue was improperly laid in Essex County. 30

3. The trial court erred in not granting defendants' motion for a nonsuit on the ground that the plaintiff had not made out a prima facie case.

4. The trial court erred in not granting defendants' motion for a direction of a verdict in their favor.

5. The trial court erred in permitting counsel for the plaintiff to make a statement in the pres- 40

*Grounds of Appeal.*

ence of the jury and over objection of counsel for the defendants to the effect that defendants paid plaintiff alimony for the purpose of keeping plaintiff and her husband apart.

10       6. The trial court erred in permitting counsel for the plaintiff to give his own interpretation of testimony given in Italian by witnesses for the plaintiff, and the defendant, and contradicting the interpreter provided by the court.

7. The trial court erred in refusing to strike out the testimony of Rosie Decunti on cross examination, which testimony related to facts occurring after the separation of the plaintiff and her husband.

20

JOSEPH H. GAUDIELLE,  
Attorney of Defendants.

30

40

*Eleanore Ciaglia, direct.*

NEW JERSEY SUPREME COURT,

ESSEX CIRCUIT.

<p>ELEANOR CIAGLIA, <i>Plaintiff,</i></p> <p style="text-align: center;"><i>v.</i></p> <p>ANTONIA CIAGLIA, ANDREW CIAGLIA and JOSEPH CIAGLIA, <i>Defendants.</i></p>	}	<p>Action at Law.</p>	10
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Tuesday, March 19, 1929.

Before—Hon. NELSON Y. DUNGAN, J., and a jury.

For the plaintiff appears THOMAS BRUNETTO. 20

For the defendants appears ARTHUR M. AGNEW.

A jury is called and sworn.

Mr. Brunetto opens the case in behalf of the plaintiff.

Mr. Agnew opens the case in behalf of the defendant. 30

ELEANORE CIAGLIA, the plaintiff, sworn in her own behalf [testifies in Italian through interpreter].

*Direct examination by Mr. Brunetto:*

Q. Mrs. Ciaglia, when were you married to Nicholas Ciaglia? A. Tenth of January, 1925.

Q. By whom were you married? A. Priest at St. Antonio's Church. 40

*Eleanore Ciaglia, direct.*

Q. Did you get a marriage certificate at the time you were married?

The Court: Is there any question about the marriage?

Mr. Agnew: No question at all.

10

Mr. Brunetto: Your Honor, in order to save time,—the answer denies all the allegations.

The Court: Is that admitted, that they were married January 10, 1925?

Mr. Agnew: That is admitted.

Q. Now, Mrs. Ciaglia, after you and your husband were married, where did you go to live? A. To my mother-in-law's.

20

Q. Had you gone on a honeymoon? A. Yes.

*By the Court:*

Q. What is her name? A. Mrs. Antonio Ciaglia.

*By Mr. Brunetto:*

Q. Where did you go on your honeymoon? A. Utica, New York.

Q. To any particular place? A. The first night I went to a hotel in Pennsylvania.

30

Q. How long were you on your honeymoon, Mrs. Ciaglia? A. Six days.

Q. You kept on traveling from place to place, or did you stay at one place all the time? A. I spent the first night at the hotel and the other five nights at the brother's house.

Q. Whose brother is that? A. My husband's brother.

Q. What is his name? A. Gilio Ciaglia.

40

Q. And he is the one that lives at Utica, New York? A. Yes.

Q. Then you went to live at New Milford? A. Yes.

*Eleanore Ciaglia, direct.*

*By the Court:*

Q. Is that where Antonio lives? A. Yes.

Mr. Agnew: That is in Bergen County.

*By Mr. Brunetto:*

Q. Now, who else lived with you and your husband at the address in New Milford? A. Four brothers and the mother. 10

Q. What are their names? A. The first is Joe, Frank, and Andrew, and my husband, Nick.

Q. Did you have an apartment at this house in New Milford? A. One house. We were all together.

Q. What is that? A one-family house? A. Yes, one-family house. 20

Q. When you moved to New Milford, did the family eat together, or did they have separate kitchens or meals prepared separately between you and your husband and your mother-in-law and the brothers? A. We ate all together.

Q. Who did the cooking as soon as you moved and lived with your mother-in-law and your brothers-in-law? A. Always my mother-in-law, my husband's mother.

Q. Did you try to cook any of the meals for your husband? A. My mother-in-law prohibited me from doing so because she was the boss. 30

Q. You say that your mother-in-law prohibited you. What did your mother-in-law say and what would you say to her when you wanted to prepare these meals? A. She said I wasn't boss of anything. She was the sole boss, and that when she died I could do what I pleased there.

Q. Where was your husband when your mother-in-law would tell you that? A. He was nearby. He was near her. 40

*Eleanore Ciaglia, direct.*

Q. Did your husband say anything to your mother-in-law? A. No.

10 Q. Now, how did you and your husband live after you came back from your honeymoon? Did you live happy with him or what? A. For two weeks we remained happy, but then the abuses that my mother-in-law did to me made me hate them all.

Mr. Agnew: I object to that.

The Court: It will be stricken out after "for two weeks we lived happy." That may remain.

20 Q. Now, after the two weeks, Mrs. Ciaglia, what did your mother-in-law do or what did she say to you? A. She abused me. Everything that I did was no value to her.

Mr. Agnew: I move that that be stricken out as not answering the question.

The Court: It will be stricken out.

(The last question is read by the stenographer.)

The Witness: She began to abuse me. She said I wasn't good enough for her son.

30 Q. What else did she say?

Mr. Agnew: If your Honor please, I move that that last answer be stricken out.

The Court: The first part about "abusing me" will be stricken out. The part that she said, "I wasn't good enough for her son," will remain.

A. They were ashamed to present me to their people.

40 Mr. Agnew: I move that that be stricken out.

*Eleanore Ciaglia, direct.*

*By the Court:*

Q. Do you mean she said that or is that the fact?

A. She said that.

*By Mr. Brunetto:*

Q. What else did she say? A. She said I wasn't good enough to do the household duties, that I was crazy. 10

Q. What else did she say? A. She said she was going to do something to take me away from her eyes, that she could not bear to see me.

Q. What else did she say? A. She began to curse me and blaspheme me and said to me that she regretted the day that she seen her son marry me.

Q. What did you say to her when she said that? 20

Mr. Agnew: May I suggest that you fix the time for that?

Q. Did you answer your mother-in-law when she said those things to you? A. I replied, "Why are you doing these things now that we are husband and wife?"

Q. Where was your husband during these conversations with your mother-in-law? A. He was present. 30

Q. Was anybody else present? A. Yes.

Q. Who? A. Andrew, Joe, the other Frank, and the mother-in-law.

Q. What did your husband say or do when his mother said those things about you or said those things to you? A. He said that if I could get along with his mother, we could get along, but if I disagreed with his mother the best thing I could do was to go away.

Q. Now, when did these conversations take 40

*Eleanore Ciaglia, direct.*

place? A. They started two weeks after we were married and they kept on going until the day that I left.

10 Q. Now, you say the brother-in-law, Joseph, was there and the brother-in-law was there. Did they say anything? A. They were all against me.

Mr. Agnew: I move that that be stricken out.

The Court: It will be.

Q. What did they say? That is, what did Joe say or what did Andrew say, if they said anything? I want to know the exact words what they told you.

20 A. They said I wasn't good enough for their brother and they were going to see what they could do to get me away.

Q. Who said that? Which one? A. Andrew, Joe and Andrew. They would spend any amount of money to get me away from my husband.

Q. Did they say that more than once? A. They always said it up until the day that I couldn't stand it no longer and left.

Q. Did all these conversations take place in your presence in the same room? A. Yes, always in my presence.

30 Q. Was your husband always present at all the times? A. Always present.

Q. Now, Mrs. Ciaglia, what part of the house or on what floor were the bedrooms that you and your husband occupied after your return from your honeymoon? A. Second floor.

Q. And where was your mother-in-law's? A. The room near by.

40 Q. Did your mother-in-law ever say anything to you or to your son while you were occupying the bedroom as to how the door should be kept?

*Eleanore Ciaglia, direct.*

A. The mother-in-law said that the door should always be open and never closed.

Q. You say the mother-in-law said the door should always be open. When did she mean that? At night or day? A. Night.

Q. Did your husband or did your mother-in-law ever come in your bedroom while you and your husband occupied it? A. She used to come in the morning about five o'clock and knock at the door, and when she would see that her son would not arise, she would enter. 10

Q. What happened? What would she do as she entered the room? A. She would scold her son then as to getting up.

Q. Did she say anything to you? A. Then she would say, "Look at this hour. You must still get up." 20

Q. Anything else? A. Then she would tell me that I wasn't even good enough to get up in the early morning to do housework, when there was no housework to be done in the morning.

Q. What do you mean when you say there wasn't any housework to be done in the morning? Who did the work? A. It was too early to do housework at six o'clock, because the others got up later. 30

Q. Who prepared the breakfast? A. The mother.

Q. Did you at any time try to prepare the breakfast for your husband? A. Yes, but they didn't want it. She said she was the one who was to do these things.

Q. When your husband would refuse to get up, what would your mother-in-law do?

Objected to. 40  
Question withdrawn.

*Eleanore Ciaglia, direct.*

Q. What would your husband do when your mother-in-law told him to get up? A. Well, after much scolding he would finally get up.

Q. Who did your mother-in-law scold? Her son or you? A. The son.

10 Q. And would the son get up right away as soon as the mother came in the room? A. After a little while he would get up.

Q. Did the mother-in-law at any time when the son did not get up as soon as she told him to get up, do anything with the bed clothes or anything?

Objected to as leading.

Objection sustained.

20 Q. Did your mother-in-law at any time do anything, if so what, when your husband did not get up as soon as she told him to get up? A. She would come in and if he wouldn't get up she would take the sheets off the bed, told him to get up, and said it was time for him to get up.

Q. Now, Mrs. Ciaglia, when you and your husband became engaged to get married, did he give you an engagement ring? A. Yes.

Q. At the time you were married did he give you a wedding ring? A. Yes.

30 Q. Have you the engagement ring and the wedding ring that your husband gave you? A. My mother-in-law has them.

Q. Will you tell us how it happens for your mother-in-law to have the engagement ring and the wedding ring? A. She told me that I was poor and I was a miserable one, and that she had to buy my entire clothes and "today we can't bear to see you. Your presence annoys us. We cannot bear to see you in front of us."

40 Q. What happened to the wedding and the en-

*Eleanore Ciaglia, direct.*

gagement ring? A. After she said these things I was very much displeased and she said, "Here, now that you have talked about this," and she said, "Here are these two rings," and I gave them to her.

Q. Did your mother-in-law ask for the rings? 10

A. Yes, she asked for them.

(Argument.)

Mr. Agnew: I move that that be stricken out. The question is too leading, in the first place.

The Court: It will be.

Q. How did the conversation about the rings start between yourself and your mother? 20

Mr. Agnew: May I also suggest, if the Court please, that he fix a time for this?

Mr. Brunetto: That is the next question I was going to ask her.

A. She said that I was a miserable one and that she had spent plenty of money on me, and that those rings were hers; it was her money.

Q. What else did she say, if anything else? A. And she saved the rings and she said, "When you go away with your husband I will give them to you." 30

Q. When was this, Mrs. Ciaglia? A. Two months afterward.

Q. Two months after when? A. Two months after we were married.

Q. Did your mother-in-law give you another ring at the time that you gave her the wedding ring and the engagement ring that your husband had given you? A. Yes.

Q. What kind of ring did your mother-in-law 40

*Eleanore Ciaglia, direct.*

give you in place of the rings that you gave her?

A. A gold ring.

Q. Did you know whose ring that was at the time your mother-in-law gave it to you? A. No.

10 Q. Where did your mother-in-law get it from at the time that she gave it to you? A. I don't know.

Mr. Brunetto: Your Honor, I offer that ring in evidence.

(The same is received in evidence and marked Exhibit P-1.)

20 Q. Mrs. Ciaglia, did your mother-in-law or your brothers-in-law—that is, Andrew and Joseph—do anything for you at any time from between February 1, 1925, and the time that you left your husband? A. They mistreated me. That is all.

Mr. Agnew: I move that that be stricken out.

The Court: It will be stricken out.

30 Q. Mrs. Ciaglia, I want you to tell us exactly what your mother-in-law did or your brothers-in-law, and which one, during said period, if they did anything to you? A. They abused me. They mistreated me.

Mr. Agnew: I move that that part be stricken out.

The Court: It will be stricken out.

(The last question is read by the stenographer.)

The Witness: They abused me. They said I wasn't of any use. They said I was crazy.

40 Mr. Agnew: I move that the first part be stricken out.

*Eleanore Ciaglia, direct.*

The Court: That part which said "they abused me" will be stricken out.

Q. Did anything else happen to you while you were living with your husband, besides your mother-in-law and your brothers-in-law calling you those names? A. She would curse me and call me names in front of my husband, such as lose your blood.

10

The Interpreter: Italian curse words, your Honor.

Q. When your mother-in-law or your brother-in-law would say those things to you, how would they act? Would they sit on a chair or what? A. They always stand on their feet.

20

Q. Would they stand in the same place or would they move or what? A. They would be walking and whenever I would get a chance to talk they would stand still. They would think I was saying something to abuse them.

Q. Now, when did you leave your husband's home, Mrs. Ciaglia? A. The second of July.

*By the Court:*

Q. 1927? A. 1925.

30

*By Mr. Brunetto:*

Q. Did anything happen to you on that day that you left your husband's house? A. My brother came to take me.

Q. Did anything happen between you and your mother-in-law or your brothers-in-law? If so, tell us when? Just a short time before your mother came? A. I was sick. They abused me. They never treated me well.

40

*Eleanore Ciaglia, direct.*

Mr. Agnew: I move that that part be stricken out.

The Court: It will be stricken out.

10 Q. Do you know how your brother happened to come after you? A. They sent and called him. A woman that lived right next door sent and called him.

Q. At the time that you left your husband's house did you and your husband occupy the same bed? A. There were five or six days that he didn't sleep with me.

Q. Where did your husband sleep those five or six days before you left his house? A. He would sleep downstairs in the front room on the sofa.

20 Q. Do you know the reason why your husband slept down there? A. Because the mother-in-law hated me and he hated me more than his mother.

Mr. Agnew: I move that that be stricken out. It is not responsive to the question.

The Court: It will be.

(Discussion.)

Q. Did your husband tell you why he wouldn't sleep with you? A. He didn't say anything.

30 Q. Did you ask him? A. I heard the mother say that she knew her son wouldn't sleep with me.

Q. When did you hear the mother say that? A. The morning when the husband wouldn't sleep with me any more.

Q. Where was the mother when you heard that? A. She was in the room next to mine.

Q. Who was your mother-in-law talking to? A. She was speaking to her sons Andrew and Frank, who slept in the next room.

40 Q. Now, what did your mother-in-law say and what did you hear Andrew and Frank say? A.

*Eleanore Ciaglia, direct.*

The mother said, "Don't Nick sleep with his wife any more?" She said, "I knew that he wouldn't sleep with her any more."

Q. Did you hear the mother say anything else?

A. She went downstairs and I don't know what she said.

10

Q. Did you ask your husband why he had not slept with you that night? A. He did not speak to me.

Q. Did you ask your husband, Mr. Ciaglia? A. I didn't ask him.

Q. Now, Mrs. Ciaglia, during this period that you lived in your husband's house, did anybody beat you?

Objected to as leading.

Objection sustained.

(Discussion.)

20

Q. Now, Mrs. Ciaglia, during this period from say May 1st to the time that you left your husband, July 2, 1925, did anything else happen to you besides your mother-in-law and your brothers-in-law scolding you? A. Every once in a while she came with her hands that she wanted to grab me by the throat.

Q. Whom do you mean by she? A. My husband and my husband's mother.

30

Q. Did she do that more than once? A. She did it two or three times.

Q. Did she say anything at the time that you said that she wanted to grab you by the throat? A. She said, "I hate you." She said, "I can't bear to see you." She said, "It is best that this life is ended." By that she meant to say that this living together.

Q. Mrs. Ciaglia, can you fix the time, the first

40

*Eleanore Ciaglia, direct.*

time that your mother-in-law came toward you with her hands toward your neck? A. Yes.

10 Q. When was the first time? A. It was the first time when she took the pillows, the sheets from the bed, and then she said, "If you don't bring these downstairs to me," she said, "I will kill you."

Q. When was that? A. It was about seven days before my brother came to get me.

Q. Did your mother-in-law tell you why she wanted you to bring the sheets and this linen downstairs? A. She said it was her goods and she didn't want me to keep anything that belonged to her and keep her goods.

20 Q. Now, Mrs. Ciaglia, after your brother came for you on July 2, 1925, where did you go to live? A. My mother-in-law went out riding with her sons and I ran upstairs for fear that they wanted to hit me.

Mr. Agnew: I move that that be stricken out.

The Court: It will be. "I ran upstairs,"—that may remain. "For fear,"—from thereon will be stricken out. Now, you may continue.

30 A. (Continuing.) Then a young lady who seen me in this condition ran and called my brother, went to call my brother.

Mr. Agnew: I think the question is after the desertion where did she go to live. Is that the question?

The Court: That is the question.

A. My brother took me to my cousin's home.

Q. What is his name? A. Rosina Dacunti.

40 Q. Where was her place, Mrs. Ciaglia? A. 272 Liberty Avenue, Brooklyn.

*Eleanore Ciaglia, direct.*

Q. Mrs. Ciaglia, at the time that you left your husband with your brother at New Milford, New Jersey, what was your condition? A. I was five months pregnant.

Q. Was the baby born?

Objected to as immaterial.

10

Objection sustained.

Q. Did you see your husband after you left him on July 2, 1925? A. I gave it in the hands of the law, and that is the only way I seen him, by the law.

Q. Where did you see your husband, and when, after July 2, 1925? A. I seen him fourteen or fifteen days after I left his home, at Hackensack.

Q. What place in Hackensack? A. At the court in Hackensack.

20

Q. What were you doing there? A. The judge tried to make peace.

Q. What did the judge say to you, and if he said anything to your husband, what did he say to your husband if he was present?

Objected to as having no bearing in this case.

Objection sustained.

30

Q. Mrs. Ciaglia, was anyone else present at the police court at this time besides yourself and your husband? A. It was his mother and his brother Andrew.

Q. Did your mother-in-law say anything at this occasion? A. The judge tried to make peace.

Mr. Agnew: I move that that be stricken out.

*By the Court:*

40

Q. The question is did your mother-in-law say

*Eleanore Ciaglia, direct.*

anything. A. She said, "We don't want her in our home."

*By Mr. Brunetto:*

10 Q. Did your brother-in-law Andrew say anything, and if he did, what did he say? A. He said that they didn't want me in their house any more.

Q. Now, after this occasion at Hackensack, did you see your mother-in-law or your brothers-in-law Andrew and Joseph at any time? A. I didn't see my mother-in-law any more, but then I seen my husband after he didn't send me the maintenance in the other court.

Q. Did you speak to your mother-in-law when you saw her in the other court? A. No.

20 Q. Did you speak to your brothers-in-law? A. No.

Q. Now, Mrs. Ciaglia, ever since you left your husband's house in New Milford, have you received any money? A. (Speaking in English) No.

Objected to.

Mr. Brunetto: If I may be given an opportunity to finish my question, your Honor.

The Court: You may finish the question.

30 Q. Now, Mrs. Ciaglia, ever since you left your husband's house in New Milford, have you received any money from your husband or from your brothers-in-law, and if so, which ones? A. After seven months from my husband ten dollars a week.

Q. Did you receive that in cash from your husband or did you receive it in any other way? A. No, check.

40 Q. Whose check was it?

Mr. Agnew: If the Court please, how is

*Eleanore Ciaglia, direct.*

this relevant in this case? We will be trying all kinds of cases before we get through. We will get into criminal courts before we wind up. We will be getting into marriage relations and sex cases and everything else. This is not a suit against the husband. This is a suit against the husband's mother and brothers. 10

The Court: I suppose damages might be more if there has been no support.

Mr. Brunetto: No, your Honor, that is not the point. What I intend to prove, and the complaint charges that they paid the husband's alimony for the purpose of keeping them away from each other. They have helped him out financially. That is what I charge in my complaint. 20

Mr. Agnew: I object to such statements before the jury, if the Court please. It is apt to be very embarrassing. If the husband did not have the money for a particular week or weeks, or if his brother had a bank account and he did not, there is no serious objection to sending a check.

The Court: The question may be answered. 30

Mr. Agnew: And I object to the inuendo contained in the statements of my adversary.

The Court: The question may be answered.

(The last question is read by the stenographer.)

A. It was his brother Andrew's check.

Q. Did you at any time, Mrs. Ciaglia, receive any money which your husband was ordered to 40

*Eleanore Ciaglia, cross.*

pay you, by cash direct from your husband, or any checks of your husband? A. No.

Q. Now, Mrs. Ciaglia, at the time that you were living at New Milford with your husband and your mother-in-law and your brothers-in-law, did you  
10 ever go automobile riding? A. Never.

Q. Did your husband ever go automobile riding while you were living with him, with his brothers or mother? A. Always.

Q. Did they ever ask you? A. Never.

Q. Did you ever ask your mother-in-law or your brothers-in-law or your husband whether you could go along? A. I asked them to take me, but they said they were ashamed to take me along.

Q. Who said that, that they were ashamed? A.  
20 My husband's mother said it.

Q. Where was your husband? A. He was present.

*Cross examination by Mr. Agnew:*

Q. You say you were never asked to go automobile riding, Mrs. Ciaglia? A. I asked them.

Q. But you were never taken? A. Never.

Q. Do you remember an occasion in May when your brother-in-law took you to Hackensack to  
30 buy you a coat and you went by automobile. Don't make a speech. The answer is yes or no.

(The witness is speaking in Italian.)

Mr. Brunetto: Will you tell us what she said, Mr. Giovanni, please?

The Court: No, not at all.

Mr. Brunetto: Excuse me, your Honor.

The Court: Counsel is entitled to a strictly responsive answer.

40 Mr. Brunetto: But, your Honor, the reason I said that—I want to apologize first for

*Eleanore Ciaglia, cross.*

having addressed the interpreter. I think it is up to the interpreter to translate only what this woman said.

The Court: It is not if the Court knows that what he will translate will be improper.

Mr. Brunetto. Of course, your Honor, I take it for granted that neither the Court nor Mr. Agnew know what this woman said. 10

The Court: All right. Just because you do know, as I stated before, should give you no advantage over the Court and the other counsel, and we do not propose that it shall to the extent that we can help it.

(The last question is read by the stenographer.)

A. I remember. 20

Q. And you went there by automobile? A. Yes.

Q. So that at one time you did ride in their automobile? A. Yes, but it was an occasion that her daughter had died and she took me there to buy me some mourning clothes.

Q. I am speaking about the time that your mother-in-law took you to Hackensack to buy you a coat, an overcoat. A. That was the occasion when she took me to buy me mourning clothes. 30

Q. Weren't you invited a number of times to go by automobile or go automobile riding and you refused, saying that you didn't like the people that your husband's family was visiting? A. Never.

Q. What did you say when your husband or your husband's folks asked you to go automobile riding? A. They never asked me.

Q. You can't remember any other occasion except the time when you bought the coat, that you ever went automobile riding? A. Only another 40

*Eleanore Ciaglia, cross.*

time when I accompanied the mother on a trip to the doctor in New York.

Q. But there were some other times when you went automobile riding with the family? A. Only this other time that I accompanied the mother to the doctor.

Q. Don't you remember a number of times you went automobile riding with your husband on trips because he is in the taxi business? A. No.

*By the Court:*

Q. What is your husband's business? What was it at that time? A. He drive a taxi.

Q. Did he ever tell you how much he earned? A. Never.

*By Mr. Agnew:*

Q. Where are you living now? A. With my brother.

Q. Where is that? A. Bayside, Long Island.

Q. How long have you been living with your brother? A. After I gave birth to my child I went to live with my brother.

Q. So that from the fall of 1925 until now you have been living with your brother? A. Yes.

Q. So that when you say in your complaint that you reside in Newark, that is not necessarily true? A. I leave the checks come in Newark, because over in Bayside it is too difficult to receive mail there for me.

*By the Court:*

Q. Where were you living the first of February, 1928, last year? Where were you living a year ago? A. With my brother.

Q. What was the date you gave birth to your child? A. Third of October, 1925.

*Eleanore Ciaglia, cross.*

*By Mr. Agnew:*

Q. When you had your husband brought to a court in Hackensack you say about fourteen or fifteen days after you left, the judge tried to make peace, didn't he? A. Yes, but they didn't want to.

10

Q. And he suggested that you go back with your husband, and you refused? A. I never refused.

Q. What did you say when you were asked to go back to your husband? A. I wanted to return.

Q. Why did you leave? A. I wanted at least two rooms where I could stay with my husband.

Q. You liked your husband so well that you deserted him one day and the next day you saw a lawyer and had him arrested for non-support?

Mr. Brunetto: That is objected to. That is not the evidence before the Court.

20

Mr. Agnew: This is cross examination.

The Court: If you put it in the form of a question it will be all right. The form indicates that she had so testified.

Q. And very shortly after you left your husband, you went to see a lawyer in Hackensack, a very few days, is that true? A. Yes.

Q. An Italian lawyer? A. Yes.

Q. And you had your husband arrested for non-support? A. I had him arrested for mistreating me, mistreatment of the family because the family mistreated me.

30

Q. You didn't have the family arrested. You had your husband arrested, didn't you? A. I don't remember.

Q. You don't remember? A. No.

Q. That is the best answer you can give the Court and jury, that you don't remember? A. I didn't see any more of him. I was brought to my cousin.

40

*Eleanore Ciaglia, cross.*

Q. And wasn't the object in getting your husband arrested for you to get support money? A. Not at that time. That time I left because I was angry at being mistreated.

10 Mr. Agnew: I move that that be stricken out on my own motion because the answer is not responsive.

The Court: The answer may remain; that is, the last part of it may be stricken out. "Not at that time" may remain.

Q. Isn't it true, Mrs. Ciaglia, that two weeks after you deserted your husband you had him arrested before Judge Moore in Hackensack? A. I don't know if he was arrested or not.

20 Q. Didn't you appear in some court in Hackensack a couple of weeks after you left your husband, before a judge, a little short-sized man, short in stature? A. Yes.

Q. At that time the object of that accusation was for you to get support money? A. Yes.

Q. Now, before you got married you knew your husband didn't have much money, didn't you? A. His mother came to me and said that she would be responsible for everything that took place.

30 Q. I didn't ask you that.

The Court: That will be stricken out.

Q. Do you know whether or not your husband had any money at the time you married him? A. I didn't know.

Q. You didn't have any money? A. No.

40 Q. And your mother-in-law bought you a lot of clothes even before you got married, isn't that true? A. She only brought me an engagement ring, no dresses, just a string of pearls.

*Eleanore Ciaglia, cross.*

Q. Your mother-in-law gave you one hundred dollars to buy clothes with before the marriage?

A. Only the coat.

*By the Court:*

Q. Well, did she give you a hundred dollars to buy a coat? A. Eighty-eight dollars she gave me. 10

*By Mr. Agnew:*

Q. And with the hundred dollars your mother-in-law gave you, you bought the coat besides other articles?

Mr. Brunetto: That is objected to, your Honor. Her answer is that she received eighty-eight dollars.

The Court: That is what I understood. 20

Q. Didn't your mother-in-law give you one hundred dollars out of which you bought the coat and other articles? A. I only had eighty-eight dollars.

Q. Well, she gave you eighty-eight dollars and you bought clothes with it before you were married? A. No, only the coat.

Q. What did you pay for the coat? A. Eighty-seven dollars.

Q. Your mother-in-law bought you other clothes after you were married, didn't she? A. No. 30

At one o'clock p. m. the court takes a recess until two o'clock p. m.

*Eleanore Ciaglia, cross.*

AFTER RECESS.

ELEANORE CIAGLIA, the plaintiff, resumes the stand.

*Cross examination (continued) by Mr. Agnew:*

10 Q. Mrs. Ciaglia, to get back to this question of automobile riding for a moment, you know that right after you went to live with your mother-in-law your mother-in-law used to go to a chiropractic doctor in New York? A. Yes.

Q. And she went to this doctor twice a week for six or seven weeks, didn't she? A. Yes.

Q. And you rode with her in the automobile to this doctor? A. Only one time.

20 Q. Can't you remember that you rode several times with your mother-in-law to this doctor in New York? A. No, just once.

Q. That was one time more you remember; that is all? A. Only once.

Q. At the time you left your husband you say you were pregnant? A. Yes.

Q. And at that time didn't your mother-in-law argue with you not to leave your husband an account of you being in that condition? A. She never said it.

30 Q. And you said, "I will have the child and ship it back to you"? A. Never.

Q. What did you say to your mother-in-law when she urged you not to leave and you went away anyhow? A. She never told me to leave.

Q. What did you say about sending the baby back? A. I never said that.

Q. What did you say? A. I didn't say anything.

40 Q. You just walked out and left your husband and went away and said nothing? A. My brother came and took me.

*Eleanore Ciaglia, cross.*

Q. Your brother came and took you and you left your home and said nothing? That is what you want this jury to believe?

Objected to.

Objection sustained.

10

Q. You want us to believe that your brother came to the house and took you away and you said nothing?

The Court: That is the form of question that is objected to. I think "What you want us to believe" is objected to.

Q. You say your brother came to the house and took you away and you said nothing when you left? A. My brother told me that he was going to take me away, not home, but to the lawyer.

20

Q. So your brother came to the house and took you away and you went from your house to a lawyer? A. Yes, sir.

Q. And when you left you said nothing to your husband or your husband's family and they said nothing to you? A. I was crying and my mother-in-law said that is what I deserved.

Q. So now you think there was something said. What did you say? A. I didn't say anything.

30

Q. You said nothing? A. She didn't say to stay here. She didn't say anything at the time.

Q. No, I said, you said nothing? A. I didn't say anything.

Q. And all your mother-in-law said was what? A. "It is well that you go because you don't do any good here."

Q. And that is all she said? A. That is all.

Q. But these other two that you are suing, Andrew and Joseph Ciaglia,—they said nothing at

40

*Eleanore Ciaglia, cross.*

all to you when you left? A. Andrew said, "It is best that she goes, because my brother don't want to live with her any more."

Q. Was this said at the time you left the house?

A. Yes.

10 Q. What time of day was this? A. Around eleven o'clock.

Q. Don't you know your brother-in-law Andrew is working in New York at eleven o'clock? A. That day he was home.

Q. Oh, that day he stayed home. Why did he stay home? Do you know?

Objected to.

Objection overruled.

20 A. Perhaps he wasn't feeling well.

Q. And was this other brother Joseph around on that day that your brother took you away? A. Yes.

Q. Does Joseph work? A. He works in a store in the house.

Q. And your brother came to the house and took you away and brought you to see the lawyer? A. Yes.

30 Q. And you have been under a lawyer's care ever since? A. Yes, but that wasn't a lawyer that I have now.

Q. No, some other lawyer. Wasn't it your brother who told you to start the case for twenty-five thousand dollars against these people? A. Yes, my brother told me.

Q. Your brother told you to start this case? A. Yes. My brother said, "What is the future of my sister that she is in the road now? She has no one to live with."

40 Q. Your brother has had a lot to do with your

*Eleanore Ciaglia, cross.*

trouble since you left the house, hasn't he? A. Yes.

Q. And you know that he went to the place of business of this man here, Andrew, in New York, demanding money from him? A. Never.

Q. Didn't your brother go to see Andrew in New York with your knowledge and consent demanding money from him and threatening if he didn't pay that he would start this case? A. My brother said, "Why don't you make my sister and her husband get together again? What is the use of this case?" 10

Q. What did your brother report to you when he came back from seeing Andrew in New York, about money? A. My brother said, not money, he said, "I only want you to get together with your husband again, but Andrew said that can never be." 20

Q. Why, you sent your brother to Andrew for money, didn't you? A. (Speaking in English.) No, never.

Objected to.

The Court: The answer may remain.

The Witness: I don't want no money.

Q. You don't want any money? A. I don't want no money, no. 30

Q. Do you remember on one occasion this defendant Andrew told you to stop fighting and squabbling with your husband so much? A. (Speaking through the interpreter.) Yes, but they were the ones that started all these fights.

Q. Yes, but you do remember this man Andrew told you to stop fighting so much with your husband?

The Court: I understood that was your previous question. She said yes. 40

*Eleanore Ciaglia, cross.*

Q. Don't you remember one time when Andrew told you, "If you keep this up you will lose the love of your husband the way you are going," and you said, "He has lost love for me and I have lost my love for him, and I am going away"? A. Never. I never disturbed my husband, never had any fights with my husband. It was them that started it.

Q. You just said a minute ago that they started all the fights between you and your husband, and now you say you never had a fight. Which is true?

Mr. Brunetto: Your Honor, her answer was that she didn't have any fights with her husband. I think the judge ought to tell what she testified to.

Objection sustained.

Q. What did Andrew say to you and what did you say to Andrew when he spoke to you about losing the love of your husband? A. I never replied to his statements.

Q. You mean that your brother-in-law here, Andrew, would talk to you and say things to you and you would never answer him? A. I never had a fight with my husband. It was them that made me fight, that made us disagree, and that is why we became so distant.

Q. That is not the question. When Andrew would speak to you about losing the love of your husband, what would you say to him? What would you say to your husband?

Objected to.

Objection sustained.

Q. What did you ever say to Andrew about trouble between you and your husband? A. When

*Eleanore Ciaglia, cross.*

his mother started these arguments, that my husband hated me.

Q. I am not talking about the mother. I am speaking of this co-defendant, Andrew.

(The previous question is read by the stenographer as follows: "What did you ever say to Andrew about trouble between you and your husband?")

10

A. I didn't say anything.

Q. Do you claim now that Andrew had anything at all to do with separating you and your husband? A. Not only him, but the whole four.

Mr. Agnew: No, I want an answer to that question.

20

(The last question is read by the stenographer.)

Mr. Brunetto: Your Honor, may I see you in chambers a minute with counsel on the other side, not in the presence of the jury?

The Court: Oh, yes.

(A brief recess is taken.)

(The last question is again read by the stenographer.)

30

A. He said I wasn't good enough to stay in the house and it would be better for me to leave.

Q. And is that all that this man Andrew, the co-defendant, has ever done or said regarding you and your husband?

Objected to unless the time is fixed.

Q. Is that all that this man Andrew, the co-defendant, has ever done or said regarding you and your husband at any time while you were living with your husband? A. The only thing he

40

*Eleanore Ciaglia, cross.*

said was that I wasn't good enough to be in their house.

Q. And that is all that he ever said and all that he ever did? A. That is all.

10 Mr. Brunetto: Now, Mr. Interpreter, you should say, "He always said that." (Speaking in Italian.)

The Witness: He always said that.

Q. He said that once? A. Always.

Q. What do you mean by "always"? A. He always said it. He said, "You aren't good enough to stay in our house. We are disgusted with you." He said, "The best thing you can do is to go."

20 Q. Now, he didn't say that the first month you were there, did he? A. No.

Q. And he didn't say that the second month you were there?

Mr. Brunetto: Mr. Interpreter, will you let us have that—"When the mother began to disturb me, then they started."

A. When the mother began to disturb me, then they started to disturb me.

30 Q. That doesn't answer my question. My question is, did he say that during the second month?

A. In the second month.

Q. Now, will you tell us exactly what he said?

A. I wasn't good enough to stay home. He said I wasn't good enough to make the beds. I wasn't good enough to take the dust. They were ashamed to present me to anybody.

40 Q. Now, a few moments ago when I asked you a question you said he only said one thing during all the time you were living together. A. All this came afterward.

*Eleanore Ciaglia, cross.*

Q. You mean after you left your husband? A. When I was home.

Q. You mean after you left your husband?

Mr. Brunetto: No. She said, excuse me, your Honor, "While I was living in the house."

10

The Interpreter: "While I was at home."

The Court: I wouldn't make corrections for little things like that, "at home" and "in the house." There is so little difference.

Q. Just a few moments ago I asked you what Andrew had ever said or ever done to you while you were living with your husband, and you said one thing, one statement, and you said that was all. A. They always disturbed me. They always said I wasn't good enough to stay there.

20

Mr. Agnew: I move to strike out that answer. There is nothing responsive in that answer.

The Court: It will be stricken out.

Q. Now, you are suing Joseph, a brother of your husband, Joseph Ciaglia? A. Yes.

Q. What did Joseph ever do to you? A. He was the first one to say that this house was too good for you. He said it to me and he said it to others.

30

Q. When did that begin? A. After two months he started.

Q. Isn't it true that Joseph used to go out and buy you ice cream and bring it home to you, and they did that up to the very day you left the house?

Objected to as to form.

Objection overruled.

40

A. Never.

*Eleanore Ciaglia, cross.*

Q. Joseph never brought any ice cream from the store? A. They have always treated me like a dog and like the worst thing in the house.

Q. He never brought you ice cream from the store? A. Never.

10 Q. Didn't he do it twice a day on some occasions? A. Never.

Q. Didn't he bring you ice cream the very day before you left your husband? A. No. He always hated me. How could he bring it?

Q. He never brought you ice cream at any time? A. No.

Q. Did you ever cook anything for your husband? A. Never.

20 Q. You never tried to cook anything for your husband either, did you? A. They never wanted me to do it.

Q. I say, you never tried to do it? A. I tried.

Q. But you didn't succeed? A. I was prohibited by my mother-in-law from doing it.

Q. Yet you let your mother-in-law do all the cooking for your husband, including yourself? A. She never wanted me to do it. She said, "When I die then you can do it, but now I will do it."

30 Q. Your mother-in-law was so bad that she never let you do any washing and sent the clothes out to the laundry, including yours? A. I did my own washing.

Q. And you were too lazy to get up in the morning to get your husband out to work, weren't you?

Objected to.

Objection overruled.

40 Q. She did it in the morning. She said she never wanted me to do it. She wouldn't give me the chance to do it.

*Eleanore Ciaglia, cross.*

Q. But the fact is you never got up in the morning to help your husband out to work, isn't that true? A. My mother-in-law wouldn't even permit me to wake him up. She said I should wake him up, not her.

Q. Isn't it a fact your mother-in-law would have to knock on the door to wake your husband up so he would get out to work on time? Just answer yes or no. A. Yes, she did it. 10

Q. You never got up in the morning to get your husband to work or get his breakfast in the whole six months you lived together? Just answer yes or no. A. Never.

Q. You all ate together; you and your husband and the members of your family all ate together? A. Yes. 20

Q. Except once in a while you would complain that something wasn't good enough for you? A. Yes.

Q. So that for instance the coffee—you bought yourself special coffee and you cooked that yourself? A. They didn't have coffee in the house and I bought a pound of coffee for myself and the pound used to last me one month. They used to drink a thing that is called orzo in English. 30

Mr. Brunetto: Your Honor, what she said was that they didn't use coffee; they used orzo.

The Interpreter: I think I said that, your Honor.

Q. So that this ozone or whatever it is wasn't suitable for you and you went and got your own coffee and cooked your own coffee for yourself? A. I made a cup in the morning.

Q. And once in a while you would cook something for yourself, but never anything for your 40

*Eleanore Ciaglia, cross.*

husband? A. I never cooked anything for myself.

Q. Now, you say you spent most of your honeymoon at Utica? A. Yes.

10 Q. And you started out quarreling then, didn't you? A. No. We didn't have no fights there.

Q. You stopped at a house in Utica of your husband's married brother? A. Yes.

Mr. Agnew: Will you stand up?

(A woman stands up in the courtroom.)

Q. Is that the lady at whose house you stopped in Utica on your honeymoon? A. Yes.

20 Q. And you say you had no quarrels while you were at her house in Utica on your honeymoon between you and your husband? A. No, never.

Q. Do you remember one occasion when they had some friends at the house when they had a party for you that you went away and left your husband in the middle of the party? A. I remember the party.

Q. Yes. And you remember that you broke up the party and you went away from your husband when the party was half over and you wouldn't talk to him? A. No, never.

30 Q. You can't remember that? A. I never did it.

Q. Do you remember your sister-in-law, the lady who just stood up? A. Yes.

Q. When you were up there on your honeymoon in Utica, do you remember her talking to you about "Stop squabbling with your husband on your honeymoon"? A. Well, I didn't have no fights with my husband up there.

40 Q. What did she say about "You should be happy and loving and full of joy and everything

*Eleanore Ciaglia, cross.*

on your honeymoon"? Did she say anything like that, this woman from Utica? A. Yes.

Q. Well, how did she come to say that to you?

A. When we went she said, "I hope you will always be happy."

Q. And you say nothing at all had happened in the way of argument or trouble while you were in Utica? A. No, never. 10

Q. Now, you say that while you were living with your husband you loved him and you respected him? A. Yes, I loved him and I respected him.

Q. And yet two months before you left him you threw your engagement ring and your wedding ring on the table and told your mother-in-law you had no more use for him and he had no more use for you, is that correct? A. (Speaking in English.) I never said that. My God. 20

Q. What did you say when you threw your engagement ring and your wedding ring on the table? A. (Speaking through the interpreter.) I never threw them on the table. She told me that they belonged to her, that they were her money, and I gave it to her.

Q. Did you think it nice to walk around without your wedding ring for the last two months you were living with your husband? A. Well, she took them off me. 30

Q. Why didn't you ask for your wedding ring back again? A. I asked her and she wouldn't give it to me.

Q. You said in answer to Mr. Brunetto's question that you never asked for them. A. My mother-in-law said to me, "When you go out with your husband I will give them to you."

Q. I say, in answer to your lawyer's question you said you never asked for your wedding ring back 40

*Eleanore Ciaglia, cross.*

again. A. Well, they didn't want to give them to me. She always said to me when I went with my husband she would return them to me.

Q. You never asked for your wedding ring back again. A. I asked her.

10 Q. How many times after you gave up your wedding ring did you ask for your wedding ring before you left? A. I always asked her for the ring. I said, "Why don't you give it to me?" She said, "They are my money." She said, "And they will remain with me."

Q. You never asked for the return of your wedding ring after you left your husband, did you? A. Yes, I asked for it.

20 Q. Whom did you ask for it? A. I asked my cousin and asked for the coat and for the ring, and she replied she wouldn't give me the coat or ring.

Mr. Agnew: I move that that be stricken out, as not responsive.

The Court: The answer will be stricken out.

*By the Court:*

30 Q. Whom did you ask for the ring? A. I sent my cousin to the house to ask for the ring and for the coat.

*By Mr. Agnew:*

Q. You yourself never asked for the return of your wedding ring?

The Court: You mean after she left her husband?

Mr. Agnew: After she left her husband.

40 Mr. Brunetto: Your Honor, I think she

*Eleanore Ciaglia, cross.*

has answered that question twice now. She said it was through her cousin.

The Court: Well, I do not find a direct answer. Counsel is entitled to an answer.

Q. Did you yourself ever ask for the return of your wedding ring after you left your husband? 10

A. I didn't see anyone after that.

Q. You have seen this man Andrew several times after you left your husband, haven't you? A. I went to his place of jewelry in the Bowery.

Q. So it is not true that you didn't see anybody at all? A. I went to see him about the checks, that the checks weren't coming at the right time. I went to see him and to straighten that out.

Q. At the time you gave up the engagement and wedding ring, you said something then about "I am going away" or "I am through with my husband" or words to that effect? A. Never said that. 20

Q. What did you say, if anything, about going away? A. Never. Didn't say anything.

Q. You have another brother-in-law named Frank, haven't you? A. Yes.

Q. Why didn't you sue him? Isn't he as bad as the others? A. Because he never came in between the troubles. It was the other two that did. He always stayed out of it. 30

Q. Oh, he is better than the others? A. He never put himself in our troubles.

Q. Or was it because you didn't that Frank had any money? A. I didn't do it for money. What am I going to do with the money? It isn't for the money.

Q. Do you know whether Frank has any money or not? A. I don't know anything.

Q. Now, about getting this support money, you say you have been getting ten dollars a week from your husband? A. Yes. 40

*Eleanore Ciaglia, cross.**By the Court:*

Q. Is that the amount which the Hackensack judge allowed you? A. Yes.

10 Mr. Brunetto: Your Honor, I think she is confused as to the Hackensack judge. There is an order of the Court of Chancery.

The Court: Oh, it wasn't the Hackensack judge.

Mr. Brunetto: No.

The Court: That is agreed to, I suppose.

Mr. Agnew: Yes. It was brought up first in the magistrate's court in Hackensack, and later on in the Court of Chancery.

20 The Court: And that is the result of the order in the Court of Chancery?

Mr. Agnew: Yes.

*By Mr. Agnew:*

Q. You know that your husband never had a bank account? A. He never told me anything.

Q. Well, you never knew that he did have one, did you? A. I don't know anything.

30 Q. And sometimes you could get a check of Andrew's for your weekly payments? A. Always from Andrew I received it.

Q. And you never got any more than what you are entitled to under that order, did you? A. No.

*By the Court:*

Q. Why did you go to live at your mother-in-law's house at first? A. Because she said she would love me as a daughter and my brothers-in-law said they would love me as a sister.

*By Mr. Agnew:*

40 Q. You know the real reason why you went to

*Eleanore Ciaglia, cross.*

live at your mother-in-law's house was because your husband didn't have money enough to establish your own home, isn't that true? Just say yes or no; that is all. Don't argue about it. Isn't it true that the reason you went to live with your mother-in-law is because your husband didn't have money enough? A. (Speaking in English.) I don't know. 10

Q. Wait till I get through. You don't know what I am going to say yet. Because you knew your husband didn't have money enough to establish his own home? A. (Speaking through the interpreter.) They just told me to come in the house in the company of my mother-in-law, that they liked me.

Q. Didn't your husband tell you he didn't have money enough to establish his own home? 20

Mr. Brunetto: She said, "They never explained that to me."

Mr. Agnew: She is competent to answer the question, your Honor.

The Court: I thought we had agreed that if Mr. Brunetto didn't quite agree with the interpretation, that it might be suggested to the interpreter. 30

Mr. Brunetto: "They never explained that to me." Isn't that what she said?

The Interpreter: That is correct.

The Court: Of course if the interpreter disagree with Mr. Brunetto, we are going to leave it to the interpreter.

*By Mr. Agnew:*

Q. But you knew in the very beginning that your husband didn't have money enough to establish his own home, isn't that true? A. No. 40

*Eleanore Ciaglia, cross.*

Q. Didn't he tell you that? A. No.

Q. Well, you knew he didn't have money? A. I didn't know nothing.

Q. How much money did you think he had? A. I don't know anything.

10 Q. This mother-in-law that you are suing for twenty-five thousand dollars was so bad that she bought the furniture for you when you got married, didn't she? A. She only furnished one room, furniture of one room.

Q. Yes, but she did do that? A. Yes.

*By the Court:*

Q. Were your mother-in-law and you all right at the time you were married? A. For a few weeks.

20

*By Mr. Agnew:*

Q. For a few weeks, and yet you admitted before luncheon recess that several months after you were married your mother-in-law was endeavoring to buy you clothes then?

Objected to on the ground that there has been no such testimony.

30

Objection sustained.

Q. Now, in the morning when you wouldn't get up and your mother-in-law would have to knock on the door to get your husband up in time to go to work, you complained very bitterly about the noise disturbing you? A. I didn't complain of it disturbing me. I was ashamed of her coming in where we were.

40

Q. And because they would wake you up and disturb you you drove your husband downstairs and told him to sleep all by himself? A. (Speaking in English.) Never. I never said that.

*Eleanore Ciaglia, cross.*

Objected to.

Objection sustained.

Mr. Agnew: I have a right to cross examine this witness, your Honor.

The Court: I know, but your questions are in the form of statements, some of them, when they should be in the form of questions. If you put them in the form of questions, I think that is not improper. When you put them in the form of statements, it rather assumes that she said or admitted them. 10

Q. Didn't you complain about the noise waking you up and you then drove your husband downstairs and told him to sleep by himself? A. (Speaking through the interpreter.) Never, never. 20

Q. What did you say about this noise in the morning? A. I only said that in the morning she would come and knock at the door and open the door. I wanted to call my husband. She wanted to do it.

Q. Why didn't you get up yourself and get your husband up?

The Court: Now, I think we have covered that three or four times. 30

Q. Now, this brother Joseph that you are suing, didn't he wash the floors in that house partly to save you that trouble? A. I always washed them. I used to do the work of washing.

Q. Didn't this brother Joseph use to wash the floors on some occasions? A. I always did it. They always made me do it.

Q. You mean to say Joseph never washed the floors? A. Not while I was there. 40

*Eleanore Ciaglia, cross.*

Q. Why have you refused to tell your husband where you have been all this time since July, 1925?

Objected to.

Objection sustained.

10 Q. Did you ever tell your husband since you left him? A. Yes.

Q. When? A. When I left his house I went to my cousin's to live.

Mr. Brunetto: Mr. Interpreter, "And that is where he sent me the checks."

A. (Continuing.) And that is where he sent me the checks.

20 The Interpreter. She didn't quite say that at that time. She made a new repetition.

Q. In this case you had in the Court of Chancery you never mentioned your brother-in-law's name, did you, Andrew or Joseph? A. Never.

*By the Court:*

Q. That was a suit against your husband, I suppose, wasn't it? A. Yes.

*By Mr. Brunetto:*

30 Q. On your direct testimony you said that your mother-in-law would come in at five o'clock in the morning and scold your husband for not getting up? A. Yes.

Q. Wasn't that seven o'clock instead of five o'clock? A. I said six o'clock.

Q. Oh, you said six o'clock. Well, wasn't it nearer seven o'clock than six o'clock? A. She always got up at six.

40 Q. How did your brother know just when to come and take you away? A. A young lady by

*Eleanore Ciaglia, cross.*

the name of Ida Moretta, who lived right across the way, she seen what I was suffering and what I was going through, and she went to call my brother.

Mr. Agnew: I move that that be stricken out.

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The Court: You asked her why. I think the form of your question would make it proper for that to remain.

A. (Continuing.) So then she said "Give me the number of your brother and I will go and call him, because we can't see you suffering this way," and then she went to call my brother.

Q. You never told anybody in the family you were going away till your brother drove up and took you in his car, did you? A. Well, I didn't know I was going to leave because there were people that went and called my brother.

20

Q. You didn't know you were going? A. No.

Q. Your brother came and he took you right away to a lawyer, and he said he thought you had a good case, something like that, did he?

Objected to on the ground that there is no such testimony.

The Court: Well, this is in the form of a question.

30

A. First my brother brought me to court and then he brought me to a lawyer.

Q. And you say that you never asked your husband why he didn't sleep with you any more?

The Court: That is what she said.

Q. You say your mother-in-law made a move as though to grab you by the throat? A. She always did that when she was angry, she always came toward me in the attempt to grab me.

40

*Eleanore Ciaglia, cross.*

Q. But she never did grab you by the throat?  
A. Yes, she did. She did put her hands to my throat.

Q. When was that? A. During the time that I was five months pregnant.

10 Q. Would that be the last month or two while you were living there? A. Yes.

Q. Did you ever complain to anybody about your mother-in-law grabbing you by the throat?  
A. Yes, I told my brother and I told my cousin the things that they were doing to me.

Q. Did your mother-in-law grab you by the throat the day she took you out shopping in May?

20 Mr. Brunetto: "Are we going to do so much to her that she is going to leave this house?"

The Interpreter: She didn't say that the second time.

A. Are we going to do so much that she is going to leave this house?

The Interpreter: That is right, your Honor.

Mr. Agnew: What is the answer?

30 The Interpreter: "Are we going so much that she is going to leave this house."

Q. Did your mother-in-law grab you by the throat the day she took you out shopping to Hackensack in May? A. No, not that day.

Q. You say you told your cousin about your mother-in-law trying to grab you by the throat?  
A. Yes.

40 Q. Was this while you were living with your mother-in-law? A. Yes, while I was living there.

Q. Where did you see your cousin during that

*Eleanore Ciaglia, redirect.*

time? A. When I left my husband, that my brother had brought me there, and we talked.

Q. I say, while you were living with your husband you never complained to your cousin about your mother-in-law grabbing you by the throat?

A. Oh, my cousin lived too far away, and I never thought my mother-in-law would reach the point where she would put her hands to my throat. 10

Q. You never saw your cousin while you were living with your husband, did you? A. No.

Q. So anything you might have said would be after you left your husband? A. Haven't said anything.

*Redirect examination by Mr. Brunetto:*

Q. Mrs. Ciaglia, do you remember the occasion when your mother-in-law gave you eighty-eight dollars for the coat? A. I remember. 20

Q. Had a marriage ceremony been performed at that time? A. She gave me the money before I went to the church to buy the coat.

Q. Had you been married by any other person or by any one else before your mother-in-law gave you the eighty-eight dollars? A. No.

*By the Court:*

Q. Was there a civil marriage and a religious marriage, both? A. Both. 30

Q. Which took place first? A. The civil marriage.

Q. How long before was the civil marriage? A. A month before. After a month we got married in a church.

*By Mr. Brunetto:*

Q. Did your mother-in-law give you the money before or after the civil marriage had been per- 40

*Arthur Grimaldi, direct.*

formed? A. She gave me it after I was married in the City Hall.

*By the Court:*

Q. What City Hall? A. New York.

10 *By Mr. Brunetto:*

Q. Now, Mrs. Ciaglia, when you saw a lawyer in Hackensack who was this lawyer; that is, the first lawyer that you saw after you left your husband's house or your mother-in-law's house? A. The lawyer's name is De Lorenzo.

20 Q. And after you told your story to a lawyer named De Lorenzo, did he say anything about your mother-in-law or your brother-in-law or anybody connected with your husband's family having been there? A. My brother and I went there and we asked him if he would defend our case, and then I told him my story. "Two months ago your mother-in-law and your husband came and I had taken the case."

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ARTHUR GRIMALDI, sworn in behalf of the plaintiff.

30 *Direct examination by Mr. Brunetto:*

Q. Mr. Grimaldi, are you any relationship to the plaintiff in this case? A. My sister.

Q. She is your sisted. Do you remember the time when your sister was married? A. Yes, sir.

Q. Did you visit your sister at any time after she was married to Nicholas Ciaglia? A. Never did. Never did until I was called.

40 Q. How did you happen to go to your sister's house? A. I received a postal card.

*Arthur Grimaldi, direct.*

Q. From whom? A. From my sister, that the postal card, I understand that she cried for help. She asked for my protection.

Q. Was the postal card in your sister's handwriting? A. Yes, sir.

Q. Did you as a result of having received the postal card go to see your sister? A. I went right over the next morning. 10

Q. When was that, Mr. Grimaldi? A. That was I think before July.

Q. Of what year? A. 1925.

Q. Now, what time of the day did you get up to New Milford? A. That was I should think on Sunday morning first time I went over.

Q. What time of the day about? A. About half past nine in the morning. 20

Q. Whom did you see when you arrived at your sister's house? A. The first I see, well, of course I see Joe just in the store, the brother, the brother of my sister's husband.

Q. You mean Joe Ciaglia? A. Joe Ciaglia.

Q. Did you say anything to him? A. Well, I said good morning to him. That was the first time I went there. I said good morning to him. So he invite me inside the house where there is a door I think. Then I saw my sister and mother-in-law. 30

Q. Did your sister say anything to you? A. My sister didn't say nothing to me before I spoke to my mother-in-law.

Q. You said mother-in-law. Which mother-in-law? A. My sister's mother-in-law.

Q. Did you say anything to your sister's mother-in-law, Mrs. Antonio Ciaglia? A. Yes, I did.

Q. What did you say to her? A. Well, I asked her what was the matter, that is, her calling for me, my sister. Well, of course she told me that 40

*Arthur Grimaldi, direct.*

10 "We are really sorry." She said that she was very sorry, her and the family, that the son married my sister, because she was lazy, she was crazy, she was a dirty girl; she never saw such a dirty girl; that she was the kind that had no shame on her. She told me that in Italian.

Q. Who else was present when your sister's mother-in-law told you that? A. That was me and then I call my sister, she wasn't present. I say I want to see my sister. She was upstairs. She came down, and from my mother-in-law I questioned my sister. I said, "I don't know. Is that true what your mother-in-law tells me, that you are not good wife?" She said to me, "Listen to me, my brother," I said, "Come on, tell me the truth  
20 in front of your mother-in-law, see." So the mother by this time said, "Wait a minute now. I am going to call up my son." That was Andrew. That is the son that I always spoke to, his house. So he came down. So he sit down and the mother was stand up by a wall there, and she started arguing against my sister, that she was no good, that she was crazy, that the big mistake that her son has made all the fault; she was the fault. She said, she was entirely at fault. I said, "Cannot be ad-  
30 justed, those things; not even a couple of months married." That is something for young couple not to be so much disturbed, troubles. So I was talk to the mother-in-law, I said, "Anything unjust here?" She said, "I don't think so, that your sister she is no good. She is not for my house." I said, "On what ground? What she done to you?" "Oh, what she does to me. You know I got my son so respect me." I asked my mother-in-law what was the matter with my sister. What was all the  
40 trouble. The mother-in-law said to me, she told

*Arthur Grimaldi, direct.*

me that my sister wasn't fit enough for their house, that she thought she was different kind of girl, that she wasn't good. I checked her up. I say, I want to know what she mean, my sister is no good. She said, "Well, you know she is kind of crazy and she answers me back." I say, "Why she answers you back?" She said, "Sometime I tell her to do something, do this or do that, she answers me back, and my son doesn't do that to me. My son respect me." I say, "Well, that is not right, not for son to do to the mother, that is not right about my sister answer you back. Why you don't say nothing to her?" She says, "Well, at least I am the mother here and nobody is going to put a foot before me." She says, "Whatever I say goes. If your sister going to keep up doing this out she goes. Now, remember this, if she went out, she never come back any more." I say, "Now, listen, that is all the trouble. I came over here to make peace, not fight." I say, "Can I speak to your son Nick, her husband?" She say, "He went to work. He is not here." I say, "Well, was Andrew there, the brother, so I would talk with him." Well, Andrew told me, he said, "Well, your sister, she don't act good. She wasn't acting good." And I said, "In what way?" So Andrew says, "Sometime she gets nervous, she answers my mother back. So we don't like to do that. We like, you know, my mother got to be respected." I asked Andrew that the mother told me the sister, you know, that my sister answers her back. He said, "She is an old woman, sometimes a sick woman, that the mother was kind of a sick woman and sometimes she is nervous." So I told Andrew, "Listen, Andrew. If your mother was sick woman, and sometimes she is nervous, that is not my sister to be insulted for

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*Arthur Grimaldi, direct.*

your mother." He told me, the brother, the son, that he never thought the mother— Andrew; I am asking the brother now, the son of my sister's mother-in-law, why the mother ever insult my sister. He said that he never hear mother insulting my sister. I said, "What is all the trouble about?" I say. So the mother say, "Listen. We don't want too much talking here." She turned to me, she says, "Well, listen. Don't you think you come over here to make a speech. What I say goes. I am the boss here. Andrew, I don't want you to talk to him any more." So when she was cooled down I start to talk nicely. Well, that Sunday I had dinner with them. So I expected to see my sister's husband. Well, that is Sunday. I didn't see him. Finally after the dinner the mother-in-law she got quieted down, because I told her a lot of things to be good, that my sister wasn't crazy, that my sister wasn't dirty, that my sister was lovely girl, that she had good education, that it would be all right after a while. What do you expect a young girl after one month, two months? I spoke to her in different way. She said, "Well, that will be all right." When I left the house that first Sunday morning, I went from there.

30 Q. Now, did you go there again? A. Yes, sir.

Q. When? How long after? A. About two weeks after. I think it was about fifteen days after, thirteen or fifteen days after.

Q. How did you happen to go then? A. I went myself.

Q. Why did you go there? What time of day did you get there? A. I got there, it was next Sunday, it was Sunday morning too about half past nine.

40 Q. Whom did you see? A. I see the mother-

*Arthur Grimaldi, direct.*

in-law. When I go in the house I find my sister crying. That was the first time I saw my sister crying. I asked my sister, "What is the matter?" So when I asked my sister what is the matter, she came out, mother-in-law. She said, "I told you the first time she came here that she is crazy. She is no good for this house. She makes a lot of trouble." 10

*By the Court:*

Q. What is that you say? You talk too fast. We can't understand you. A. Your Honor, when I went over there the second time I was unexpected; never expected me over there. So I went in the house and I find my sister crying. It was about half past nine, ten o'clock in the morning. So I asked my sister what is the matter that she was crying. Well, my sister, she wants to answer me; the mother-in-law came out and said, "I told you the first time that you was here. Now your sister see that you was coming here, knew that you were coming unexpected. Now she cries to make you believe that all the family— My mother-in-law told me that my sister was crying to make me believe that they treated her bad. So I say, "All right, I know what is the matter." I said, I call her by name, I say, "You stay here." I ask my sister, "What is the matter?" So my sister, she answer me back and she said, "Do you remember last week when you was here?" I said, "Yes." She say, "Well, when you left I went through hell." I said, "Why?" She say, "When you left it was all peace. As soon as you took the train and disappeared, my mother-in-law, she started to battle it up. My sister said, "My God, I didn't call my brother. My brother came here 20 30 40

*Arthur Grimaldi, direct.*

unexpected." My sister told my mother-in-law, she said, "How could I be crazy? How could I call my brother here." So she says, "How can I call my brother? How can I call my brother? My brother came here unexpected, and my brother  
10 must know that you are treating me bad, so my brother don't want to believe it if it is true of me." So the mother-in-law said, "This is enough now." She said, "That is enough now." She said, "I don't think that you were a good girl enough to stay in my house. This won't go further. I am going to see what to do about that."

*By the Court:*

Q. You said that? A. No, the mother-in-law  
20 said to me, "Because we don't want to have no disturb here your brother came here maybe some day to put up a fight." I say, "No, excuse me. I don't want to come to put up a fight." I talk to Andrew. He was the only brother that I always talked to him, and he answered me in nice way too. So never was any fight there or no trouble. So one day I say to the mother-in-law, Andrew, and Joe, the other brother, I says, "For  
30 God's sake, can I see my sister's husband once? Always I come here I never find him; I never see him. I want to ask him something." So they say, "Maybe you see today." So finally they call the brother. He was in the garage; and the brother came. I say, "Hello." He says hello to me. I says, "What is all this trouble?" I ask my sister's husband what was all that trouble. He said, "I don't know. I don't know nothing." I said, "What do you mean you don't know nothing?" I said,  
40 "Don't you realize that my sister is your wife today?" He says, "Yes." I say, "Well, why don't

*Arthur Grimaldi, direct.*

you treat my sister as a wife?" He says, "I don't do nothing to her. Nobody does nothing to her." I says, "Why you speak like that? That mean you do a whole lot to her." He said to me, "Listen. Your sister answers my mother back once. She done very bad. She done wrong, because our mother not suppose anybody supposed to answer her back." I say, "Nick, I have been told this story before." I say, "What she hands back?" "Oh," he said, "Anything. If she don't like to stay here, she can go away." So I say, "Nick, why don't you be a man." I said, "I am a married man too. I married my wife. I love my wife. Why don't you respect your wife the way I respect mine." I said, "What is the use of making trouble? If your mother tells your wife sometimes words out of the way, you correct your mother. Sometimes I correct my sister too, like a good husband." He said, "Well," he said, I don't know nothing about it." He is a kind of man that don't speak much. I had to explain much to get a few words out of him. The only one speak freely was Andrew. But my sister's husband, he is a kind of fellow that he don't speak nothing. You have got to say a hundred words to take a word out of his mouth. So I said that day that maybe the thing will be all right. So I left him. I went there after another week, I think another week or so, was on Thursday in the middle of the week. I went there over again.

*By Mr. Brunetto:*

Q. How did you happen to go on that Thursday, Mr. Grimaldi? A. That was I went to get some satisfaction. Still I didn't believe my sister that time. Still I didn't believe nobody.

*Arthur Grimaldi, direct.*

The Court: I do not understand that at all, not a word at all.

Mr. Brunetto: "I still didn't believe my sister and I didn't believe anybody."

Q. How did you happen to go on that Thursday?

10 A. So I went there on Thursday unexpected. It was Thursday morning, about one o'clock. So it was summer time.

*By the Court:*

Q. About one o'clock did you say? A. Yes. It was in summer time. So the window were open in the house. Before I reach the house where my sister was living I saw far away about a couple of blocks away, I recognize my sister. She was on  
20 the table like that and crying (indicating). So my sister, she didn't expect me or anybody from there that I will come. I surprised them. So I walk right in and my sister was all alone. I asked my sister, "What is the matter?" She said, "My God. I can't go no further, and I want you to take me away from here or you want me to kill myself." I said, "What is the matter now?" I said, "Are you in trouble yet?" She said, "Arthur"—she call me by name. She said, "Why don't you take me  
30 away from here. Take me away. They don't want me to stay here any more. I can't suffer any longer. Stop to come over here. Don't come over here any more, because when you come over here I go through hell more." She said, "Don't come over here. They don't want you here." I said "Who don't want me to come?" She said, "I am afraid to tell you." I said, "Don't be afraid. You know I am your brother. I am gentleman. I just came here to find out the trouble." I said, "Who  
40 don't like me here?" She said, "My husband. He

*Arthur Grimaldi, direct.*

is going to break your head if he ever catch you here." I said, "Don't be foolish. Your husband is all right. He won't break my head. I only like to talk to him." I said, "Where is he?" She said, "He is not here. He went out with automobile." So I said to mother-in-law that Thursday, she was sitting out in the store. So I call her in and said, "Listen. What are you going to do about this? Don't you want my sister? Why don't you tell me that you don't like her here? I will take her away." She said, "Well, you can anything you like." The mother-in-law told me, "We don't tell her to say here. We don't tell her to go." So it was up to me to do, see. I was the judge that time. I said, "What am I going to do now?" My sister was in terrible condition. She was awful run down. She was in very bad condition dressed. I say to my sister, "Don't mind that, I say, that after, well, everything will be all right. I said, "Now, look out that you are going to be a mother." She said, "Before I will be a mother maybe I will die before that, because I can't stand no more." So that day I went away. After another week or so unexpected I went there again. I went there again and I find my sister crying the same she was crying. I start to believe that was no good to leave my sister there any longer. She was crying. She was more run down yet. And I said, "What is the matter?" So she told me, "You remember what I told you not to come over here any more?" I said, "What of it? I don't come here to fight. I come here to make peace to look for your own good and for your husband good." She said to me, "After when you left here this is the fifth day that my husband don't sleep with me any more." I said, "Where does your husband sleep?" She said,

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*Arthur Grimaldi, direct.*

“Sofa downstairs.” I said, “Where did he sleep?” She said, “Upstairs. Besides this my mother-in-law took all the sheet, took all the bed covers, and I slept dressed on the bed, because I don’t have nothing to cover up myself.” I said, “Is that true?”

10 She said, “So help me God that is true.” So I call the mother-in-law in and I said, “Listen, now, you went too far,” I said. So Joe was there. I don’t think Andrew was there, the other brother, but Joe, the one that keeps the store. He came in. I admit I holler a little bit. I was a little bit nervous when I heard that, that they took the husband away from my sister. I said, “Listen what you told me the first time that you told me here. You

20 are trying to drive her crazy or make her commit suicide or what?” I said, “I take her away.” Maybe my sister was like obstacle, something that you don’t like in front of you. I said, “I will take my sister away from you,” I said. So, well, he says, “You better.” So Joe came in. He said, “Don’t holler, don’t holler.” I said, “If I did holler a little bit I won’t holler any more.” So they said—the husband came, her husband, and that was the second time only I saw him, the second time. He

30 came over here. He was by the door. So the mother was here. I was here. My sister was over there. Joe was over there. (The witness illustrates.) And the husband stand by the side of the door and he said, “Well, listen. If you come over here again I will fix you. I am not afraid of you.” He made a motion toward me but the brother-in-law pushed him away.

The Court: Do not get excited, because we don’t understand a word you say when you do.

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The Witness: I want to tell you the truth.

*Arthur Grimaldi, direct.*

The Court: I know, tell us the truth, but tell us so we understand the truth. When you are hollering here and when you get talking at that speed we don't understand a word you say. You want us to understand you, don't you?

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The Witness: Yes.

The Court: All right. Talk so we will, then.

The Witness: So he made a motion to me that he want to grab me, like to grab me to hit me.

*By Mr. Brunetto:*

Q. Who did? A. My sister's husband, Nick Ciglia, and he told me, "Listen, if you come over to here don't you try to put a fight in this house, because I will get you. I am not afraid of you." And he went like this; and the mother came back, and she went out to holler, "My son go back. Go back to the garage." I stayed there without any motion. I never expected that. So I went like a gentleman.

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The Court: Suppose you get to the point of what happened.

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The Witness: What happened?

Q. Is this the last time that you went there? A. This is the last time when I saw my sister. Then the last time when I took my sister away.

Q. Now tell us, then, very slowly, and so we will get your story. Now, what do you say? A. So now I wasn't sure, that my sister, she was very bad feeling there.

Q. What do you mean by that? A. They didn't treat her good. They don't like that.

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*Arthur Grimaldi, direct.*

Mr. Agnew: I move that that be stricken out.

The Court: That will be stricken out.

10 Q. Tell us what you said and what they said to you. A. The last time there, the last talk I had with Andrew, and I told Andrew, "Listen. We are going to fix this thing up? These troubles, they can't go no further."

20 Q. I am talking when you took your sister away. A. Well, not yet. But before I took my sister away I advised Andrew what to do about it. So Andrew told me, he said, "I don't know what to do. I only know that my brother is disgusted of your sister. He don't love her any more." I said, "How do you know that?" He said, "Well, I am the brother. I know it." I said, "Your brother never told me that, the husband of my sister." He said, "Well, I am telling you that I know. The best way is up to you." He said, "Take the best way you think." So then I replied, I said, "Listen, Andrew, I go away and I think I am taking my sister away from you. Before I take my sister away, you put her in condition like she is today. If anything happen to her I hold you and this house responsible for it." So I left.

30 Q. Where did you take your sister? Did anybody say anything—that is, either the mother-in-law, Joe, or Andrew—as you were walking out with your sister? A. Not yet. I was working and a girl by the name of Ida Moretta, she came up to my place where I work. That is the last time I went over there, when I took my sister away. Well, I was called outside. I never saw her before. I say, "Who are you looking for?" She said, "Are you Mr. Grimaldi?" I say, "Yes." She say, "Are you Eleanor's brother?" I say, "Yes." She say,

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*Arthur Grimaldi, direct.*

"Come on outside here. I want to speak to you."  
All right. I went out. And she told this way.

The Court: Never mind what she told you.

Q. As a result of what she told you what did you do? A. She told me— 10

Q. Not what she told you. What did you do?

A. On the morning I went to New Milford. That was on Thursday, about nine o'clock I think, or if I am not mistaken about half past eight or nine, and I went to the house to take my sister away. So I went over there and Joe was in the store. When I entered the house, when I say good morning, he don't answer me. So I walked in the house, and the hallway, little hallway there, I met the mother-in-law. And I say, "Where is Eleanore?" She said, "She is upstairs." So I say, "I want you to know I came to take my sister away today." She said, "Well, do what you please. I don't tell you to leave your sister here. I don't tell you take her away. Do as you please." So I call my sister Eleanore. She said, "Well, what do you want?" I said, "Dress up and come down." So she went up. The mother-in-law call Andrew. So Andrew came down and I talk to him. I say, "Andrew, see, I think I come over here today to take my sister away from you because you don't like her. You have no more use for my sister. Your brother, her husband, and all of your family, you don't like her. I am going to take her away." He said, well, it was up to me to do that. He didn't tell me not to take her away or let her stay. He said, "It is up to you. Do the best way you want." So I said, my sister, that she was dressed. She told me that she was dressed already. 20 30 40

*Arthur Grimaldi, direct.*

*By Mr. Agnew:*

10 Q. What time of day was this? A. Was on Thursday about half past nine, nine, half past nine. She told me she was dressed and was ready to come over. Well, that day was raining. Was coming down pretty heavy. I said, "Where is your overcoat?" She said, "I haven't got any." I said, "You got any coat?" She got winter coat. It was summer time, but I said, "All right. Put that on." She said, "Well, I have got my shoes broken." I said, "Don't mind your broken shoes." So I took her away without anybody telling me anything where I was going; just let me go. I took my sister away. So I was on the corner. A block away from  
20 their house is a boulevard there where the bus takes you to Hackensack. I was went for the bus to go to Hackensack to take my sister to the judge. While I was there waiting for a bus I see her husband come into the house, so in front of the door he recognized the wife. So he recognized me too. And he went like this, see (indicating). I don't see, but somebody grab him and yank him in the house. I don't see who did that but he was grabbed and pulled right in the house. I thought maybe  
30 he would come after me, so I waited five minutes more. The bus came and I was take the bus and went with my sister. I didn't see nobody else after that.

*By Mr. Brunetto:*

Q. Now, after that you were in court in Hackensack? A. I went to Hackensack Police Court.

Q. And you saw the judge there? A. Well, I saw Judge Moore.

40 Q. After you saw the judge, did you see a lawyer? A. After I saw the judge I saw the lawyer.

*Arthur Grimaldi, direct.*

Q. What lawyer did you see? A. I went to see De Lorenzo.

Q. And you stated your story to Mr. De Lorenzo?  
A. When I went to De Lorenzo I told all my story about it.

Q. After you told Mr. De Lorenzo your story, what did Mr. De Lorenzo say to you about your mother-in-law or your sister's mother-in-law and any other member of the family? A. He said I was too late, that he had this case here about a couple of months before me to defend Mrs. Ciaglia, Nick Ciaglia. 10

Q. Defend against what? A. I don't know. They want for advice. He said, "I am going to defend." He said, "I am going to advise Mrs. Ciaglia." He was surprised, the lawyer, when he saw me. He said, "Well, it is too late," he said. 20

The Court: I have quit five minutes ago trying to understand this witness simply because he will not heed the suggestions. I do not know whether the jury understand him. The jurors are all shaking their heads. They have not understood him and I have not understood him, and I am going to quit admonishing him because I have done that a half dozen times at least and he pays no attention to it. I am going to let him go on, and if the stenographer gets it, all right, and if the jury gets it, all right, and if I get it, all right. He appears to be an intelligent witness and ought to know what the admonition means. 30

*By Mr. Brunetto:*

Q. Mr. Grimaldi, will you tell us your story and tell it slowly so that the judge can understand 40

*Arthur Grimaldi, direct.*

you and the jury can understand you. You told Mr. De Lorenzo your story? A. Yes.

Q. Did Mr. De Lorenzo say anything about your brother-in-law or your mother or your sister's mother-in-law having been there to see him? A. Yes, sir; that is what they said.

Q. What did he say? Talk very slowly. A. He said that they were there about two month ago.

(Discussion.)

Q. Now, Mr. Grimaldi, did you see your sister's mother-in-law, or were you in court at this hearing before Judge Moore in Hackensack? A. Yes, sir.

Q. Did you hear the judge say anything to your brother-in-law and the mother-in-law of your sister? A. Yes, sir.

Q. Did they say anything back to the judge? A. Yes, sir.

Q. What did they say? A. What do you want me to tell first? What the judge asked them?

The Court: No, not what the judge said at all.

Q. What did they say? A. My brother-in-law said that he was willing to live with my sister, his wife, and to take her back home, and my sister's mother-in-law told the judge that she would treat her good and have no more scrap with her.

(The last answer is read by the stenographer.)

(Adjourned until tomorrow, Wednesday, March 20, 1929, at ten o'clock a. m.)

*Arthur Grimaldi, direct.*

SECOND DAY.

Wednesday, March 20, 1929.

Met pursuant to adjournment.

Present, counsel as before stated.

10

ARTHUR GRIMALDI, resumes the stand in behalf of the plaintiff.

*Direct examination (continued) by Mr. Brunetto:*

Q. Did you see your brother-in-law, Nick Ciaglia and your sister's mother-in-law after the case was over in the Hackensack Police Court? A. No.

Q. Now, when did you see your sister's mother-in-law or her two brothers-in-law, Andrew Ciaglia or Joseph Ciaglia or anyone of them after this Police Court hearing? A. After this Police Court I never see anyone of them.

20

Q. I mean from the time that you left the Police Court to this day did you see either Andrew, Joseph, or Mrs. Ciaglia, your sister's mother-in-law? A. I saw Andrew Ciaglia, the brother.

Q. Where? A. Two months ago in his business in the Bowery.

Q. What city is that? A. New York.

Q. Did you have any conversation with him? A. Yes, I did.

30

Q. In regard to your sister and his brother? A. Yes.

Q. If so, tell us what the conversation was. What did you say to him and what did he say to you? A. Well, when I heard from my sister that the trial was near I went to his business in Bowery in New York.

Mr. Agnew: If the Court please, is this

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*Arthur Grimaldi, direct.*

relevant, something that happened months after this suit was started?

The Court: He said it was two months ago, so it must have been, because this suit was started on February 4, 1928.

10 Mr. Agnew: Anything that happened that might give a right of action certainly should be proved before the suit was started.

The Court: Yes, it would not give a right of action, but it might have some bearing upon the previous attitude.

Mr. Agnew: All right. I will withdraw my objection.

20 Q. Now, tell us what you said to him and what he said to you. Speak loud, Mr. Grimaldi. A. I told him that trial was near.

Q. What trial? A. The case.

*By the Court:*

Q. This case you mean? A. This case. So if there was any possible chance to fix things without having any court trouble—

*By Mr. Brunetto:*

30 Q. What did you mean by that?

The Court: I think if it was efforts to compromise this trial that ought not to be given in evidence.

Mr. Brunetto: No, it was not, your Honor. It was an attempt at reconciliation.

The Witness: That is it.

40 The Court: No. I doubt if we ought to go into that, if it is an attempt at any kind of compromise of this suit.

Mr. Brunetto: It was not a compromise of this suit, your Honor.

*Arthur Grimaldi, cross.*

The Court: I do not mean to say that statements made after suit was brought are never admissible. That is not so. But I do mean to say that if he approached Andrew with the idea of doing anything about this suit for its termination which was not accepted, and apparently it was not because we are now going to trial, but it would be improper to give that in evidence. Persons are simply making evidence for themselves when they do that. 10

Mr. Brunetto: If your Honor does not want this conversation before the jury I will recite what I intend to prove by this conversation between this witness and Andrew Ciaglia. 20

The Court: All right. You and Judge Agnew come up here and tell me.

(Court and counsel confer.)

The Court: The objection will be sustained, an exception to that ruling may be noted.

*Cross examination by Mr. Agnew:*

Q. Mr. Grimaldi, you are a gambler by profession? A. What? 30

Q. You are a gambler by profession? A. A gambler?

Q. Yes, a gambler. You heard what I said. A. I never did in my life.

Q. What then do you work at? A. I work in lady's hats, millinery.

Q. But every time your sister wanted to see you, she had to go to some cafe in Brooklyn and call you outside, didn't she? 40

Mr. Brunetto: That is objected to, your

*Arthur Grimaldi, cross.*

Honor, and I think counsel ought to know when he insinuates charges that this man is a gambler—besides, if he has got any evidence along these lines, he ought to bring it out.

10       The Court: My experience has been that it acts as a boomerang if he has not. If he puts that question and it is denied and he cannot prove it, the effect of that upon the jury is, as it is upon the Court, to act as a boomerang, and I do not believe that any harm comes to your side of the case by that at all.

20       Q. Are you a citizen? A. Well, I got the first papers, citizen papers.

Q. How long are you in this country now? A. Over twenty years.

Q. Twenty years? A. Yes.

Q. What do you say you work at? A. In millinery business.

Q. Millinery? A. Yes, sir.

Q. How long have you been in that business? A. I have been about twenty years.

30       Q. Twenty years? A. Since I came to this country.

Q. Whom are you working for in the millinery business now? A. Vogue Hats Company.

*By the Court:*

Q. Where is that? A. It is on 37th Street and 5th Avenue, New York.

*By Mr. Agnew:*

40       Q. And on these different visits you made to New Milford to see your sister, you took time off from the millinery business? A. Yes, I did.

*Arthur Grimaldi, cross.*

Q. You remember the time you had your sister's case brought up in Hackensack? A. Was before July when I took my sister to Hackensack Police Court.

Q. And that was the time you said that the husband was willing to take the wife back home and the mother-in-law said she would treat your sister good? A. That is what she told the judge. 10

Q. Now, at that time Nick Ciaglia, the husband, said he was willing to take his wife back, didn't he? A. Yes.

Q. And your sister wouldn't go back home? A. She didn't say that.

Q. What did she say? A. Because we have no chance to see them after the trial. They disappeared. 20

Q. Didn't your sister refuse to go back home with her husband? A. She never did.

Q. She never did? A. She never did.

*By the Court:*

Q. Did he ever do anything to take her back, that you know of? A. I don't understand, your Honor.

Q. Did he ever come for her? A. Never did. 30

*By Mr. Agnew:*

Q. Well, at this hearing in Hackensack, didn't he ask your sister to go back with him? A. I didn't see him talk to my sister.

Q. Well, you said a little while ago in answer to Mr. Brunetto's question that the husband said he was willing to take the wife back home. A. He told that to the judge.

Q. Yes. You heard him say that. A. Yes, I did.

Q. Do you remember one occasion about two 40

*Arthur Grimaldi, cross.*

weeks after your sister was married you called at this house in New Milford and you were entertained by the mother-in-law and you had something to eat there? A. I beg your pardon. I don't understand you. Two weeks after?

10 Q. Two weeks after your sister was married you went to the house in New Milford and you were wined and dined by the family? A. No, sir.

Q. Do you remember on the visit your sister's mother-in-law gave you two dozen fresh eggs? A. This wasn't happened two weeks after my sister got married.

Q. How long would you say it is? A. The first time I went to their house was when I was called from my sister by postal card.

20 *By the Court:*

Q. Can you remember about what month that was? A. Was about four months after my sister got married.

*By Mr. Agnew:*

30 Q. And that was the occasion when your sister's mother-in-law gave you these fresh eggs? A. Gave dozen fresh eggs to my child. I had my little girl with me.

Q. And you were there afterward and you said, "I am glad my sister is so happy here"? A. That was the first time I went over there.

Q. And then you would call at this house about every two weeks, wouldn't you, about that? A. After two weeks I was over there again.

Q. I say you called at this house about every two weeks?

40 The Court: After that you mean?

*Arthur Grimaldi, cross.*

A. It was two weeks after that I went over to their house again.

Q. Now, on direct examination by Mr. Brunetto you said that when you were called you would never see Nick, the husband. A. I never saw him.

Q. But you knew that Nick was working in the garage, and that is the reason you didn't see him in the house, isn't that so? A. Well, if he was working garage, I don't know it. 10

Q. You knew that Nick was working in the garage? A. Well, I went to his house, not to the garage.

Q. And the reason you didn't see him in the house—there is no mystery about it—you knew that he was working in the garage. A. Well, I went there on Sunday. Sunday for me is a holiday. Nine, half past nine, and he wasn't in the house. 20

Q. Well, you knew that he was in the garage? A. I didn't know if he was in the garage.

Q. And when you called on week days you knew then that he was in the garage. A. No.

Q. You didn't know that? A. No. I asked one of the brothers. I said, "Can I see my sister's husband at least once? I never see him either." 30

Q. Isn't it so that several times you called you stopped at the garage first and spoke to Nick, the husband, before you went to the house? A. I never did.

Q. Are you sure of that? A. I never did. Sure of that.

Q. Now, the time your sister got married you owed her some money, is that correct? A. I never did.

The Court: Owed her or loaned her? 40  
Mr. Agnew: Owed her some money.

*Arthur Grimaldi, cross.*

The Witness: I never owe anybody money.

10 Q. And she demanded payment of this money and you said, "When the date comes I will give you a beautiful present," or words to that effect?

Objected to as not being proper cross examination and as immaterial to the issue.

Objection sustained.

Q. You said you saw your sister two blocks away with her head hanging down? A. Yes.

Q. Two blocks away? A. Two blocks away, yes.

Q. There is nothing the matter with your eyesight? A. I got beautiful eyesight.

20 Q. I should say so. Now, just before this case was started you went over to New York, the place of business of this defendant Andrew, and you demanded some money and threatened if he did not pay you you would start this case, isn't that so? A. Never did that.

30 Q. What did you say about money before this case was started? A. I went to see him, to see him about my sister and her husband, so he told me that it wasn't possible to put them together, and he told me there is only one way they can fix up the things, and I said, "What is it?" He said, "I give your sister five thousand dollars if she is sue my brother for divorce." I told him that my sister, she was a Catholic, and her religion forbid her to do so, and I left him.

Q. What did you say about threatening him with this case if he didn't pay up? A. I never said nothing of the kind.

40 Q. You said nothing at all about that? A. No, sir.

*Arthur Grimaldi, cross.*

Q. But yet right after that this case was started?

A. No, sir.

Q. It wasn't? A. No, sir.

Q. No? A. No.

Q. When did you tell your sister to start this case? A. When I told my sister to start this case? 10

Q. Yes.

Objected to on the ground that there is no such evidence.

(Discussion.)

Q. When did you advise your sister to start this case? How soon after you called on Andrew in his store in New York? A. I told my sister after I spoke to Andrew, that I told her that there was no possible chance to be with the husband any more. So I told my sister, "You better act, proceed, look for justice." That is all. 20

Q. You figured this was the best way to get the money? A. No, I figured my sister wanted justice, not money.

Q. Never mind about justice. I am talking about money now. A. Justice. We don't look for money.

Q. I say never mind about justice. I am talking about money now. A. That is the way I felt. 30

The Court: Now, don't let us get into any argument here.

Q. At the time you went to the house in New Milford to take her away, you were very much excited then, weren't you? A. Very, very calm.

Q. Very calm? A. Yes.

Q. And at that time you say you made the statement, "I am going to do you as much harm as I can"? A. I never said that. 40

*Arthur Grimaldi, cross.*

Q. "I am going to put you all in a ring and roast you as much as I can," or words to that effect in Italian; that is so? A. I didn't say a word. I only said—

*By the Court:*

10

Q. The question is did you say that. A. No, sir.

*By Mr. Agnew:*

Q. You said nothing at all like that? A. No, nothing at all.

Q. That is all wrong.

Mr. Brunetto: Your Honor, I move to strike out that last remark from the record. The judge said it is all wrong.

20

The Court: I think he meant that to be a question.

(The last question is read by the stenographer.)

A. I don't understand. Repeat again.

Q. Didn't you make that statement in Mr. Manna's barber shop?

Mr. Brunetto: That is objected to, your Honor.

30

The Court: What is the objection.

Mr. Brunetto: I objected to the question, "Didn't you make that statement?" I think he ought to refer to the statement. The witness says he does not understand the question.

Q. Did you make this statement or something very like it in Mr. Manna's barber shop at the time you went to New Milford to get your sister: "I am going to do these people as much harm as I can.

40

*Arthur Grimaldi, redirect.*

I am going to put them in a ring and roast them”?

A. I never said that.

Q. What did you say like that in Mr. Manna’s barber shop? Anything like that?

Mr. Brunetto: That is objected to. He has answered this question. He never said anything like that.

10

The Court: The question is whether he said anything like that.

A. No, sir; never said anything like that, never.

Q. What did you say in the barber shop the day you went to take your sister away? A. I said I came over that day, I told Mr. Manna that I came over here today to take my sister away, and that is all I said.

20

Q. That is all you said? A. That is all I said.

Q. Nothing about what harm you would do to the family? A. No harm at all. I can’t do no harm.

*Redirect examination by Mr. Brunetto:*

Q. Mr. Grimaldi, have you ever been a gambler?

A. I never did. I always been working man. I can prove it to the court. I have been twenty years in this country, and I work twenty-one years. I work twelve years Dimase Company, millinery trade, and I am going eight years that I work Vogue Hats Company. Eight years I am working straight Vogue Hats Company, the last employer I am working now.

30

Q. That is your present employer? A. That is my present employer. That is eight years now.

Q. How many days a week do you work? A. I work six days a week.

Q. And you have been working steady ever

40

*Rosie Dacunti, direct.*

since, for the last eight years, with the same firm?

A. Steady.

ROSIE DACUNTI, sworn in behalf of the plaintiff.

10

*Direct examination by Mr. Brunetto:*

Q. Mrs. Dacunti, are you any relationship to Mrs. Ciaglia, Eleanore Ciaglia, the plaintiff in this suit?

A. Yes.

Q. What relation are you? A. She is my cousin.

Q. Do you know Nick Ciaglia, her husband? A. I never know.

Q. Do you know him now? A. I know now, sure.

20

Q. Have you ever met him since your cousin married him? A. I met him at the Hackensack Court.

*By the Court:*

Q. You met him, you mean? A. I met him, yes.

*By Mr. Brunetto:*

Q. In the Hackensack Court, you said? A. In the Hackensack Court, yes.

30

Q. When was that? A. It is after two weeks she came over to my house.

Q. When did your cousin come to your house? A. On the second of July.

Q. Of what year? A. 1925.

Q. Where were you living at the time? A. 272 Liberty Avenue, Brooklyn.

Q. And you live there still? Are you still living there? A. No.

40

Q. When did you move from Liberty Avenue, Brooklyn? A. Two years ago, on the first of March.

*Rosie Dacunti, direct.*

Q. 1927? A. 1927.

Q. Where did you move to then? A. 11 Maple Avenue, Silver Lake.

Q. Where is Silver Lake? A. Well, down Belleville way.

Q. Well, is it in New Jersey? A. New Jersey, yes. 10

Q. How far is that from here, from Newark? A. About half an hour. Not far away.

Q. You mean in the Belleville section? A. Belleville section.

Q. Next to Newark here? A. Next to Newark.

*By the Court:*

Q. Is that part of Newark? A. Yes.

Q. Part of Newark? A. Part of Newark, yes. 20

*By Mr. Brunetto:*

Q. When you moved to Maple Avenue in Silver Lake section, as you say, did you see your cousin, Eleanore Ciaglia? A. Yes, sir.

Q. Where did you see her? A. She came over to see me.

Q. How long did she stay there? A. She stayed about a week, four or five days, how long she liked. 30

Q. How often did she come since you moved there? A. Well, after two or three weeks she came over to see me.

Q. How many times had she come to see you since you moved there? A. Well, at least every month, every fifteen days she come to see me when she expect to have the check.

Q. What check? A. From the husband given to her. 40

Q. How long would she stay there when she

*Rosie Dacunti, direct.*

came over to see you? A. About a week, three or four days. That is all.

Q. Where would she sleep? A. She sleep with my daughter in separate rooms.

10 Q. Now, did you at any time, Mrs. Dacunti, go to New Milford? A. No. I was there to New Milford.

Q. When? A. On February.

Q. Of what year? A. 1926.

Q. Did anybody go along with you? A. My husband.

Q. Where did you go in New Milford? A. I went to New Milford to make peace.

Q. Where did you go? Whom did you go to see? A. I went to see Nick Ciaglia family.

20 Q. Did you see Nick Ciaglia in February, 1926? A. No, I didn't see him.

Q. Whom did you see? A. I see mother and Joe Ciaglia.

Q. Did you see Andrew or Joe Ciaglia? A. Only Joe. I didn't see Andrew.

Q. Did you have any conversation with the mother and with Joe Ciaglia relating to your cousin? A. Yes, sir.

30 Q. What did you say and what did the mother-in-law say, or what did Joe say, if anything was said about that? A. Yes, sir. We went to try to make peace to her daughter-in-law and the husband, Nick Ciaglia and Eleanore Ciaglia. We went to try to make peace together. And I says to her mother, his mother, to say, "Why don't you fix up two rooms to your daughter-in-law, because when you can't along with her, fix up two rooms; she is satisfied."

40 Q. What did the mother-in-law say? A. She

*Rosie Dacunti, direct.*

said she never see that days to stay together again  
"with my son."

*By the Court:*

Q. I didn't quite get that. What did she say?  
A. She said she never see that day again to stay  
together "with my son." 10

Q. Never see that day again? A. Never see that  
day again.

*By Mr. Brunetto:*

Q. What did you say? A. I said, "Why?" She  
said, "Because she was no good to keep in the  
house. She don't know how sweep the house.  
She don't know how to cook and not enough to  
her seventy dollars a week." I said to her, "Why? 20  
Your son give to her seventy dollars a week? She  
know how to take care of the house and every-  
thing. You didn't never try," I said to her. She  
said, "We can see she don't know how to do  
anything."

Q. Well, did she say anything else?

Mr. Agnew: I move that that all be  
stricken out on the ground that this took  
place after the parties were separated and  
this witness knows nothing at all what was  
going on while the couple were living to-  
gether. 30

The Court: It may remain.

Q. All right, Mrs. Dacunti. A. And I say, "Why?  
Why you don't want to leave them stay together?  
Why?" She said, "Because she is no good to stay  
together. She don't know how to keep anything in  
the house." I say, "Well, when you can't get along  
with your daughter-in-law, try to give her two  
rooms and that is enough. You love your daugh- 40

*Rosie Dacunti, direct.*

ter-in-law; she loves you." We see we can't do anything. Then Joe came inside in the dining room, and I tried to say, "Joe, you are a man. You understand more better than your mother, because you are younger than your mother. Why  
 10 don't you try to make peace, your brother and your sister-in-law?" And he said, "I can't. She never have to come any more in this house because we don't want her no more. She don't have to put one step here." I say, "Why you want to separate your brother married and your sister-in-law married?" And he says, "Why, they could get married again." I say, "What do you mean your brother can get married again? What for? Once  
 20 time get married, because we are Catholic." And he said, "Ha, ha. Who told you my brother can't get married. My brother can get married all the time he wants. Tell your cousin she can get married." We say good-bye and we went away.

Q. Now, did you go to New Milford at any other time after February, 1926? A. Yes.

Q. When was that? A. That was on the 16th of December.

Q. Of what year? A. 1926 again, same year.

30 Q. Whom did you see there? A. Well, you sent me a letter they got one hundred sixty dollars. They left it back to give it to his wife. And I went there by the garage. I find Nick Ciaglia, and I said, "Oh, hello. Are you Nick Ciaglia?" He says to me, "Yes." Well, I says, "You know me." He says, "I don't know you." I say, "I am your wife's cousin." He says to me, "Yes, all right. What do you want?" I say, "Your lawyer, my cousin's lawyer sent you this letter to hold your wife one  
 40 hundred sixty dollars. If you want to give it to me, you give it to me. If you don't want it you send

*Rosie Dacunti, direct.*

to the lawyer just the same." And he read the letter.

Q. Now, did he talk about his wife? Did you and he talk about it? A. I say, "Nick, that is a shame what you did to your wife. What kind heart you have? When your wife got baby in my house, I don't know, if they have very strong heart, and they have small heart for the child, and you don't have no heart for your own child to come to see it. Your wife has lot of trouble about it, and we call you up on the telephone, and they answered me they can't come, and we sent you telegram, and nobody come. And I keep your daughter," I say, "for three days in my house. We expect you to come; you want to see your own child; but nobody come." He don't answer me. 10 20

Q. Then did you see Mrs. Ciaglia, that is the mother, or any of the brothers? A. Then I asked him about I want to have Mrs. Ciaglia coat, Eleanore coat, because they was cold, snow, and she don't have no coat, and she don't have no money to buy. I said, "Nick, I got here the key from your wife's trunk. She want to have coat. You can give it to me." He said, "All right. Go with my mother. We go to my mother." And he take me over to his mother house and we talk. He went in the rooms to speak for his mother very quiet. I don't know what they say. His mother came in the dining room. She started to holler. I said, "My God, what are you hollering about?" She said to me, "What you want? What do you want no more? You want to leave no more my house?" I said, "I didn't come here for anything. I came here, I bring your son's letter from your daughter-in-law. You owe money." "We no give no more money," she says. I said, "All right. No 30 40

*Rosie Dacunti, direct.*

my business. If you want to send money or not  
you send money just the same to the lawyer." I  
say, "Your son bring me here to give me Eleanore's  
coat because it is cold." She says to me, "I can't  
give you no coat. I got to ask a lawyer first." I  
10 said, "What do you need a lawyer for, what for?  
This thing, it is upstairs in the trunk. That is her  
husband here and I got the key. We go upstairs.  
We get the coat, close again, and I go away." And  
she said, "What? Her husband; what do you  
mean her husband?" I say, "What are you talk-  
ing about? Why she can't say my husband? Sure  
she got a right to say her husband, because she  
married regular." And she said to me, "If she was  
20 good girl she never married a husband when she  
sick." I said, "What? What are you talking  
about? And she was no good when she married  
her husband?" I say, and I grab Nick by the arm.  
I say, "Nick, I don't want to hear no more your  
mother talking. That is too much what you let  
her talk. I want to speak to you. You got to tell  
me right now how is your wife when you got mar-  
ried." And he hands me, "I ain't got nothing to  
say," very quiet. I said, "Now, that is enough to  
your mother what she talking." But that time Joe  
30 come in the rooms and he started to holler. He  
started to holler, his mother hollering too. She  
got nervous. And I said, "Joe is coming in." And  
he said, "What is the matter? What happened?"  
They holler too much. And I said, "I don't know  
what your mother wants. Maybe she is crazy. She  
holler." I said, "I didn't come here for anything.  
I came here to bring your mother letter and I want  
your sister-in-law coat." He says to me, "We don't  
40 want to give only the coat but to tell her to come  
to take everything what belong to her." I said,

*Rosie Dacanti, cross.*

"What do you mean everything that belong to her?" Got trunk, everything, and to tell her she don't have to stay no more in the house. "We don't want her no more." I say like that; I close the door and go back home.

Q. You haven't seen any of the Ciaglias since? 10  
You haven't seen Mrs. Ciaglia since; that is, Nick's mother? A. No. I never see no more.

Q. You never saw Andrew or Joe? A. No, never.

*Cross examination by Mr. Agnew:*

Q. When you went to get these clothes, why didn't you tell Nick and the folks where the wife was living? A. Oh, he knows. I tell him about the telephone. She live with me. I tell her 272 Liberty Avenue. 20

Q. You never told him where his wife was living? A. Oh, yes. I got the letter on my pocket. He knows to send the checks on my husband. He knows the address where I am living.

Q. But nobody of the Ciaglia family knew that you moved out near Newark, did they? A. What is the difference when I move to Newark after two years?

Q. And you came here to Newark so as to be sure to collect this money? A. Well, they sent to the lawyer. 30

Q. Isn't that so? A. No. The check came to the lawyer.

Q. Didn't you move out here to Newark so as to make it easier to get the money? A. No. She came to my house—there is money to the lawyer—to get the money. That is why she came to my house. Her husband knows where I am living, because we sent a telegram to him.

Q. You know that the husband hasn't known 40

*Rosie Dacunti, cross.*

where his wife has been living since she left? A. Sure, sure he knows. He knows all right.

Mr. Brunetto: That is objected to.

10 The Court: When Mr. Brunetto makes an objection, will you stop? You should stop when he makes an objection. I will sustain the objection.

Q. Did you ever tell Nick, the husband, where his wife was living? A. I tell she live with me on 272.

Q. When did you tell him that? A. When I went February month, we tell his mother she live with me.

20 Q. You told his mother, but you didn't tell him? A. But listen. He knows, because on third of October she got baby in my house in 1925, and we call up and they give to her address if he want to come to see his wife.

Q. Did you tell them the address at that time? A. Yes, everything.

Q. Everything? A. Everything.

Q. They didn't do anything about it? A. They don't want to come in to see his wife.

30 Q. I didn't ask you that, why they didn't do anything about it. A. No, just we call up to say his wife is sick in that condition.

Q. The next time you called did you say anything about where his wife was living then? A. Sure. Sure we tell him.

Q. What did you tell them? A. I say Eleanore was living in my house.

40 Q. And yet you saw to it that the checks were sent to you? A. The check? Yes, sure. He sent to my house the check of 272 Liberty Avenue.

Q. Do you remember one occasion when you

*Rosie Dacunti, cross.*

called Andrew here in his place of business in New York? A. Yes. I was there for Andrew to ask him about for the seven months she was in my house, I want to have the board.

Q. And you wanted some money from him? A. Well, surely, because he is, you know, supporting his brother-in-law. 10

Q. Why would you want the money from him? He wasn't the father of the child, was he? A. No.

Mr. Brunetto: That is objected to, your Honor.

The Court: That may be answered.

Q. Why should you demand money from him? A. Sure, because he sent the check. Andrew Ciaglia send the check to his sister-in-law, and I went to him. I say, "As long as you send the checks to your sister-in-law you can pay me the board too." 20

Q. You knew that he sent the check because his brother Nick had no bank account? A. I don't know. I don't know that.

Q. And when you saw Andrew, he said to you, "I have got nothing to do about money"? A. Well, yes, he said that, but I say, "I don't want to know anything about that." 30

Q. And you said to him, "You have got to pay me"? A. Surely, I say, "You got to pay me because my husband is not right to support your brother's wife."

Q. And then afterward you went there with your husband to see him again? A. Yes, because I asked him, I said Nick Ciaglia,—

Q. You said to Andrew, "If we don't get satisfaction one way we will another"? A. No. We said to Andrew, "Andrew, we don't went to go to 40

*Rosie Dacunti, redirect.*

any court. We don't want to. If you got to pay me; we need money." I say, "What for we have to go up on the court? You send the money to your sister-in-law and you can pay me too." He says, "No, I don't intend to pay anything. When we would get up on the court we see what to do."

10 Q. Why do you think this man should pay the money? A. Why, because he send the checks to his sister-in-law.

Q. But you knew that that check was for his brother Nick. A. Yes, because the check was signed Andrew Ciaglia.

Q. There was no charge against Andrew? There was no court order against Andrew? A. Yes, but he send the checks to his sister-in-law. We don't know anything about Nick Ciaglia.

20 Q. Yet you wanted more money from Andrew and you said, "If you don't pay we will get satisfaction some other way"? A. No, no, no. I never did.

Mr. Brunetto: I object to that.

The Court: I sustain the objection.

*Redirect examination by Mr. Brunetto:*

30 Q. Mrs. Dacunti, what was this money for that you wanted from Andrew Ciaglia? A. For seven months' board she was in my house.

Q. Board of whom? A. Board from Eleanore Ciaglia.

Q. Wasn't she working there that time? A. No, she can't working.

Q. What was the trouble? A. Well, she was family way, five months family way, and I had all the trouble of my house.

*John Dacunti, direct.*

JOHN DACUNTI, sworn in behalf of the plaintiff.

*Direct examination by Mr. Brunetto:*

Q. Mr. Dacunti, you are the husband of the last witness, Mrs. Dacunti? A. Yes. I want interpreter. 10

The Court: Oh, no.

Q. Mr. Dacunti, is that your wife, the last witness? A. My wife.

Q. Where do you live? A. I am living now 492 Delavan Avenue, Newark.

Q. Before that where did you live? A. In Brooklyn, New York, 272 Liberty Avenue.

Q. When you moved from Brooklyn where did you move to? What street? A. To Maple Avenue, Silver Lake. 20

Q. Do you know Eleanore Ciaglia? A. Yes, my wife's cousin.

Q. Did she at any time live in your house in the year 1925? A. Seven months.

Q. When did she move or when did she come there? A. Second of July, 1925.

Q. How did she happen to come there? A. They have trouble for her husband.

Q. What was her condition at the time? A. In a family way. 30

Q. Did you ever meet her husband, Nicholas Ciaglia? A. When she have the baby.

Q. What? A. When she have the baby.

Q. Did her husband come there when she had the baby? A. No, sir; nobody came.

Q. I asked you when did you meet Nicholas Ciaglia. When was the first time that you saw him? A. After eight months. 40

*John Dacunti, direct.*

Q. Where did you see him? A. I was me and my wife in New Milford.

Q. Where did you see Nick Ciaglia? A. I was there. I was there find the house because I was strange for that place.

10

*By the Court:*

Q. You mean where he lives? A. Yes, in New Milford.

*By Mr. Brunetto:*

Q. Where was Nick at the time you saw him?  
A. When I go in the store, Joe Ciaglia come. He don't know me. I don't know him. He say, "What do you want?" "I don't want nothing. I come here for your sister-in-law for make peace," and he go in and tell his mother. Next thing, they come from Brooklyn; they start to make peace.

20

Q. Talk loud so I can hear you. A. The mother came out and introduced me inside, me and my wife. So we sit down, and after I say, "Mrs. Ciaglia, I come over here for see what is the matter from you—from your son and your daughter-in-law." She say, "Well, I ain't got anything to say, because she no good in the house. Her husband don't like her no more."

30

Q. Was anything else said by Mrs. Ciaglia; that is, Nick's mother? A. She say, "She can't come here no more. She no for good in the house."

Q. What do you mean by that, Mr. Dacunti?

The Court: "She no good in the house." That is what I understood him to say at first.

40

Mr. Brunetto: Your Honor, may we use the interpreter for this part of the testimony?

*John Dacunti, cross.*

The Court: The trouble is when we're going to use the interpreter, then they want to use him all the time.

Mr. Brunetto: This is the last witness.

The Court: If there is anything you think he does not understand the interpreter may help him. Now, what is it you want to ask? 10

Q. Did Mrs. Ciaglia's mother-in-law say why her daughter-in-law was no good? A. (Speaking through the interpreter.) The mother-in-law said the daughter wasn't good enough to do household duties and that the son was disgusted with her.

Q. Did she say anything else? A. Well, there was just a few words. When we seen there was no use of trying to make peace, we left. 20

Q. Were you at New Milford at any other time after that? A. No. Only one time.

*Cross examination by Mr. Agnew:*

Q. Whenever you called at this house in New Milford you were always treated nicely, weren't you?

The Court: He says he was never there but once. He just said that. 30

Q. Well, that time you went there you were treated all right. A. (Speaking in English.) Yes, sure. I can't get nothing to say.

Q. You didn't hear any bad language used or any bad words, did you? A. No. That is what she say.

Q. Did the husband talk nice to you, Nick, the husband? A. I didn't see him. I ask for him and the mother say he went out for business. 40

*Andrew Gresko, direct.*

Q. Did you know he was a taxi driver? A. I don't know, because I live far from him. I don't know him before. Since I see him.

Q. You had a nice meal in the house? A. No.

10 Q. You had something to eat? A. No, nothing to eat; only a cup of ice cream and a glass of soda.

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ANDREW GRESKO, sworn in behalf of the plaintiff.

*Direct examination by Mr. Brunetto:*

20 Q. Mr. Gresko, are you connected with the office of the clerk in chancery of the State of New Jersey? A. I am.

Q. Have you brought with you the file in the suit wherein Eleanore Ciaglia was petitioner and Nicolo Ciaglia was co-defendant? A. Yes, sir.

Q. Does that include all the papers filed in that case? A. Yes.

Mr. Brunetto: I offer this in evidence.

The Court: They will be admitted.

30 (The papers referred to are received in evidence and marked Exhibit P-2.)

Plaintiff Rests.

Defendants' counsel moves that the plaintiff be non-suited on the following ground:

(1) That the action was not brought within the proper time and that the action is barred by the statute of limitations.

40 The Court: That is not a defense and it is not raised by the answer. I will deny the motion on that ground.

Grounds for nonsuit continued:

*Clementine Ciaglia, direct.*

(2) That the venue was improperly laid in Essex County.

(3) That the plaintiff has not made out a proper prima facie case.

Motion denied.

Defendants' Counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

10

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CLEMENTINE CIAGLIA, sworn in behalf of the defendants.

*Direct examination by Mr. Agnew:*

Q. Mrs. Ciaglia, where do you live? A. Utica, New York.

20

Q. Was it at your place that Nicolo Ciaglia and his wife, the plaintiff, went on their honeymoon?

A. Why, yes. The couple spent their honeymoon week at my home.

Q. Speak louder. A. The couple spent their honeymoon week at my home.

Q. Will you tell us what you observed about their conduct while they were at your place? A. Why, I noticed they weren't very pleasant to one another, and she was kind of disagreeable to the husband. They didn't look nothing like newly-weds to me.

30

Q. Did you have a little party at your house? A. Why, yes, the last night they were there I gave a farewell party to them, tried to make it pleasant for them. When my company came in, after I introduced her, she sat down in a corner and wouldn't budge with a cross-looking face on her. After that she gets up and walks into her room and stays there for the rest of the evening. Nick,

40

*Clementine Ciaglia, cross.*

her husband, went in several times and called her out. I and my company heard her swear and curse at him. I felt ashamed of her at the time.

*Cross examination by Mr. Brunetto:*

10 Q. When did she swear at her husband? A. In her bedroom. It was right off the living room.

Q. What time of day was it? A. In the evening. I gave a party.

Q. What time of the evening? A. My party didn't begin until about, well, half-past nine and ten, I believe.

Q. What time in the evening did you hear Mrs. Ciaglia swear at her husband? A. Well, I cannot tell you the exact time that she did swear at her husband. It took place during the evening.

Q. Was it in the beginning or the end? A. Very beginning.

Q. How far away were you at the time that you heard Mrs. Ciaglia swear at her husband? A. Right off the bedroom there, sitting there at the time she did swear.

Q. Was the bedroom door closed? A. No door on the bedroom.

Q. What did she say? A. Well, I am ashamed to repeat.

Q. What did she say? A. In the Italian language she swore.

Q. What did she say? A. Well, shall I repeat it?

*By the Court:*

Q. That is the question. A. Your Honor, should I repeat what she said?

Q. Yes. A. I am ashamed. Shall I? I will say it in the Italian language if you want me to.

40

*Clementine Ciaglia, cross.**By Mr. Brunetto:*

Q. I have asked you what did she say. Now, will you please answer my question?

Mr. Agnew: Suppose the witness says that in Italian to the interpreter and the interpreter can give it to the jury. 10

The Court: If she prefers to do that.

*By the Court:*

Q. I suppose this is all in Italian? A. Yes, sir.

The Court: All right. The interpreter may come. You may say it in Italian.

(The witness speaks in Italian.)

The Interpreter: You want me to say that in English, your Honor? 20

The Court: Why? Is it too scandalous to say?

The Interpreter: Yes, it is, your Honor.

The Witness: Yes, sir. It is very scandalous, and that was her form of talking all the time to the husband, in company or out.

The Court: Now, just one minute. You understood what was said, of course, because you understand Italian, Mr. Brunetto. 30

Mr. Brunetto: I did not quite get it all, your Honor.

The Court: Just say it in Italian again.

(The witness speaks in Italian.)

The Court: Do you want it repeated?

Mr. Brunetto: Well, the jury wants to know it.

The Court: The only question is if you want it repeated. 40

*Clementine Ciaglia, cross.*

*By Mr. Brunetto:*

Q. Is that all she said? A. That is all she said at that time.

10 Q. Did she swear at her husband at any other time? A. Very often.

Q. The same evening? A. No, not the same evening. She remained in that room that evening. That is all was said that evening.

*By the Court:*

Q. And that was off in what room? A. The living room where my party was taking place.

*By Mr. Brunetto:*

20 Q. What did she say at other times and when did she say it? A. At other times?

Q. Yes. A. Well, around the house with her husband always using dirty language.

Q. What did she say? A. Same.

Q. The same thing? She used those words every time? A. It was always her words.

Q. Did she say anything else A. That is all I could remember.

30 Q. Were they fighting all the time? A. Why, they weren't pleasant to one another at all. They quarreled a good many times.

Q. Were you ever present when they were pleasant? A. I don't think they were ever pleasant to one another that week.

Q. Were you present all the time? A. I was always there. They only went out once.

Q. What room did they occupy? A. Right off the living room.

40 Q. Did they have a conversation during the night? A. Why, that I didn't hear. My room was too far away to hear anything.

*Clementine Ciaglia, cross.*

Q. What did the husband say? A. The husband said that night that she was swearing at him, "Come on, now, let us go out and have a good time. The party is given in your honor," and was so.

Q. That is all? A. That is all. He was trying to make peace and trying to get her to come out and join the crowd. 10

Q. Is that all he said? A. That night.

Q. Now, did he stay with her and tell her that? A. Well, he was running in and out every moment trying to bring her to the crowd, join the crowd.

Q. Did she repeat the same words to her husband every time? A. Yes. She was disagreeable that time.

Q. Did she repeat the same words you told the interpreter? A. She repeated them several times; yes, sir. 20

Q. How many times? A. Oh, two or three times.

Q. How many times did her husband run in and out of that room and try to get her to come out to this party that night? A. Oh, about four or five times.

Q. How many times were they at your house? A. About five or six days. I don't quite remember.

Q. Do you know what day they came there? A. They got there on a Monday. 30

*By the Court:*

Q. How many were at this party? A. Oh, I had quite a few couples there, American couples.

Q. You see that doesn't mean anything. We don't know whether you mean three or four or whether you mean twenty couples. About how many were there? A. I believe ten only.

Q. Ten couples or ten people? A. Ten people. 40

*Clementine Ciaglia, cross.**By Mr. Brunetto:*

Q. Mrs. Ciaglia, what do you mean, "I believe"? Don't you know how many people there were there? A. Why, I don't exactly remember the right amount. About ten.

10 Q. You don't remember anything about this party with the exception of what Mrs. Ciaglia said to her husband? Isn't that a fact? A. Why, I do remember my company criticizing the bride.

Q. Which one? What was the name of the party that criticized the bride? A. The couples that were there.

Q. Which one? A. Baldus, Mrs. Baldus.

Q. Is she here? A. No, sir.

20 Q. Anybody else? A. Mrs. Statson.

Q. Is she here? A. No.

Q. Did they understand Italian? A. Italian, Mrs. Baldus did, the dirty words.

Q. Are they of Italian descent? A. No, sir.

Q. How far were these people from where Mrs. Ciaglia was when she passed those remarks to her husband? A. Right nearby. The bedroom door on the opposite side that I was sitting.

30 Q. Were they all standing by the door to hear what she said? A. We were sitting down. Nobody was standing.

Q. Can you tell us how far you were from where Mrs. Ciaglia was to where these people were? A. Right nearby. I was sitting here and the doorway is right here (indicating).

Q. Was Mrs. Ciaglia in the doorway? A. Mrs. Ciaglia, no. She was in her bedroom. She was in the room.

40 Q. How far away from the table where these people were? A. What table? There is no table in my living room.

*Andrew Ciaglia, direct.*

Q. Didn't you have a table there where this party went on? A. No, sir.

Q. What did they have at this party? A. Entertainment and some few sandwiches and a few soft drinks went around. I had no table.

Q. You had nothing else besides soft drinks? 10  
A. Nothing else; no, sir.

Q. Did you have any wine? A. No, sir. I don't keep wine in my house.

Q. You don't keep any wine? A. No.

Q. Where did these people sit, or did they stand up? A. They were sitting.

Q. Did they talk? A. Of course we did. We kept quiet the moment we would see her husband run in the room. Everybody was inquisitive to know what was going on. 20

Q. Did anybody tell you to keep quiet? A. No, sir.

Q. How did you know the husband was going into the room to coax Mrs. Ciaglia to come out? A. He would need to pass me by in order to go in the bedroom.

Q. Would you make any announcement for everybody to keep quiet to hear what was going on in the other room? A. No, sir.

Q. Were these ten people all men or women or what? A. No. They were women and men. 30

Q. How many of each? A. About four of each besides the bride and her husband.

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ANDREW CIAGLIA, one of the defendants, sworn in his own behalf.

*Direct examination by Mr. Agnew:*

Q. Mr. Ciaglia, you are one of the defendants in this case? A. Yes, sir. 40

*Andrew Ciaglia, direct.*

Q. And you are a brother of the plaintiff's husband? A. Yes, sir.

Q. Shortly after this couple were married they came to live at your house? A. Yes, sir.

Q. I mean your folks' house? A. Yes, sir.

10 Q. At New Milford. What business is your brother Nick, the husband, in? A. It is a gasoline station, garage and a gasoline station.

Q. Has your brother Nick any bank account? A. No, sir.

Q. Has he ever had a bank account? A. Not that I know of.

Q. How did you come to send these checks for weekly payments from your brother to his wife?

20 A. Well, he used to give me the money and I used to mail him a check. I used to mail the check.

Q. Your brother and his wife would eat together with the family? A. Yes, sir.

Q. Did your sister-in-law ever do any cooking? A. Only for herself.

Q. Did she ever do any housework? A. She did a little housework.

Q. Were you present before Judge Moore at the time the case came up in Hackensack? A. Yes, sir.

30 Q. Did you hear what your brother Nicholas said and what his wife, the plaintiff in the case, said at that time? A. Yes, sir.

Q. What did your brother say? A. My brother said that she wanted to come back home.

*By the Court:*

Q. What did he say? A. Judge Moore told her to come home back to the family.

40 Q. The question is what did your brother say. What did your brother say? A. Well, I don't think he said anything there.

*Andrew Ciaglia, direct.*

*By Mr. Agnew:*

Q. What did your sister-in-law say to that statement? A. We parted after the—

*By the Court:*

Q. No, no. Just a minute. Don't get ahead of the story. The question now is what was said in Judge Moore's court before Judge Moore, not after, but anything said before Judge Moore. A. Yes, sir.

10

Q. Well, that is what Judge Agnew is asking you. A. Well, there was like a trial conducted there.

*By Mr. Agnew:*

Q. Did your brother say anything about taking the wife back or the wife going back, and if so, what did he say and what did she say in answer to that? A. The husband was willing to take the wife back.

20

The Court: No, no, no. We will strike that out.

Q. What did he say? What did he say? Did he say that? A. He was willing to take the wife back.

30

The Court: We will strike that out.

Q. Is that what he said? What did he say? A. He told the Judge that he would take his wife back.

*By Mr. Agnew:*

Q. What did his wife say in answer to that, if anything? A. His wife said she wouldn't come back to the house.

40

*Andrew Ciaglia, direct.*

Q. Now, what have you to say about the relationship of this husband and wife, your brother and his wife, while they were living in your house in New Milford? A. It wasn't very agreeable amongst the two of them; that is, the man and wife.

10

Q. What do you know about what took place? Can you tell the jury some things that happened, some things that were said. A. Many a time why, the husband would either just say something or other and the wife right away she would lose her temper like, and many a time, why, she would put her finger up against her nose against her husband, and also use words that weren't nice to hear.

20

Q. Did you ever do anything or say anything to create discord between this plaintiff, Mrs. Eleanore Ciaglia, and her husband? A. We never had a dispute amongst the two of us, never.

Q. Were you present at the time her brother came to take her away from your house? A. No, sir.

Q. Did you ever attack your sister-in-law's character or behavior? A. No, sir.

30

Q. Did you ever try to persuade your brother that she wasn't a good woman? A. No, sir.

Q. Did you ever do anything to excite any ill will or hatred on the part of one against the other? A. No, sir.

Q. Did you ever threaten that if your brother remained with his wife and treated her kindly, that you would have nothing more to do with him? A. No, sir.

40

Q. Do you know whether at the time the brother came to take his sister away, that it was with your brother's consent or not? You don't know

*Andrew Ciaglia, direct.*

anything about that, do you, at the time the brother came? A. At the date?

The Court: He said he wasn't there.

The Witness: I wasn't there.

Q. What do you know about this noise in the morning of trying to get your brother Nicholas up? Suppose you tell the jury about that. Talk a little loud so all the men on the jury can hear you. A. The plaintiff used to say that it was too much noise made in the morning. Now, the brother, he was in the taxi business, and he had to make a call about 7:12 in the morning. She complained there was too much noise in the morning, and so the brother, he slept downstairs so the other brother could wake him up in the morning and it wouldn't disturb her. 10  
20

Q. Did she ever complain about too much noise being made of waking him up in the morning?

A. Yes, sir.

Q. What did she say? A. Well, I just stated that before.

Q. Talk a little louder. I don't think these gentlemen in the back here can hear you. A. She stated there was too much noise in waking her up in the morning, and she complained that the mother used to rap on the door; so the brother slept downstairs so that the other brother could wake him up in the morning. 30

Q. Have you known what the address of the plaintiff, your sister-in-law, has been after she left your house? A. Yes, sir. There was two addresses changed. First address was Brooklyn, I think the cousin, and the second address was to the brother; and finally one day I received the letter back again. 40

*Andrew Ciaglia, direct.*

Q. The mail came back? A. Yes, sir. And when it came back it said, "Nobody known there by that name." It was sent to Bayside, Long Island. I took the letter and I mailed it to Mr. Brunetto—that is her lawyer—and I asked for her address.  
10 This was about perhaps two or three weeks before this suit was brought up, and I never received no answer of her present address, and I always mailed the checks to Mr. Brunetto.

Q. Do you remember an occasion before this case was started when the plaintiff's brother called to see you in New York? A. Before this case started?

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

Q. Do you remember him calling to see you after this case was started? A. Yes.  
20

Q. I am referring now to this case. A. After this case started; yes, sir.

Q. Did he say anything about the case? Don't say anything about trying to make a settlement. I don't mean that. I mean anything except that.

The Court: Because of your objection I permitted nothing to be said about that occasion at all. I decline to permit the testimony on that point to be given.  
30

Mr. Agnew: I realize that anything concerning any adjustment of litigation at that time is improper. I was just wondering if something else extraneous to that took place.

The Court: You see no foundation has been laid for that.

Mr. Brunetto: Your Honor, I want to say at this time if the judge wants to bring this out, if it is agreeable to the Court, I have no objection.  
40

Mr. Agnew: I do not think it is proper.

*Andrew Ciaglia, cross.*

Mr. Brunetto: It is up to him. If he wants to bring it out, why, I am willing.

Q. You say you can't remember the brother calling at your New York address to see you before this case was started, this particular suit? A. No, sir. 10

Q. Did this other lady who was on the stand, Mrs. Dacunti,—was she over to see you in New York? A. Yes, sir.

Q. What happened at that time? A. The first time that she came—

The Court: Do you want to go into that so that that may all be opened up, Judge Agnew? That was not permitted to be given in evidence. 20

Mr. Agnew: Didn't she testify that she called this morning?

The Court: There seems to be no objection if you want to open it up; so upon rebuttal they may give that testimony. You objected to it and I sustained the objection.

Mr. Agnew: Oh, I see.

Q. Do you know what happened when this lady, Mrs. Dacunti, called at your folks' house in New Milford? Were you there? A. No, sir. 30

*Cross examination by Mr. Brunetto:*

Q. Mr. Ciaglia, I show you six envelopes stamped in the left-hand corner with A. Ciaglia, and ask you if these are your business envelopes with your business address. A. Yes, sir.

Q. And is that handwriting, "E. Ciaglia," in your handwriting? A. Yes, sir.

Q. And in the envelopes you mailed some of the checks to Mrs. Ciaglia, your sister-in-law? A. Yes. 40

*Andrew Ciaglia, cross.*

Mr. Brunetto: I offer these in evidence, your Honor.

(The same are received in evidence and marked Exhibit P-3.)

10 Q. Now, Mr. Ciaglia, where did you get the address where to send this money to Mrs. Ciaglia?

A. Are those all the same addresses?

The Court: All the same.

The Witness: Could I see the dates on them? I didn't look at the dates.

*By the Court:*

20 Q. The question is where you got these addresses. A. He means where I got these addresses. I want to see if they changed addresses.

Q. They are all the same. A. 1926. I think from the Court of Chancery, I think, where she lived at the time.

*By Mr. Brunetto:*

Q. Was your brother Nick present when you got this address where to send this money, 272 Liberty Avenue, Brooklyn? A. Maybe the brother gave me the address.

30 Q. That is your brother Nick? A. That address; yes, sir.

Q. Now, what business was your brother Nicholas in at the time he married Mrs. Ciaglia, the present Mrs. Ciaglia? A. The taxi business, and he used to take care of the gasoline station and garage.

Q. On your direct examination you just told us that he was in the gasoline and garage. A. At the present time.

40 Q. Has he given up the taxi business? A. Yes, sir.

*Andrew Ciaglia, cross.*

Q. When did he do that? A. When?

Q. Yes. A. About a year and a half, two years ago.

Q. Where does he conduct his business of gasoline and garage, and where did he conduct the taxi business? A. Say that over again, if you don't mind? 10

Q. Where is his place of business? A. New Milford, New Jersey.

Q. What street? A. Main Street and the Boulevard, Main Street and Eagle Avenue.

Q. Has he conducted his business at that address ever since his wife left him? A. Yes, sir.

Q. Who owns the building? A. I do.

Q. Does your brother pay you rent? A. No, sir. He doesn't own the business. 20

Q. He doesn't what? A. He doesn't own the business.

Q. He doesn't own the business? A. No, sir.

Q. Who owns the business? A. I own the business, and another brother.

Q. Then he is not in business for himself at this address? A. Right, sir.

Q. He is working for you? A. Yes, sir.

Q. How much do you pay him? A. It is twenty-five dollars a week. 30

Q. Do you remember the time that you were in the Court of Chancery when your sister-in-law, Mrs. Ciaglia, had your brother on an application for alimony pendente lite? A. Yes.

Q. And he said he was getting eighteen dollars a week? A. He was getting ten dollars a week and board at that time.

Q. Does he also get his board free now? A. No, sir.

Q. Had your brother been working for you and the other brother right along? A. Yes, sir. 40

*Andrew Ciaglia, cross.*

Q. I show you a letterhead, Nicholas Ciaglia, and ask you if you have ever seen any of those letterheads of your brother before? A. Well, I told you that. Before he had the taxi business himself. Yes, this was his business, the taxi business, not the  
10 garage business.

Q. Did he own the automobile that he conducted the taxi business with? A. Yes. He owned the automobile.

Q. How much was the automobile which he conducted the business with worth? A. The automobile worth?

Q. Yes. A. At what time?

Q. At the time that he married Mrs. Ciaglia. A. Maybe about three hundred dollars or so.

20 *By the Court:*

Q. He had only one taxi A. Yes, sir; one taxi.

*By Mr. Brunetto:*

Q. Didn't he do other work around the garage at the time that he married Mrs. Ciaglia, such as repairing automobiles, and so forth? A. He used to only take care of the garage. We had a  
30 mechanic there who used to do the repairing.

Q. Did you pay him anything for taking care of the garage? A. Ten dollars a week and board.

*By the Court:*

Q. Is he younger than you? A. Yes, sir.

Q. What is your age? A. Thirty-seven.

Q. How old is Nicholas? Or, about. A. About thirty-four, thirty-three.

*By Mr. Brunetto:*

40 Q. Mr. Ciaglia, has your brother been married?  
A. Yes, sir.

*Andrew Ciaglia, cross.*

Q. Before he married Mrs. Ciaglia? A. No, sir.

Q. Do you know of any other Nick Ciaglia in New Milford? A. Not that I know of.

Q. I show you a wedding ring which has been marked in evidence as Exhibit P-1, and ask you if you have ever seen that ring before. A. That is a joke on me. 10

Q. Did you ever see this ring before? A. No, sir.

Q. Did you ever hear of a girl by the name of Margaret or some woman that your brother married in 1920? A. No, sir .

Q. Do you remember when your mother, or when your sister-in-law gave your mother the engagement and the wedding ring that your brother had given to your sister-in-law? Do you remember that occasion? A. Well, the engagement ring he gave it to her at the engagement. 20

The Court: Oh, no. You misunderstand the question, I think.

Q. Do you remember the occasion when Mrs. Ciaglia gave your mother the wedding ring and the engagement ring and other jewelry which your brother had given her? A. It was on more than one occasion, however.

Q. I am talking when Mrs. Ciaglia, your sister-in-law, gave to your mother the wedding ring and engagement ring. A. Oh. 30

Q. And other jewelry which your brother had given his wife. A. I wasn't present.

Q. Do you remember the occasion about your sister-in-law giving to your mother this jewelry which I have mentioned? A. Yes, sir.

*By Mr. Agnew:*

Q. You mean you heard about it at the time? A. Yes, sir. 40

*Andrew Ciaglia, cross.*

*By Mr. Brunetto:*

Q. Have you seen the wedding and the engagement ring after your sister-in-law gave it to your mother? A. No, sir.

10 Q. Do you know where they are? A. I think the brother has them.

Q. What brother? A. The husband.

Q. Nick? A. Yes.

Q. Did you ever ask him why he didn't return them to his wife? A. She never asked him for them.

*By the Court:*

20 Q. Oh, no. Did you ever ask him why he didn't? That is the question. A. No, sir.

*By Mr. Brunetto:*

Q. At this hearing in the Hackensack Police Court, who got out first, your family or Mrs. Ciaglia, your sister-in-law, and her brother and her friends? A. I couldn't answer that. I don't quite remember who was first, who left first.

30 Q. Who was there on the part of Mrs. Ciaglia; that is, the sister-in-law; in the Police Court? A. In the Police Court?

Q. Yes. Well, her brother was there, wasn't he? A. Her brother, her lawyer.

Q. Was Mr. Dacunti there with his wife? A. I think they were.

Q. Now, on the part of your brother, you were there? A. I, the mother, Nicholas, and our lawyer.

Q. Wasn't Joe there? A. Joe; no, sir.

40 Q. Now, did you wait or did your brother wait for his wife to come out of the Police Station? A. She wouldn't come home.

*Andrew Ciaglia, cross.*

Q. Will you answer my question, please? (The last question is repeated by the stenographer.)

A. We waited out in the lobby.

Q. And did your brother talk to his wife as she came out in the lobby? A. Our lawyer did.

Mr. Brunetto: Strike that out.

10

Q. Will you answer my question? (The last question is read by the stenographer.) A. No, sir.

Q. Did you talk to Mrs. Ciaglia; that is, your sister-in-law? A. No, sir.

Q. Did your mother talk to her? A. No, sir.

Q. How far away was Mrs. Ciaglia, or was your brother from Mrs. Ciaglia, while your brother's lawyer was talking to Mrs. Ciaglia, you say? A. A distance of about fifteen feet.

20

Q. Did your brother make any attempt to talk to his wife while you were in the lobby; that is, of the Police Court in Hackensack? A. No, sir.

Q. Did you? A. No, sir.

Q. Or your mother? A. No, sir.

Q. When did your brother begin to sleep alone downstairs away from his wife? A. Six or seven days perhaps, about six or seven days.

30

Q. Before she left? A. Yes, sir.

Q. Did Mrs. Ciaglia say anything to her husband? A. No, sir.

Q. Why he wasn't sleeping upstairs with her? A. Not that I know of.

Q. What was the relationship between your brother Nick and his wife at that time? A. They were talking to each other.

Q. Were they friendly or what? A. Well, they were friendly.

40

Q. And that continued up to the day that her

*Andrew Ciaglia, cross.*

brother called for her, the same relationship? They were on friendly terms? A. They were talking to each other; yes, sir.

Q. Were they on friendly terms? A. Yes, sir.

10 Q. Do you know whether your brother gave your wife any money for household expenses during the time that they were living together? A. My mother used to pay out all the household, and the brother, the other brother.

Q. Joe? A. Yes, sir.

Q. Did you ever hear your sister-in-law ask your brother for any money? A. No, sir.

Q. Do you remember ever her asking your brother for money for clothing? A. No, sir.

Q. Or for food? A. No, sir.

20 Q. Did you ever hear your mother and your sister-in-law quarrel? A. No, sir.

Q. They were on friendly terms all the time? A. Yes, sir; most of the time.

Q. Well, some of the time they were at odds, weren't they? A. Very little that they were on odds.

30 Q. What did your mother say when they weren't on friendly terms or what did Mrs. Ciaglia say? Do you know what the quarrels were about? A. The mother-in-law used to advise her as to how to carry her husband along.

Q. What do you mean? Do you know what she meant by it? A. Yes, sir.

Q. What did she say? I don't want to know what the effect of it was. I want to know what did your mother say to Mrs. Ciaglia and what did Mrs. Ciaglia answer to your mother. A. "Do what your husband tells you to do."

40 Q. Did your mother say anything to Mrs. Ciaglia whereby Mrs. Ciaglia had not complied with any

*Andrew Ciaglia, cross.*

orders or anything that her husband had said? A. I didn't get that. I am a little bit weak, and that is the reason I can't get it so much.

(The last question is read by the stenographer.)

10

A. I was so weak. I am weak. I am very weak for the last—

Q. Do you want a drink of water? A. If you don't mind.

*By the Court:*

Q. Have you been sick? A. Yes, sir; ever since I got this thing here I haven't been the same man.

*By Mr. Brunetto:*

20

Q. Did you at any time, or your mother, say to Mrs. Ciaglia, your sister-in-law, any particular thing that she should have done that her husband had requested her to do and that she had not done? A. No, sir.

Q. What did your mother say when you say she advised Mrs. Ciaglia to do certain things.

The Court: He didn't say that. He said that her mother-in-law advised her to do what her husband told her to do.

30

Q. What did your mother say? What particular thing that Nick had told his wife to do which Mrs. Ciaglia had not done? A. I did answer that.

*By the Court:*

Q. Perhaps we can ask him: You said that your mother advised her to do what your brother told her to do? A. Yes.

Q. Did your mother advise her to do any particular thing that your brother had told her to do?

40

*Andrew Ciaglia, cross.*

A. Just to keep on in a friendly way with her husband.

*By Mr. Brunetto:*

Q. Is that all? A. That is about all; yes, sir.

10 Q. Did you not hear your sister-in-law and her husband argue about anything? A. They used to argue; yes, sir.

Q. Over what? A. It was a case of it was too different types, and one would maybe just say a little out of the way and the wife would go right up in the air.

Q. Now, Mr. Ciaglia, you can give us an answer.

*By the Court:*

20 Q. Let me ask you this. Was there any difference in the parts of Italy where your families came from? A. No, sir; same town.

Q. The same town? A. Yes, sir.

Q. There was no trouble of that kind, then. There was no trouble about their coming from different parts of Italy? A. No, sir.

*By Mr. Brunetto:*

30 Q. Over what would they argue about? A. They would be kidding each other, something like that.

Q. Then they weren't arguing, were they? A. Well, they wasn't arguing.

Q. But they were just kidding each other? A. Kidding each other, and the wife used to go up in the air.

40 Q. And that was done in your presence and in your mother's presence and your brother Joe's presence many times? A. It was in front of everybody's presence; other people also.

*Andrew Ciaglia, cross.*

Q. And they just kept on kidding each other all the time? A. Well, the husband used to say something to her.

Q. Say something funny to her? A. Some what?

Q. Funny. A. He would say something to her and she would go up in the air, put her fingers up against her nose. 10

Q. Then your brother said something funny to her, just kidding her, and the next thing that she would do is stick her finger up in front of her nose? A. Yes.

Q. That got your brother angry, didn't it? Your brother Nicholas got angry when she stuck her finger to her nose, didn't he? A. Get angry?

Q. Yes. A. Well, he knew her temper, and he would—he just looked the other way and wouldn't mind her no more. 20

Q. He didn't get angry at all. That made you sore, didn't it, to see your sister-in-law treat your brother that way, didn't it? A. Made me sore?

Q. Yes. A. I wouldn't like to see it that way, but it didn't make me sore.

Q. Did you say anything to your sister-in-law? A. Several times I have old her. One time her brother was even there, and I happened to be sleeping on the bed, and I heard her with her husband talking, and on that occasion I told her, while her brother was there, that the way she was treating her husband she was losing the love of her husband. Well, she said that, "He has lost the love of me and I have lost the love of him," and that she wanted to go away. 30

Q. And was that the only conversation that you heard when your brother and Mrs. Ciaglia got angry at each other? A. There is other occasions too. 40

*Andrew Ciaglia, cross.*

Q. Was that repeated, that same conversation, on the other occasions? A. Well, that and a little worse than that also.

Q. What was said worse, and when? A. At other times.

10 Q. When? What was said the first time? What was said the first time and who was present? A. Another time it was, let us see, present was myself, the husband here, and I think it was Joseph.

Q. When was that? A. Maybe about a month before she left.

Q. What did she say and what did you and your brother say? A. Well, all I hear was what she said, what she stated.

20 Q. What did she say? A. She said — I think I will need an interpreter too.

The Court: The interpreter has gone. You were speaking such good English that I excused him.

The Witness: Oh, I don't mean the interpreter, only this word.

The Court: Suppose you say it in Italian to Mr. Brunetto and see if he wants it repeated?

30 (The witness speaks in Italian.)

Q. Did that make you mad? A. Me mad?

Q. Yes. A. No, sir.

Q. Did it make your brother mad? A. No, sir.

Q. Was anybody present outside of Mrs. Ciaglia? Did that make anybody mad? A. We were used to it by her and the way she used to talk that we didn't mind it any more.

Q. And it didn't make you mad? A. What is the use? Wouldn't do any good.

40 Q. It didn't hurt your feelings? A. Wouldn't like to hear it.

*Andrew Ciaglia, cross.*

Q. It didn't hurt your feelings? A. Had to take it as it came.

Q. When was the first time she said that? A. Maybe about four weeks before, about four weeks before she left.

(At 12:45 P. M. the Court takes a recess until 1:45 P. M.)

10

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AFTER RECESS.

ANDREW CIAGLIA, one of the defendants, resumes the stand in his own behalf.

*Cross examination (continued) by Mr. Brunetto:*

Q. When did she say it again? When did she repeat the same remark after the first time she said it? You said four weeks before she left. A. That is the only time I heard that remark.

20

Q. Did you hear any other remarks? A. From when was it?

*By the Court:*

Q. From your sister-in-law. A. From what time was it?

*By Mr. Brunetto:*

30

Q. After the first. You say the first remark she made which you told us about, was four weeks before she left. A. Yes.

Q. Now, when did you hear the next remark? A. From the Saturday right after the honeymoon.

Q. What did she say and when was that? A. She used to use words, improper language.

Mr. Brunetto: I move to strike out the answer as not being responsive.

40

The Court: It will be.

*Andrew Ciaglia, cross.*

Q. What did she say? A. Well, words to that effect.

Q. Did she say the same? A. No. The words that as I said, improper words.

10 Q. You haven't told us anything. Will you tell us what the words were?

The Court: Do you want them in English?

Mr. Brunetto: Yes.

A. She used to put her fingers up against her nose. That is one way. And the other words I said before; those are the words.

Q. Did she say those words as you said before right after she came back from her honeymoon?

20 A. She used bad language right after the honeymoon; yes, sir.

Q. Now, Mr. Ciaglia, will you answer my question? Did she use the identical remark soon after she came back from her honeymoon that she used four weeks before she left? A. No, not the same ones.

30 Q. Now, what did she say? What were her words? A. There was three or four words she said. (The witness speaks in Italian.) All that kind of stuff that I don't want to be bringing up.

Q. Did she say those words right along? Were those the only words she said? A. That is the words I heard.

Q. How many times did you hear them? A. I heard them about a dozen times.

Q. And the first time she said it was immediately she came back from her honeymoon? A. Not immediately. Maybe that first week or so.

40 Q. She used the last remark that you said soon

*Andrew Ciaglia, cross.*

after she came back from her honeymoon? A. Something.

Q. The last remark, which words were similar to the words you have already testified to and which you said the first time she said was four weeks before she left. A. No, that particular morning that I said, the way I explained it, was about a month before; but the other words was before then, previous.

10

Q. Were part of the words, part of the remarks that you just told me—were those included in the remarks that she said four weeks before she left? A. No, sir.

Q. Who was present when your sister-in-law would say that, besides yourself? A. Her and her husband.

20

Q. Anybody else? A. Sometimes. No, just her husband, herself, myself, sometimes maybe my mother was there.

Q. Did your mother say anything when your sister-in-law said that? A. She would tell her not to say like that kind of words to her husband.

Q. What did your mother tell Mrs. Ciaglia? Give us her exact words. A. She told her she should not talk to her husband like that, in that language.

30

Q. Those were her words? A. About the words; yes, sir. Not the exact words; something similar to that.

Q. Don't you know exactly what she said? A. No, sir; I can't remember exactly.

Q. Was your mother angry? A. Was my mother angry?

Q. Yes, when your sister-in-law said those remarks to your brother. A. No, sir.

40

Q. Was your brother angry? A. Nick?

*Andrew Ciaglia, redirect.*

Q. Yes. A. Sometimes he would be angry; sometimes he wouldn't.

Q. What would he say to his wife when she would say that? A. He would say nothing to her.

10 Q. Would he do anything to her? A. I never seen him.

Q. Well, you were present all the time. Did anything happen in your presence? A. Not that I know of.

Q. You were in the same room? A. Sometimes.

Q. Did you ever hear any of those remarks when you were in another room? A. Yes, sir.

Q. When was that? A. During the time that she was home.

20 Q. During that four months? A. About five months, the time she was home, wasn't it? Around five or six months.

Q. Five or six months? A. About five months.

Q. About five months after they were married? A. While they were home, yes.

Q. That brings it about four weeks before she left. A. No, while she was home I have stated.

30 Q. Yes, while she was home about four weeks before she left. Was that the time that you heard that? You were in another room from where your sister-in-law said those remarks or words to your brother? A. No, no; during that time from the first week till she left.

Q. How many times did you hear your sister-in-law call your brother those names or address those remarks to your brother when you weren't in the room, and if so, when was the first time?

A. I can't remember that.

*Redirect examination by Mr. Agnew:*

40 Q. Were you around at any time when Mrs. Ciaglia's brother would call? A. Yes, sir.

*Marie Circulo, direct.*

Q. Did you ever see him at the garage talking to your brother Nick before he would go to the house? A. Yes, sir.

Q. Do you know how long it was after the marriage, the first time you saw Mrs. Ciaglia's brother come there? A. About one month.

10

*Recross examination by Mr. Brunetto:*

Q. Did you talk to your brother-in-law about a month after they were married; that is, Mrs. Ciaglia's brother? A. Yes, sir.

Q. Did you talk about the sister? A. No, I didn't talk about the sister then; no, sir.

Q. Your brother and his wife were living peacefully at the time? A. Well, they were living home, sure.

20

Q. Will you answer my question? (The last question is read by the stenographer.) A. Yes, sir.

---

MARIE CIRCULO, sworn in behalf of the defendants.

*Direct examination by Mr. Agnew:*

Q. Mrs. Circulo, where do you live? A. Newark.

30

(The further testimony of this witness is taken in Italian through the interpreter.)

Q. Where do you live? A. 62 Madison Street, Newark.

Q. Do you know where the Ciaglias live in New Milford? A. Yes.

Q. Are you some relation to them? A. Yes, my uncle.

Q. Were you present on one occasion when Mrs.

40

*Antoinette Attanasio, direct.*

10 Ciaglia, the mother-in-law, took her daughter-in-law to Hackensack shopping? A. Yes. They brought me on one occasion where we went shopping and then we went through all the stores to buy her a hat, and she bought a hat. She didn't buy the coat.

Q. Do you recall what month that was? A. The month of May.

Q. Do you know anything about this brother Joseph bringing ice cream to Mrs. Ciaglia, the plaintiff?

Objected to as leading.

Objection sustained.

*Cross examination by Mr. Brunetto:*

20 Q. How did you happen to be in Hackensack on that day, Mrs. Circulo? A. I happened to go there to visit my aunt that day, because my cousin had died and they brought me with them shopping.

Q. Where was the cousin that died? In New Milford? A. New Milford.

30 ANTOINETTE ATTANASIO, sworn in behalf of the defendants.

*Direct examination by Mr. Agnew:*

Q. Where do you live, Mrs. Attanasio? A. I live 223 Walnut, Newark.

Q. Do you know where the Ciaglia house is in New Milford? A. Yes.

Q. Did you visit there very much in 1925? A. Yes.

40 Q. Did you call there while Mrs. Ciaglia, the plaintiff, was living at the house with her husband? A. I don't know. It is better tell me in Italian.

*Joseph Ciaglia, direct.*

The Court: All right. We will help you.  
(The last question is read by the stenographer.)

A. (Speaking through the interpreter.) Yes.

Q. While you were there what did you observe?

A. Nothing. The only thing I noticed was that my aunt was happy that she married her son.

10

*Cross examination by Mr. Brunetto:*

Q. Are you any relationship to the Ciaglias? A. Yes.

Q. What? A. Cousins.

---

JOSEPH CIAGLIA, one of the defendants, sworn in his own behalf.

20

The Witness: Mr. Judge, I want to have an interpreter.

The Court: We will get along for a little way.

The Witness: I get mixed up.

The Court: Whenever you get mixed up we will help you out.

The Witness: It is better to have interpreter.

30

The Court: You see that all takes time.

The Witness: It won't take long, Mr. Judge.

*Direct examination by Mr. Agnew:*

Q. Mr. Ciaglia, you are one of the defendants in this case? You are being sued by your brother's wife? A. Yes.

Q. Were you living at the house in New Milford while your brother and his wife were there? A. Yes.

40

*Joseph Ciaglia, direct.*

Q. Tell us what you know about the relationship of your brother and his wife.

The Court: Now, you may have help on that.

10 The Witness: Now, I want interpreter, Mr. Judge, please.

The Court: All right. You are going to have one.

A. (Speaking through the interpreter.) I have always treated her well.

Q. You heard what Mrs. Ciaglia, the plaintiff, said about you in her testimony, did you?

(No answer.)

20 Q. All right. Never mind. I will ask you one at a time. Did you ever say that she was crazy?

A. No.

Q. Did you ever say she was no good? A. No, sir.

Q. Did you ever say she wasn't good enough for your brother? A. No, sir.

Q. Did you ever excite any ill will or hatred toward her on the part of your brother? A. No, sir.

30 Q. Did you ever say anything to cause your brother and his wife to become separated? A. No, sir.

Q. Do you know anything about your brother Nick leaving his own room and going downstairs to sleep? A. He went down to sleep downstairs because the wife said there was noise in the room.

Mrs. Eleanore Ciaglia: I didn't say that.

40 Q. Did you ever bring any ice cream to the plaintiff while she was living at your house? A. Two or three times a day, and candy and soda.

*Joseph Ciaglia, cross.*

Q. Is that your business? A. Yes.

Q. Did that keep up to the day that Mrs. Ciaglia went away from your house? A. Yes.

Q. Did you have any notice or any knowledge that this lady's brother was going to come and take her away? A. No. 10

Q. Did you ever hear any little arguments between your brother and his wife? A. Yes.

Q. Very often or very few or what? A. Often.

Q. Were you present in Hackensack when the case came up before Judge Moore? A. No.

Q. Did you ever do any work around the house? A. My job was to wash the floors two or three times a week until she left.

Q. Were you around the house at the time your brother's wife left her engagement ring and wedding ring? A. I was in the store. 20

Q. I mean, you weren't in the house at the time that happened? A. No.

Q. Did you ever hear your brother's wife use any bad words or bad language to him? A. Sure, yes.

Q. Were you present at the time Mrs. Ciaglia's brother came to take her away?

The Court: He said no. You asked him that. 30

*Cross examination by Mr. Brunetto:*

Q. Did your sister-in-law say any bad words to her husband on more than one occasion? A. Well, they would have these things out amongst themselves. I was out in the store.

Q. Then how do you know that your sister-in-law called your brother these bad words? A. I would hear from in the store. 40

Q. Did you ever go into where your brother and

*Joseph Ciaglia, cross.*

your sister-in-law were to find out what the trouble was? A. No.

10 Q. Did you ever say anything to your sister-in-law about using these words to your brother? A. I told her that she was speaking very badly toward him.

Q. And what did she say to you? A. She said that my brother was speaking very bad to her. (Speaking in English.) No, she was speak very bad to my brother, and I told my brother that is no language to use. (Speaking through the interpreter.) I told my brother that his wife was speaking bad toward him.

Q. Well, didn't your brother know that his wife had been talking bad about him? A. Yes.

20 Q. Then why did you have to tell him? A. Well, to have peace in the house.

Q. Did you tell your brother what he was to do or what he should do? A. I told my brother to be good, both of them, and not to fight.

Q. Well, was your brother and his wife fighting? A. Well, they were arguing back and forth.

Q. They never struck each other? A. No.

30 Q. Where was your mother when your sister-in-law was talking to your brother Nick and using these bad words? A. Well, I was hearing it in the store.

Q. How often did your sister-in-law say these bad words to your brother during the time that your sister-in-law lived at New Milford with your brother? A. Well, I was in the store and they were in the dining room, and once when she came through the hall to go upstairs I heard her say this bad word.

40 Q. Did you hear her say it just that particular time, or did you hear her say the same words at

*Joseph Ciaglia, cross.*

other times? A. Well, I would mind my own business. They would take care of that and argue amongst themselves.

Q. You weren't interested, then, in these conversations between your brother and your sister-in-law? A. No, sir.

10

Q. Now, do you remember the time that your sister-in-law gave to your mother the wedding ring and the engagement ring and other jewelry which your brother had given her? A. Yes. I was in the store. Then I went in and my mother told me that she had left the jewels on the table and she had gone upstairs.

Q. Did you hear an argument just before you walked in between your sister-in-law and your mother? A. My mother would always try to make peace.

20

Q. Will you answer my question?

Mr. Brunetto: I move to strike out his answer, your Honor, as not being responsive.

The Court: That will be stricken out.

*By the Court:*

Q. Did you hear an argument; yes or no? A. Yes.

30

*By Mr. Brunetto:*

Q. What did your mother say to Mrs. Ciaglia and what did Mrs. Ciaglia say to your mother? Now, I want the words which were spoken by either your mother or Mrs. Ciaglia to your sister-in-law. A. My mother would always say, "Be careful with your husband. Take care of your husband and treat him well."

Q. Is that the only words that your mother told Mrs. Ciaglia? A. Yes.

40

*Joseph Ciaglia, cross.*

Q. What would Mrs. Ciaglia, your sister-in-law, say to your mother? A. They would argue back and forth.

10 Q. What did your sister-in-law answer to your mother? I want her words; what she said to your mother. A. I was in the store when they were talking, and I didn't hear.

Q. Then you heard what your mother said to your sister-in-law, but you didn't hear what your sister-in-law said to your mother; is that right? A. She told them all to go to the devil, the whole bunch, the whole family.

Q. When did your sister-in-law say that? A. When she put the jewels on the table. I heard this from in the store.

20 Q. Was that the only time that your sister-in-law said that? A. Then I heard it myself.

Q. Isn't what you are telling now on the witness stand what you heard yourself, or what somebody else told you? A. Nobody has told me. It is what I heard.

Q. Now, did your sister-in-law wear a wedding ring after the time that she left the jewelry on the table? A. No.

30 Q. Didn't your mother give your sister-in-law a wedding ring? A. She gave it to her, but not to let her go out without a ring.

Q. Is this the ring that your mother gave her? A. I don't know. She gave her one.

Q. Look at this and tell us if that looks like the ring your mother gave your sister-in-law.

The Court: The only question is whether that is the ring.

40 A. I don't know, because I didn't see it when she gave it to her.

*Joseph Ciaglia, cross.*

Q. Did you see your sister-in-law wear the ring after your mother gave it to her? A. When she went out of the house.

Q. And does the ring that you saw on your sister-in-law at the time she went out of the house look like the one that I now show you? " 10

Objected to.

Objection overruled.

A. I didn't see it. I only heard my mother saying, "Put your ring on. It looks bad for you to go out without a ring."

Q. You said that during the time your sister-in-law was there you scrubbed the floors three or four times a week, washed the floors? A. Yes.

Q. Who has been washing the floors since your sister-in-law left? A. (Speaking in English.) That is my job now all the time. 20

Q. And you did the same thing before your sister-in-law came there? A. Yes.

Q. Do you know whether your brother Nick has ever been married to any one else besides your sister-in-law, Mrs. Ciaglia?

Objected to.

Objection sustained. " 30

Q. Now, the times that your mother and sister had the arguments, and the times that your brother would have the arguments with your sister-in-law, how many times did you bring ice cream on those days, and candy, to your sister-in-law? A. (Speaking through the interpreter.) From the day that she came there I always treated her well. I can't say the day.

Q. Well, did you give her ice cream and candy two or three times on each day that your sister-in- 40

*Armando Manna, direct.*

law had an argument with your brother? A. I always treated her well. I always gave her ice cream.

10 Q. Now, Mr. Ciaglia, will you answer my question? Did you give her the ice cream two or three times on those days? A. Well, as the days were. If it was a warm day I would give her more.

Q. Therefore when your sister-in-law insulted your brother or passed these remarks to your brother, or insulted your mother, that didn't make any difference to you? It didn't hurt your feelings? A. I always liked her. I always treated her.

20 ARMANDO MANNA, sworn in behalf of the defendants.

*Direct examination by Mr. Agnew:*

Q. Mr. Manna, where do you live? A. New Milford, New Jersey.

Q. You are related to the Ciaglia family in some way? A. Yes, sir.

Q. During 1925 did you call at that house very often? A. Yes, sir.

30 Q. Did you know Mrs. Ciaglia, the plaintiff in this case, before the marriage, before she married? A. Yes, sir.

Q. Did you know what kind of disposition she had then? A. Yes, sir.

Q. What was it?

Objected to as immaterial.

Question withdrawn.

40 Q. Do you know where this Ciaglia house is located in New Milford? A. Yes.

Q. Is it possible for anybody to see a window

*Armando Manna, direct.*

from two blocks away? A. No, sir. It is impossible because there is a house right in between and it protrudes right to the sidewalk. You can't look through that house.

Q. How about the windows in the summer time?

A. Well, if you come past that house, that is a block, you wouldn't even be able to see it in the summer time, because Grandma always had a screen, one of these linen screens, and it is impossible to see through them. 10

*By the Court:*

Q. You are a nephew, then, of this young man?

A. Yes.

Q. Mrs. Ciaglia is your grandmother? A. Yes. 20

*By Mr. Agnew:*

Q. Were you present at the barber shop when the plaintiff's brother came to take her away? A. I was.

Q. What conversation, if any, did you hear her brother have at that time? A. Well, he had either got off the bus or the train, I don't know which, headed for my grandmother's house, and I was on my vacation at that time. I was in my Dad's barber shop when along came her brother. He seemed to be in a very great hurry. He came inside and he told my father that he was going to fix them, was going to put them in a ring and roast them, going to make it bad for them. My father told him, "I wouldn't do that if I were you," and he went out rushing from there. 30

Q. Did you ever have any occasion to hear any talk or language between Nick and his wife? A. Why, yes, every time Nick opened his mouth she would call Nick a dumbbell, "You don't know what 40

*Armando Manna, cross.*

you are talking about." See, Nicholas is handicapped in talking Italian.

The Court: Just a minute. You are just expected to tell us what you heard.

10 Q. Just say what you heard said. A. Well, the reason I wanted to explain that was—

The Court: That is improper for you to do that.

A. (Continuing.) Well, she called him all kinds of names. She has always had a habit of doing so. She can't say two words without putting a swear word in between.

20 Q. Was she ever served with ice cream by Joe while you were there? A. Every time the company was there, she has always had it.

Q. Have you any idea how often that would be, if you know? A. Well, every time I went there I know Joe dished out ice cream to me and she had always got it.

Q. About how often would that be? A. Well, about two or three times a week in the evening.

Q. When her brother came over to take her away, you didn't go over to the house? A. No.

30 Q. You don't know what took place at the house? A. I wasn't in the house.

Q. You don't know what happened at the time the jewelry was given up, do you? A. No, I don't.

*Cross examination by Mr. Brunetto:*

40 Q. Was the brother angry at the time he walked into the barber shop and he said he was going over to roast them? A. Well, the type he is, the nervous type, and that is the way he acted, very fast.

*Armando Manna, cross.*

Q. Was he angry? A. Well, that type.

Q. I am not asking you about the type. A. Nervous type.

Q. I am asking you if he was angry on that day. A. Well, I can't tell if he was angry or not.

Q. You thought there was going to be trouble at the house from what he said at the barber shop? A. From what he said, yes. 10

Q. You didn't go to the house with him? A. No, sir.

Q. Weren't you curious enough to go over and see what was going to happen? A. No. It was none of my business.

Q. Now, was Joe present when Mrs. Ciaglia would talk back to her husband that way and call him a dumbbell and such names as that? A. Well, everybody there, the whole family. 20

Q. The whole family was present? A. Sure; even on the outside.

Q. That is, Joe was present, Andrew was there, and the mother was there? A. Yes, and Uncle Frank also.

Q. Would any of them say anything to Mrs. Ciaglia? A. No, they wouldn't say nothing. What for? 30

Q. I am asking you. Did any of them say anything to Mrs. Ciaglia? A. Just Nick; that is all.

Q. Was Nick angry? A. He just told her to keep her mouth shut.

Q. Was he angry? A. Well, if he said keep her mouth shut, he would be a little angry.

Q. Was he angry? A. A little.

Q. What did Mrs. Ciaglia say? Would she keep her mouth shut as soon as he told her? A. No.

Q. What did the husband do when she wouldn't shut up? A. He got disgusted and quieted down. 40

*Elsie Merola, direct.*

Q. He wouldn't ask her again? A. No.

Q. Then after these arguments, why, Joe would come out with ice cream? A. Well, it would all blow over. They were so used to it. Sure, he would come out with ice cream.

10

ELSIE MEROLA, sworn in behalf of the defendants.

*Direct examination by Mr. Agnew:*

Q. Mrs. Merola, where do you live? A. In New Milford, New Jersey.

Q. You are some relation to the Ciaglia family? A. Yes, sir.

20

Q. Did you have occasion to call at this house when Nick and the plaintiff were living there? A. Yes, sir.

30

Q. Will you tell us what you observed as to their conduct while you were there? A. Well, I noticed that they were very distant toward one another, and that another day I was walking down toward their home with the baby carriage to see a sedan Ford car stop in front of the house, and Mrs. Eleanore Ciaglia got out with her husband, and Eleanore Ciaglia walked up the steps and her husband was walking toward the garage; and Eleanore whistled after her husband, and as he turned around she stuck her fingers up to her nose. So I just walked by. I didn't care to stop then.

Q. Did you hear any arguments between them, or trouble in the house while you were there? A. Well, it seemed they couldn't get along. They would always swear at one another.

40

Q. Do you remember the time that her brother called at the house and got a couple of dozen fresh

*Elsie Merola, direct.*

eggs? A. Yes. I happened to be in my father's barber shop at the time, and on his way home he stopped in to say good bye to my father, and he was so pleased to receive this two dozen of eggs, and he couldn't get over what nice people his sister had gone to the family.

10

The Court: I wonder what this meets, because he admitted that.

The Witness: Well, he admitted one dozen. And then again he said—

The Court: Now, just one minute.

Q. How long after the marriage was it that this brother came over the first time? Do you recall?

A. It was two weeks. It was during the week.

Q. About two weeks? A. Yes, sir.

20

Q. Do you know about your brother Joe serving ice cream to Nick's wife? A. Yes, sir. Every time I was there I received a plate of cream and she also received it.

Q. Do you know whether the family would take her out automobiling with them at any time? A. Yes, sir.

Q. What do you know about that? A. Well, my grandmother went to the doctor's in New York. She used to go to the doctor in New York.

30

*By the Court:*

Q. Are you a brother of Armanda Manna? A. Yes.

Q. Your maiden name is Manna? A. Yes. They used to go to the doctor's twice a week to New York with my grandmother and her husband.

*By Mr. Agnew:*

Q. And she would accompany them? A. My grandmother and her husband.

40

*Elsie Merola, cross.*

Q. On these automobile rides to New York? A. Yes, sir.

*Cross examination by Mr. Brunetto:*

10 Q. When did you first see her go to New York with your grandmother? A. When did I first see her?

Q. Yes. A. Well, it was only a short time after her honeymoon. She was there. My grandmother used to go down for treatments and she wished to go with her in the evening.

Q. How do you know that? A. How do I know that? A. I have been in that house so much I ought to know.

20 Q. Were you present at the conversation between Mrs. Ciaglia and your grandmother? A. What conversation.

Q. When it was arranged? A. She had certain days that she would go.

The Court: One minute. Wait now till the question is asked. You see he may ask something else.

30 Q. When it was arranged that your grandmother was going to New York. A. Well, I knew the day she would go.

Q. Were you present at the conversations? A. I don't know what he is trying to get at. What do you mean?

*By the Court:*

40 Q. Mrs. Ciaglia and Nick's wife. Were you present at any conversation about their going to New York, Nick's wife and your grandmother? A. Yes, sir.

*Elsie Merola, cross.*

*By Mr. Brunetto:*

Q. When was the first one? A. When was the first one? Around the middle of February.

Q. What did they say? That is, what did young Nick's wife say? A. She just would go along with them. 10

Q. That is all that was said? A. That is all, and then I went home and they went on to New York.

Q. You saw them go to New York? A. Yes.

Q. What time did they go? A. They used to leave the house at six o'clock.

Q. Where were you at six o'clock? Six o'clock in the morning? A. Six o'clock in the evening.

Q. Were you married? A. Yes, I am married.

Q. Where were you living at the time? A. I only lived one block away from grandmother's home. 20

Q. On the same street? A. On the same street and the same side.

Q. How did you see them? A. I was there. I was there a few times when they leave to go to New York.

Q. When is the next time that you saw her go to New York? A. Well, I couldn't remember that.

Q. The only definite time that you remember is the first occasion? A. Well, that is the time that she started to take these treatments. 30

Q. That is the first time that you definitely knew, that you can fix, that she went over; that it was soon after they got there? A. Yes, sir.

Q. How about this day when you say you saw three or four automobiles stop in front of the house? A. I didn't say three or four. I said one Ford sedan.

Q. Who came out of the car? A. Eleanore and her husband Nick. 40

*Elsie Merola, cross.*

Q. Was that Nick's car which he used as a taxi?

A. Yes, sir.

Q. Where did this car stop? A. Right in front of the house.

Q. In front of the house? A. Yes.

10 Q. Where were you? A. I was walking toward their home with my baby carriage.

Q. Then Mrs. Ciaglia said something to her husband? A. No. I saw her walk up the steps, and as she was walking up the steps she whistled and her husband turned around, and as he turned around she put her fingers up to her nose.

Q. What did her husband do? A. He just walked on to the garage.

20 Q. Did you go up to the house then? A. No, I didn't. I was too embarrassed to go in. I walked straight on.

Q. You don't know what took place between Mrs. Ciaglia and her husband after that? A. No, I don't know what took place.

Q. When was this occasion? A. This was in the latter part of May.

Q. What year? A. 1925.

Q. Do you know what day of the week it was? A. No, sir.

30 Q. Was anybody else on the steps at that time? A. No, sir. She was the only one.

Q. What time of day was this? A. I think they must have been coming home from a ride from Hackensack. It was about four o'clock in the afternoon.

Q. Now, you say Nick's wife and Nick had quite a few arguments? A. Well, I knew that they weren't so well. They didn't look like a real couple should be, the first six or seven months anyhow.

40

*Elsie Merola, cross.*

Q. Did you hear any other arguments besides what you heard this day? A. No, sir.

Q. What is that? A. No, sir.

Q. How do you know, then, that Nick and his wife did not get along very nicely? A. Well, you could see by looking at them, the expression on their faces. 10

Q. Did anyone say anything to you? A. No, sir.

Q. Then the only way that you can tell us that Nick and his wife weren't getting along nicely was by their expression on their faces at the time that you saw them? A. Yes.

Q. Did you see the two of them together? A. Yes.

Q. Did they talk? A. Well, I don't know. I wasn't there near enough to see if they were talking. 20

Q. Where did you see them? A. Well, in the home and outside the home.

Q. Well, at the time you saw them in the house, this was all in the same room? A. No, Nick was never in the home. He was always in his garage tending to his business, and we would be there chatting away, her and her mother-in-law and myself. 30

Q. With Nick? A. No. Nick wouldn't be home.

Q. Just the wife? A. Just the wife.

Q. Did Nick ever come in? A. Once in a while he would come in.

Q. Did the wife say anything to Nick? A. No, sir.

Q. Did Nick say anything to the wife? A. No, sir.

Q. What gave you the idea that they weren't getting along nicely? A. Their actions, the way they were going about. 40

*Nicholas Ciaglia, direct.*

Q. What did Mrs. Ciaglia do which gave you the idea that she wasn't getting along with her husband? A. The expression on their face was enough to tell anyone that they weren't living happy.

10 Q. What was there about the expression? A. When anyone goes around the house with a big face on about a yard long, there must be something wrong.

Q. Did you ask Nick's wife what the trouble was? A. No, I didn't.

Q. Did you ask your Uncle Nick? A. No.

Q. What the trouble was between him and his wife? A. No, sir.

20 Q. You were interested in your uncle, weren't you? A. Why should I butt in his affairs? He made his pick and I made mine.

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NICHOLAS CIAGLIA, sworn in behalf of the defendants.

*Direct examination by Mr. Agnew:*

30 Q. Mr. Ciaglia, where do you live? A. New Milford, New Jersey.

Q. What do you work at? A. Take care of the garage.

Q. You are the husband of the plaintiff in this case? A. Yes, sir.

Q. Mrs. Eleanore Ciaglia? A. Yes, sir.

Q. And you were married about January, 1925? A. Yes, sir.

Q. Where did you go on your honeymoon? A. Utica, New York.

40 Q. What have you to say about what happened

*Nicholas Ciaglia, direct.*

on your honeymoon? A. Well, I know I didn't have such a good honeymoon.

Q. Did you have any trouble of any kind? A. Yes, sir.

Q. Well, tell us what happened. A. We went up there in Utica, New York, to the sister-in-law's place, and the sister-in-law had a party one night. So one night the sister has a party, and we started eating there, coffee and soft drinks, and so forth, and all of a sudden she gets up away from the chair we were sitting there and goes into the bedroom. At that moment I didn't know what happened. So I didn't know what to make of it. I just got off my chair. I excused myself and got up and went in there. I said, "What is the matter?" Oh, she said, "Get the hell out of here," she said to me. That is not so good for the first week you are married. 10

(The last answer is read by the stenographer.)

A. (Continuing.) Well, I didn't know what to do and I went outside, outside again.

Mr. Brunetto: Your Honor, I move to strike that out, that remark. 30

The Court: It will be. The last part of it, "That is not so good for the first week," will be stricken out.

A. (Continuing.) I went out again, and I thought maybe she would come out. So a few minutes I went in again. I said, "Come on outside, Eleanore," I said, "This is not such a nice thing to do," I said, "as to leave the company out there." Well, she gave me the same thing again. She said, "I don't want to know nobody." She said, "Get 40

*Nicholas Ciaglia, direct.*

the hell out of here." Well, I took it easy. I am a man don't say much, and I take things very easy. Well, I went out and I took it, and they are all looking at me there. So, well, it was time the people went home, and I didn't know what to do.

10 I was so disgusted. So after that they went home and I went in the bedroom and I started to explain to her. I said, "Now, that wasn't such a nice thing to do." I said, "Look what the sister-in-law did here," I said, "She went to the expense of doing all this. We are going to stay up here a week or so." All I can get out of her is just dirty words. That is all I can get out of her mouth from the first day I was married to the last day she went.

20 Coming home on the train she was the same way with me. One day I took her out to the theatre. At that time we had about six or eight inches of snow. So she didn't have any rubbers. So I said to her, I said, "Well, come on in here and buy yourself a pair of rubbers." "Oh, no," she said, "I am all right. I don't need them." So we had coming home on the train was the same thing, and there was nothing but keep on right along until I was home, that she made it miserable for me. I was going half crazy to tell you the truth, and I could cry now. As a wife,—and I never laid my

30 hand on her, never, and the way she treated me.

Q. Just before you got married, did you explain your financial condition to your wife? A. Yes, sir.

Q. Did she seem to be willing to live with you at your folks' house? A. Yes, sir.

Q. Do you remember the time that she had brought you up before Judge Moore in Hackensack? A. Yes, sir.

40 Q. Did you appear at that time to take her back? A. Yes, sir.

*Nicholas Ciaglia, direct.*

Q. Did she go back with you? A. No, sir.

Q. What did she say? A. She won't go back.

Q. Now, will you tell us about your life at your folks' house after you came back from the honeymoon up to the time that her brother took her away? A. Well, I wasn't home when the brother came and took her away.

10

Q. No. I mean tell us how you got along, you and your wife, while you were living at your folks' house. A. Well, I tell you; for a wife, why, I was treated like a dog, and if it wasn't for my mother, why, I don't think I would have had anything to eat.

Q. Suppose you explain to the jury this matter of waking up in the morning. A. Yes, sir. At that time I was in the taxi business and I had to get a certain man for that 7:12, I think it was, and I had to be at his house around ten minutes to seven. Now, I am a heavy sleeper, I am, and I always used to tell her to wake me up. So if it wasn't for my mother I would have been sleeping there all day long. So my mother from her bedroom, she used to holler, "Nick, get up." Well, as soon as I heard my mother I got up right away, but she never got up and trying to make my breakfast. Sometimes I used to run out without any breakfast, and sometimes if I had time I used to cook my own breakfast in the morning because my mother at her age, I sooner see her be in bed a little later in the morning; and for a wife,—and she wouldn't get up till about nine o'clock in the morning, half past eight in the morning, and she was lazy.

20

30

Q. Did your wife ever complain about noise of your mother waking you up? A. No, sir.

40

Q. How did you come to sleep separate for the

*Nicholas Ciaglia, direct.*

last week or so before your wife left you? A. Why, she got me so disgusted that, waking up and waking up she never called me up, so I figured, "What is the use of disturbing my mother? I might as well sleep down stairs." I got a brother  
10 that sleeps downstairs, my brother Joe, why, he would wake me up.

Q. Did she say anything when you told her you were going to sleep downstairs? A. No, sir.

Q. Did your wife ever do any cooking? A. No, sir.

Q. Or any housework? A. No, sir. All she did was just wash a few clothes, her clothes, and the rest of the stuff went to the laundry. We always had our wash to the laundry.

20 Q. Did your mother or your two brothers, Andrew and Joseph, ever do anything or say anything? A. No, sir.

Q. To separate you and your wife? A. No, sir.

Q. Did your mother ever threaten the life of your wife by attempting to choke her or grab her by the neck or anything of that kind? A. No, sir. My mother is a very sick woman. She is under the doctor's care now that she can't lift her hands up that much, and she has been sick for the last  
30 twenty years, suffering with rheumatism.

Q. Did you have arguments more or less all the time while you were living together at your folks' house? A. Yes, sir.

Q. Do you know the day that your brother-in-law was coming over to take your wife away? A. No, sir. I was at the garage.

Q. Were there any occasions that you recall that your wife stuck her fingers up to her nose at you? A. Yes, sir; more than once.  
40

*Nicholas Ciaglia, direct.*

*By the Court:*

Q. How is that? A. More than once she stuck her fingers up to her nose.

*By Mr. Agnew:*

Q. Did you ever talk to your wife and try to control her and straighten her out, to stop this arguing, sticking her fingers to her nose, and the disagreements with you? A. Yes, sir. 10

Q. What would she do and what would she say? A. Oh, she said, "Mind your own God damn business," she said. "Don't boss me," she said. And I would tell her, "That is not very good to do." Well, she says, "Nobody is going to stop me." She says, "I can put my fingers up to my nose any time," she said. And so I got disgusted and walked away from her. 20

Q. Do you know anything about your brother Joe serving her ice cream right up to the time she left? A. Yes, sir.

Q. Do you know about how often that might be in the course of a week? A. Yes, sir.

Q. Tell us. A. Why, ice cream he made there, she used to get it two or three times a day. Most of the time she got orders to go in and get her ice cream if she wanted it. 30

Q. When on the witness stand your wife said that you never took her for any ride in an automobile. What have you got to say about that? A. I have took her many times. I treated her like a gentleman.

Q. Do you remember one occasion when you were delivering kerosene to a woman named McDermott? A. Yes.

Q. What happened on that occasion? A. We got a telephone call one time to deliver a gallon 40

*Nicholas Ciaglia, direct.*

of kerosene. So we also sell kerosene over there, and I told this Mrs. McDermott I will bring it over. So the same time I filled the can of kerosene and I told her, "Come on. Take a ride. I am just going about four or five blocks." So she got in,  
10 and I delivered the kerosene in the house there, and this woman here, Mary McDermott, she said, "Hello, Nick." I said, "Hello." She said, "Is that your wife?" She said, "Come on in." She said, "I want to see your wife." So I went out in the car and told her. I said, "Well, come on, Eleanore." I said, "This here girl wants to see you." But she said, "I don't want to know anybody. I don't want to associate with your people," she said.

20 Q. What would happen when some of your gentlemen friends would come around and visit you at the house? Anything? A. Why, she didn't act right. The chief of police, the borough clerk and another friend came over one night to see me, and they came in and I introduced them to my wife, and sat down there, and then, I don't know, they all looked at me, and she was never around like she would be, sit around there, but she was always away, and I said to her, I said, "Come on, cheer up."  
30 I said, "There is a couple of my friends here." Well, she always did that. She didn't want to associate with anybody. So the next day I seen the chief of police again, and he said,—

Mr. Brunetto: That is objected to, your Honor, anything that the chief of police said.

The Court: No, not what the chief of police said. You can't say that.

40 The Witness: Well, he didn't say nothing bad.

*Nicholas Ciaglia, cross.*

Q. Would you take your mother to see the doctor in New York when she went on those trips?

A. Yes, sir.

Q. How often would you make those trips with her? A. Twice a week.

Q. Would you take your wife with you? A. Yes, 10  
sir.

Q. And for how many weeks would that keep up? A. Well, I couldn't tell you how long that was.

Q. Can you give us any idea about how many times? A. No, sir. My head wasn't in the right place.

*Cross examination by Mr. Brunetto:*

Q. Now, Mr. Ciaglia, at the time you were on 20  
your honeymoon at Utica, New York, your wife suddenly got up and went into a bedroom? A. Yes, sir.

Q. And you went after her and tried to induce her, asked her what the trouble was? A. Yes.

Q. And she told you to get the hell out? A. Yes.

Q. What else did she say? A. She said—(The witness speaks in Italian.)

Q. Did she use the phrase, "Get the hell out," in 30  
English and the other in Italian? A. Yes, sir; but she knows enough.

Q. Enough what? A. Enough dirty words. I was surprised when I first met her. She looked like an angel. She has got a very terrible mouth.

Q. How did you meet her? A. I met her through a cousin of mine.

*By the Court:*

Q. How did you get along before you were mar- 40  
ried? A. How did I get along before we were married?

*Nicholas Ciaglia, cross.*

Q. How did you get along with her before you were married? A. I used to go down and see once a week, and she looked like an angel. My God, I thought I would get along with her all right.

10 Q. You never had any quarrels before you were married? A. No, sir.

Q. She never used this language? A. No, sir.

*By Mr. Brunetto:*

Q. So this was a revelation to you when you went in this room and she used this language to you? A. Yes.

Q. Was that the same language that she used in the train, "Get the hell out," and the other? A. In the train?

20 Q. Yes. A. No. She just stood there looking out the window there. She wouldn't say that much to me.

Q. That is what all the trouble was coming down on the train, she just kept mum, wouldn't talk to you? A. That is all.

Q. When you got back to New Milford when did you have your first quarrel with her? A. When I got back to New Milford?

30 Q. Yes. A. Oh, I don't know. I think it was a couple of weeks later, I think it was. There was always arguments there with her.

Q. The first two weeks you got along pretty nicely with her, didn't you? A. Not so very good.

Q. What seemed to be the trouble? A. I don't know.

Q. Didn't she complain to you about anything? A. No, sir.

Q. How much money did you give her a week, spending money? A. Give her a week?

40 Q. Yes. A. Nothing. Didn't give her no money at all. She didn't need any money.

*Nicholas Ciaglia, cross.*

Q. Did she ask you for any? A. No, sir.

Q. Did she ask you for any money for any clothing? A. No, sir.

Q. At this time you were in the taxi business?  
A. Yes, sir.

Q. And this house where your wife and yourself lived—how far away is that from the garage? A. About a half a block. 10

Q. How many houses are there on the same side where the garage is? A. On this side where the garage is?

Q. Yes. A. How many houses on that street.

Q. Yes. A. There is no houses on that street.

Q. Vacant lots? A. It is just a garage, and that is all. The rest is all vacant.

Q. Are there any houses in back of the house where you and your wife lived? A. In the back? 20

Q. Yes. A. No. Alongside of it. Alongside each other.

Q. That is vacant land in the back too? A. Well, this is about fifty feet apart.

Q. In the back, directly in back? A. Straight in the back? No, sir; not straight in the back.

Q. Are there any houses in front of the house where you lived with your wife? A. There is a house there. 30

Q. Directly in front of it? A. Not right in front of it, about a block back, in front of it, away from it, back.

Q. Back a block? A. Back a block.

Q. So this was pretty open country? A. Yes.

Q. Now, until the time you married your wife, you were also a member of the police force in New Milford? A. Yes; marshal.

Q. A what? A. A marshal.

Q. You were a marshal? A. Yes. 40

*Nicholas Ciaglia, cross.*

Q. You did police duty? A. I did police duty?

Q. Yes. A. No, sir. Sometimes.

Q. As a marshal how many times a week were you doing police duty? A. Maybe I go out on Sundays.

10 Q. On a motorcycle? A. Motorcycle; yes, sir.

Q. Now, what would your wife say to you or what did she say to you about a couple of weeks after you arrived at New Milford? A. A couple of weeks later?

Q. When you had the first argument. A. I don't remember. She said so damn much to me, I don't remember.

Q. Who else was present? A. I don't remember.

20 Q. Wasn't your mother present? A. I don't remember.

Q. Wasn't your brother Joe present? A. I am not sure. I don't remember.

Q. Wasn't Andrew present? A. I don't remember.

Q. You don't remember anything? A. No, sir. My head wasn't in the right place.

Q. What was the trouble? A. What was the trouble, why, she was enough to get anybody. It is a wonder I ain't in the crazy house.

30 Q. Is that the reason you didn't go after her when her brother took her away from you? A. I didn't know nothing about it. I was over to the garage.

Q. When did you find out where she was? A. When I went back for supper.

Q. Did you make any effort to communicate with her? A. No, sir.

40 Q. You were glad she went away. A. I wasn't glad, but I figured this way. She left her home and she went. I didn't chase her out.

*Nicholas Ciaglia, cross.*

Q. You made no effort to go after her and find out where she had gone? A. No, sir.

Q. I show you a letter addressed to me, which is dated November 16, 1925, signed, Nicholas Ciaglia, and ask you whether you ever saw that letter before. And I show you the envelope and ask you if that letter was inclosed in that envelope. A. Yes, sir. 10

Q. Did you mail that letter? A. Yes, sir.

Q. Over in New York? A. Yes, sir. No, just a minute; no, sir. I think my brother mailed that.

Q. Which brother? A. Andrew.

Mr. Brunetto: Both the letter and the envelope, your Honor, are offered in evidence.

(The same are received in evidence and marked Exhibit P-4.) 20

*By Mr. Brunetto:*

Q. Did you tell your brother the contents of the letter? A. Yes, sir.

Q. Now, that was a letter in reply to a letter of mine, wasn't it? A. I think so. I won't say for sure.

Q. I will read you this letter, Mr. Ciaglia. "Thomas Brunetto; Dear sir: In reference to your letter of November 12th, the young lady in Mr. De Lorenzo's office"— 30

The Court: What is the date of this letter? Is the letter dated?

Mr. Brunetto: The letter is dated November 16, 1924. Letter printed New Milford, New Jersey; to Nicholas Ciaglia, debtor, taxi service. November 16, 1925. "Mr. Thomas Brunetto, Dear Sir: In reference to your letter of November 12th, the young lady in 40

*Nicholas Ciaglia, cross.*

10 Mr. De Lorenzo's office told me that Mr. Brunetto called up and said that Mrs. Ciaglia needed money, and I went out and borrowed the most I could as far as fifteen dollars a week alimony. Until then the only way I could raise some, I would have to go out and steal it. In reference to going out and seeing my wife, what is the use? She had no respect for me or for my mother, who was the one who made the match. Also gave her a hundred dollars to go and buy herself a coat and other clothes. Also fitted up a bedroom for us about one month before marriage. She had a good home, only she has not respect for anybody; and also

20 knew my circumstances that I could not afford a house of my own. Yours truly, Nicholas Ciaglia."

Q. Now, what did you mean in that letter that your wife had no respect for you or your mother?

A. She didn't have no respect for me. She didn't, because she didn't treat me the way she should have treated me.

30 Q. What had she done? A. What had she done? What do I know? I know she treated me like a dog and swearing at me all the time. That is all you can get out of her mouth.

Q. What had she done to your mother that she wasn't respectful to her mother-in-law? A. My mother used to treat her like a daughter.

Q. What had she done to your mother? A. What had she done to my mother?

Q. Yes. A. She didn't do anything to my mother. She didn't do what she was supposed to do home.

40 Q. Well, what did you mean then, that she has not respect for your mother? What had she done

*Nicholas Ciaglia, cross.*

that was disrespectful to your mother? A. My mother told her, "Listen, now," my mother says to her that, she said, "You must be nice to me." She said, "I am a mother." She said, "What mother?" She said, "I had a mother once." And that is all she said and she just walked away.

10

Q. When did she say that? A. When did she say that? Well, I can't remember when she said that, but I heard that. And then she went upstairs and got her jewelry and she threw it right on the table. She said, "Here. Who the hell wants your damn stuff," she said, and then she walked upstairs.

Q. Did you talk to your wife when she said that? A. No, sir. She went upstairs in the room.

Q. When did you talk to her the next time? A. When I talked to her the next time?

20

Q. Yes. A. I don't remember.

Q. Well, was it the same day? A. I don't remember.

Q. You slept with her that night, didn't you? A. I don't remember.

Q. Well, wasn't the first time that you didn't sleep with your wife five or six days before she went away? A. Yes.

30

Q. Therefore you slept with your wife the night when she gave this jewelry to your mother. A. I don't remember if I did or not. I can't say. I was so excited.

Q. Can't you remember two or three years ago whether you slept with your wife on that particular occasion? A. A week before she went away?

Q. No. The night that she gave the jewelry, or you say she threw this jewelry at your mother. A. Yes. She threw it on the table.

40

Q. You can't remember whether you slept with

*Nicholas Ciaglia, cross.*

your wife that night, can you? A. I can't remember.

Q. I show you another letter signed Nicholas Ciaglia, which letter is dated June 5, 1926, and ask you if that is in your handwriting. A. Yes, sir.

10

Mr. Brunetto: That is offered in evidence.

The Court: What is the date?

Mr. Brunetto: June 25, 1926.

(The same is received in evidence and marked Exhibit P-5.)

Q. Now, did you know where your wife was after she left your house? A. No, sir.

Q. Did you find out? A. No, sir. I never did.

Q. Didn't you get a letter from me on November 12th? A. I don't remember.

20

Q. In which the address was given to you? A. I don't remember.

Q. I show you six envelopes marked Exhibit P-3, and ask you if you ever saw those envelopes before? A. No, sir.

Q. Do you remember when your wife instituted the suit in Chancery? A. Yes, sir.

Q. And you retained Mr. De Lorenzo as your lawyer, didn't you? A. Yes.

30

Q. Mr. De Lorenzo prepared an answer in your suit in Chancery, didn't he? A. That I don't remember.

Q. Do you remember Mr. De Lorenzo reading the complaint to you? A. I remember the time down there in Chancery. I don't remember what went on.

Q. Well, De Lorenzo read to you the papers which had been filed against you by your wife? A. I don't remember.

40

Q. Would you say he did not? A. I don't remember.

*Nicholas Ciaglia, cross.*

Q. Where is this wedding ring and engagement ring that your wife gave to your mother? A. I have got it home.

Q. Did your wife wear a wedding ring after that? A. A wedding ring after that?

Q. Yes. A. Yes, sir. 10

Q. What ring did she wear? A. She wore the gold for around the house.

Q. Is this the ring that your wife wore after that? I ask you to look at it. A. I couldn't say.

Q. Does that look like the one she was wearing after she gave the engagement ring and the wedding ring to your mother? A. I couldn't tell you.

Q. Did you ever look at it while it was on her fingers? A. It was a ring something like that, but I couldn't say that was the one. 20

Q. Do you know Mrs. Dacunti? Did you ever see that woman before? A. Yes, sir.

Q. Do you remember the time she came up to see you up in New Milford? A. Yes.

Q. And she asked you why you weren't willing to live with your wife? Do you remember? A. She asked me what?

Q. Why you weren't living with your wife. A. She asked me that? 30

Q. Yes. A. I don't remember.

Q. Did she say anything to you about you and your wife making up? A. I don't remember.

Q. Would you say she didn't say it? A. I don't remember.

Q. Did you ever see Mr. Dacunti, her husband? A. Once.

Q. Where did you see him? A. I seen him up in New Milford.

Q. Now, what was the first day that you slept downstairs? A. I don't remember. 40

*Nicholas Ciaglia, cross.*

Q. Did you have a quarrel with your wife the day before? Did you have any quarrel with your wife the day before that you slept downstairs?

A. I had so many quarrels with her I don't even remember what day it was.

10 Q. Was there anything particularly that happened that day that made you sleep downstairs that night? A. I don't remember.

Q. Were you afraid of your wife? A. Was I afraid of my wife?

Q. That you didn't want to sleep upstairs in the same room. A. No, sir. I wasn't afraid of my wife.

Q. Did you talk to your brothers about sleeping downstairs? A. No, sir.

20 Q. Who made the bed for you downstairs? A. I slept on the couch.

Q. And you continued to sleep in the same place up to the time that your wife left, or up to the time that the brother came for her? A. Yes, sir.

Q. Did you say anything to your wife about it, or did she say anything to you during these five or six days that you slept downstairs? A. No, sir. I was out in the morning, came back for dinner, I went out again, and back for supper, and at  
30 nine o'clock I close up.

Q. Did you see your wife when you came in for dinner? A. Twelve o'clock.

Q. Did you see your wife? A. Sometimes I see her there.

Q. Did you talk to her? A. No, sir.

Q. Why? A. Why? Because she made it miserable for me.

Q. She had not said anything to you up to that time, had she? A. Well, she always had a habit of grumbling. Whatever she said I don't know.  
40

*Nicholas Ciaglia, cross.*

Q. Did she grumble at you that day? A. Well, sure, she would pass, "shrr, shrr." She would pass right in front of me. That was enough to get anybody disgusted.

Q. What did you say or what did you do about it? A. I didn't say nothing. I took it like a man. 10

Q. You didn't say anything to her? A. No.

Q. Was your mother present? A. I don't remember.

Q. Any of your brothers? A. I don't remember.

Q. Where would your wife go as she went by and she bumped up with her shoulders like this?

A. She would go up and downstairs, in one room, and upstairs in another room. That is all she was doing, up and down. I didn't know what she was doing it for. 20

Q. Did you ask her? A. No, I didn't.

Q. Why didn't you? A. I told you before that she made it miserable for me. It is a wonder I ain't in the crazy house.

Q. Do you remember the day when Mrs. Merola—when your wife got out of the car and you got out? A. What day?

Q. That your wife whistled at you? A. Yes.

Q. When was that? A. I don't know what day it was. 30

Q. How long before your wife went away? A. I don't remember.

Q. How long after you came from your honeymoon? A. How long after?

Q. Yes, that this particular incident took place. A. I don't remember. I know that day I took her down to Hackensack, gave her a ride down. I had to go down get some stuff, and I took her down, and when I got back she went out the car and I was ready to go to the garage, and she 40

*Nicholas Ciaglia, cross.*

whistled to me, and I turned around and she went like that to me.

Q. What did you do? A. I just went ahead. What could I do?

10 Q. It didn't hurt your feelings any? A. It did, but what could I do?

Q. Didn't you go back to scold her? A. What is the use of scolding her? You couldn't do nothing with her. She is as hard as a rock. What can you do?

Q. Did you ever scold her before? A. Lots of times.

Q. What did you do? A. I said, "You must not do them things. Be a little more nice," I said to her. But you couldn't do nothing to her.

20 Q. Did anybody else there, your mother or your brother, say the same things to her? A. Yes. They often told her, "Why don't you be nice to your husband? Your husband likes you and all. He wouldn't love you any more," and I told her. "If he wouldn't love me," she said, "I wouldn't love him either," she told me.

Q. She told you that? A. She did, yes.

Q. How many times did she tell you that? A. Oh, she told me a couple of times.

30 Q. And this was in your presence while either your mother or your brothers were telling her that she ought to treat you better than she was doing? A. Sometimes the folks were around.

Q. And she passed these remarks, "I don't care if my husband doesn't love me. He doesn't love me and I don't love him"? A. Yes, sir.

Q. Now, at this time in Hackensack in the Police Court, did you wait for your wife? A. Did I wait for my wife?

40 Q. Yes, after court was over. A. I don't remember.

*Nicholas Ciaglia, cross.*

Q. Isn't it a fact that you and your mother and your brother went right away from the police station and didn't wait to talk to your wife? A. I don't remember.

Q. Did you ask her to come home with you on this night when the Police Court trial took place in Hackensack? A. Why, Judge Moore told her. 10

Q. Did you ask her? A. No, sir.

Q. Did your brother ask her? A. I don't remember.

Q. Did your mother ask her to come home? A. I don't remember.

Q. Isn't it a fact that you didn't say a word to your wife during the whole time that you were in the Police Court at Hackensack? A. Why, we were in Judge Moore's office, we were. 20

Q. What did you say to your wife while you were in Judge Moore's office? A. I don't remember what I said.

Q. Did you ask her to come home with you? A. Why, Judge Moore asked—

Q. Did you ask her? A. No, sir. She didn't want to come home the first time. When Judge Moore asked me, "Are you willing to take her back?" I said, "Yes." And Judge Moore asked her and she said, "No." 30

Q. Did you wait outside for her? A. Wait outside? A. Why should I wait outside? I went right ahead. I don't know what I did then.

Q. As soon as she told the judge that she wouldn't go home with you, you went outside the judge's office and went home? A. Went outside. We didn't go right home.

Q. Did you see your wife outside? A. I don't know. I didn't care to look around for anybody.

Q. Did you see your wife outside? A. I didn't 40

*Nicholas Ciaglia, cross.*

care to look around for anybody. I had my mind off.

Q. Do you remember when your wife gave birth to this baby? A. Do I remember?

Q. Yes. A. No, sir.

10 Q. Did anybody tell you about it, either by telephone or letter? A. No, sir. I don't remember.

Q. Isn't it a fact that Mrs. Dacunti telephoned to you and told you that your baby's body was over to her house? A. I didn't get the message.

Q. Was there such a message delivered at your garage? A. I don't know.

Q. Did you talk to her, Mrs. Dacunti, at that time? A. Did I talk to her?

20 Q. Yes, in October when this baby was born. A. At the telephone?

Q. Yes. A. No, sir.

Q. Did you talk to anybody over the telephone? A. No, sir.

Q. You knew where your wife was at the time?

A. I knew where my wife was?

Q. Yes. A. I don't know where she is today.

*By the Court:*

30 Q. No. At that time. A. At that time; no, sir.

*By Mr. Brunetto:*

Q. Did you make any effort? A. No, sir. I think my brother one time wrote to him on the address.

Q. Did you ask your brother at any time where he was sending the money to your wife? A. Out in Long Island some place.

Q. Did you ask him for the address? A. No. He was taking care of that.

40 Q. Did you ask him where your wife lived? A. No, sir.

*Nicholas Ciaglia, cross.*

Q. So that you could go out and see her? A. So I could go out and see her?

Q. Yes. A. No, sir.

Q. You didn't care about going out to see where your wife was, did you? A. After the way she treated me?

10

Q. Will you answer my question? A. No, sir, I didn't.

Q. You were glad that your wife left you? A. I wasn't glad.

Q. That her brother took her away? A. I don't know when her brother took her away. I was at the garage.

Q. Did you receive a telegram from your wife or her brother stating that she was sick and about to become a mother? A. Later in the evening I think it was. I received a telegram in the evening later.

20

Q. Did that give you the address where she was? A. I don't know.

Q. Wasn't the telegram to the effect that your wife had given birth to a baby and the baby was dead? A. I don't remember what it said in the telegram.

Q. Would you say the telegram didn't say that? A. I don't know what it said.

30

Q. You didn't pay much attention to it? A. No, because I wasn't right. My mind was off on what she did to me.

Q. Your wife had not been bothering you then for five or six months. You hadn't cooled down any? A. No, sir.

Q. You were still excited? A. No, sir. It is a wonder I ain't in the crazy house, the way she treated me.

40

*Nicholas Ciaglia, redirect-recross.*

*Redirect examination by Mr. Agnew:*

Q. After your wife gave up her wedding ring and engagement ring did she ever ask you to give the wedding ring back? A. No, sir.

10 *Recross examination by Mr. Brunetto:*

Q. Did she ever ask your mother in your presence? A. What was that?

Q. Did she ever ask your mother in your presence? A. Ask for what?

Q. For the wedding ring and engagement ring and the other jewelry which she gave back. A. No, sir.

20 (Adjourned until tomorrow, Thursday, March 21, 1929, at ten o'clock a. m.

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THIRD DAY.

Thursday, March 21, 1929.

Met pursuant to adjournment.

Present, counsel as before stated.

30 NICHOLAS CIAGLIA, recalled in behalf of the defendants.

*Further cross examination by Mr. Brunetto:*

Q. Mr. Ciaglia, how old are you? A. Thirty-three.

Q. Are you thirty-three now? A. I will be thirty-three in April.

40

*Antonia Ciaglia, direct.*

ANTONIA CIAGLIA, one of the defendants, sworn in her own behalf. (Testimony taken through interpreter in Italian.)

*Direct examination by Mr. Agnew:*

Q. Mrs. Ciaglia, where do you live? A. I don't know the number. 10

Q. What town do you live in? A. New Milford.

Q. That is in Bergen County. You are the mother of Nicholas and mother-in-law of Eleanore Ciaglia, the plaintiff in this case? A. Yes.

Q. After the honeymoon did they come to live at your house in New Milford? A. Yes.

Q. At or about the time they were married, did you give the bride anything? A. I gave her jewels and she went to live with me, and I gave her all the commodities of the house. 20

Q. Did you give her any money at that time? A. A hundred dollars.

Q. Do you know what she did with the hundred dollars? A. She bought a coat, and with the other money I don't know what she did.

Q. And after they were married and while she was living with you did you buy her anything else? A. Yes. We dressed her from head to foot, and whatever she wanted we gave her. 30

Q. In the month of May did you take her shopping with you to Hackensack? A. Yes.

Q. What happened on that trip? A. Yes. We took her shopping to buy the coat, and she didn't like the coat, and she didn't buy the coat. She bought a hat instead.

Q. Who paid for the hat? A. I paid for it.

Q. Did you ever threaten your daughter-in-law in any way? A. Never. 40

*Antonia Ciaglia, direct.*

Q. Did you ever say that she was crazy and no good? A. No.

Q. Did you ever choke her or try to choke her? A. No. It is hardly possible for me to raise my hands. I have rheumatism.

10 Q. How old are you, Mrs. Ciaglia? A. Seventy.

Q. Have you been under the doctor's care for the last few years? A. Yes.

Q. For how long? A. For many years. I have rheumatism and I have to go to a doctor.

Q. Is your husband living? A. No. He is dead twenty years.

Q. What doctor have you been going to? A. To a chiropractor to help him remove my rheumatism.

20 Q. And in 1925 when your daughter-in-law was living with you, did you go to this chiropractor? A. Yes.

Q. Where is this chiropractor? A. I don't know the number or anything.

Q. I mean, is he in New York? A. New York, yes.

Q. How would you go there? A. With the automobile.

Q. Did you take your daughter-in-law with you? A. Yes.

30 Q. Have you any idea how many times you made the trip with your daughter-in-law? A. I don't exactly remember, about three or four times, because later she didn't want to come any more.

Q. Did you hear what your daughter said in her testimony on the stand as to remarks you made about her and against her? A. I heard it but they weren't true.

Q. Were any of those statements true?

40 (Objected to as to the form of the question and on the ground that it calls for a conclusion.)

*Antonia Ciaglia, direct.*

The Court: The objection will be sustained. I think it ought to be sustained for this reason in addition to a general reason. The testimony was given by the daughter in a low tone of voice and was given in Italian. The interpretation I understand this witness could not comprehend because she does not understand English. 10

Q. Did you ever try to excite any ill will or hatred on the part of your son against his wife or your daughter-in-law against her husband? A. No. I always tried to make peace.

Q. Who did the cooking in the house while your daughter-in-law was living there? A. I would do the cooking. I would clean the dishes. I would perhaps take a little dust away. 20

Q. Do you remember the occasion when your daughter-in-law gave up her engagement ring and wedding ring? A. Yes.

Q. About how long was that before she left her husband? A. I don't remember these things.

Q. Can you recall whether it was a week or a month or two months? About how long? A. I don't remember these things.

Q. Will you tell us what happened on that occasion? A. The daughter-in-law came in with a haughty attitude and threw the rings on the table. She said, "I can't bear to see him and he can't bear to see me." 30

Mr. Brunetto: "You hate me and I hate him."

The Interpreter: "The husband can't bear to see me and I can't bear to see him."

Mr. Brunetto: She mentioned the name husband now. 40

*Antonia Ciaglia, direct.*

A. (Continuing.) I said, "Watch out what you do and be ashamed of yourself."

Q. After she gave up her wedding ring, did she ever ask for it back again? A. No.

10 Q. Will you tell us what happened about getting your son Nick up in the morning? A. I used to get him up in the morning because he had to get up to get his customers. He was in the taxi business.

Q. What did your daughter-in-law say about that, if anything? A. She said she didn't want to be disturbed. I called him once or twice.

Q. Have you seen her brother come to your house? A. Yes.

20 Q. Can you remember about how long after they were married it was when he first called at your place? A. It was a short time after they were married that he came. It was perhaps two or three weeks.

Q. What happened on that occasion, if you remember? A. I don't remember what happened on that occasion.

Q. Do you remember any time he called when you gave him some eggs? A. Yes.

30 Q. What did he say on that occasion, if anything? A. We would start to talk and he would always tell us that he was a gambler and he was in the cafes.

Q. Did he say where the cafes were? A. He said in the cafes of New York.

Q. On those visits would he sit down and eat at your table with yourself and the family? A. Yes, he would always eat.

40 Q. What have you to say about how your son and daughter-in-law got along together while they were living at your house? A. Well, they started

*Antonia Ciaglia, cross.*

to hate each other, and I tried to make peace and make them together.

Mr. Brunetto: "Always make peace."

The Interpreter: "Always make peace."

Q. Did you ever hear any bad words or bad language used between them? A. Yes. Her mouth was always in bad words all day. 10

Q. Were you present when her brother came and took her away? A. Yes. I was in the house when he came and I told him, "Watch out what you are doing." And he said, "I came to take my sister." He said, "I can support her."

Q. Do you know anything about this ring that has been mentioned in the case? A. Yes. I had given the ring to her. 20

Q. Where did you get that ring? A. My son is a jeweler and he always brings home old jewelry, and I usually select from them, from what he brings home, and I told her to take her pick of that.

Q. Did you ever threaten your son Nick that if he remained with his wife and treated her kindly you would have nothing more to do with him? A. No. I always told him good things. I always tried to make peace. 30

Q. You have a number of other children married? A. Yes.

Q. Have you ever seen this daughter-in-law Eleanore since she left your house in July, 1925? A. No.

*Cross examination by Mr. Brunetto:*

Q. Mrs. Ciaglia, is this the ring that you say your daughter-in-law picked out and you gave it 40

*Antonia Ciaglia, cross.*

to her? A. I gave her a ring, but I don't know if this is the one or not.

Q. Does that ring look like the one that you gave her? A. Well, they all look alike. I don't know. Even the one on my finger looks alike.

10 Q. Does this ring look something like the one that you gave her, as far as you can remember now? A. I gave her a ring like that, but I don't know if it is that or not. I can't say if it is that.

Mr. Brunetto: Your Honor, I move that that answer be stricken out as not being responsive.

The Court: It will be.

20 (The last question is read by the stenographer.)

The Court: Yes or no the answer should be.

A. I can't tell. I don't know if it is exactly the same as the precise ring. They are all alike.

Mr. Brunetto: I move that that answer be stricken out, your Honor, as not being responsive.

30 Mr. Agnew: If the Court please, I think that is the best answer the witness can make.

The Court: "They are all alike" will be stricken out. The rest of it will remain.

Q. Mrs. Ciaglia, was the ring that you gave her the same shape and the same color as this one here? A. I can't tell. It was the same color; it was the same shape. I gave her a ring.

40 Q. And what color was the one you gave your

*Antonia Ciaglia, cross.*

daughter-in-law? A. It is four years ago. I can't keep it in mind, the color it was.

Q. Now, do you remember when your daughter-in-law filed a suit against your son in the Court of Chancery for support? A. Was that in Hackensack? 10

Q. In the Court of Chancery. A. Well, that was just a talk between both parties. There was no case there.

Q. Did you go with your son to the lawyer when he got the papers from the sheriff of Bergen County? A. I went to the lawyer for advice, because she always wanted to go. She always wanted to go, and I went to him and I told him that she always wanted to go; went to the lawyer.

Q. Well, was that before your daughter-in-law went away that you went over to see the lawyer? A. That was before, before she left. 20

Q. Who was that lawyer? A. De Lorenzo.

Q. And that was before the case in the Hackensack Police Court? A. I don't remember.

Q. Were you in court in the Hackensack Police Court when your daughter-in-law made a complaint against your son? A. Yes.

Q. Did you hear what your daughter-in-law said or what your son said in the Police Court in Hackensack about getting together? A. Well, I don't remember what they said. All this talking was done in English and I don't understand. 30

Q. Did your daughter-in-law talk in English too? A. No, but her lawyer was Italian. He spoke in English.

Q. Did you hear her talk to a lawyer in Italian? A. I don't remember.

Q. Do you remember the judge asking your daughter-in-law whether she wanted to go back to 40

*Antonia Ciaglia, cross.*

her husband? A. I don't remember what the judge said, but I know she didn't want to return.

Q. When did you hear that, that she didn't want to return? A. I don't remember these things.

10 Q. Well, was it in the Police Court or was it in the hall or was it out on the street, on the sidewalk? A. Well, all the conversation was in the court.

Q. Then you heard what the judge asked your daughter-in-law in the court, didn't you? A. I don't remember.

20 Q. Well, how do you remember that your daughter-in-law did say to the judge that she didn't want to go back? A. Well, I remember a little bit that she said that she didn't want to go back; she didn't want to see him any more.

Q. Did she say that in Italian? A. She said that from outside the door, that "I will not go back," when we went out.

Q. Oh, did you talk to your daughter-in-law as you went out? A. No, but as we were coming out she made me hear, "I will not go back even if I have to cut off my head."

30 Q. To whom did she address the remarks? Did she talk to you or did she talk to your son or to whom? A. Well, she didn't say it to nobody, but as we were passing she said it so we could hear it, "I will not go back even if I have to cut off my head."

Q. Did they get out of the Police Court before you and your son; that is, your daughter-in-law and her brother? A. I don't remember, but we found them outside.

40 Q. On the sidewalk? A. In the room of the court, in the court room.

Q. Was the judge there? A. No.

*Antonia Ciaglia, cross.*

Q. Who else was there? A. Well, it was us there, my children, myself.

Q. Which one of your children? A. Nick and Andy; but she said it in back of me to make me hear it.

Q. How do you know that that was her intention, that she just said that so you were the only that could hear it or was to hear it? A. Because she always said that when I tried to make peace. She said, "I will go and I don't want to see him any more." 10

Q. Is that the reason that you are telling us now that she said this on the night in the Police Court, because she always has said it before? A. No, but just to make me hear it she said it even in court.

Q. How do you know that she intended that you be the only one to hear these remarks? A. I don't know, but I heard it; that is certain. 20

Q. Did she say it in a loud tone of voice? A. Yes, she said it while she was speaking so I heard it.

Q. Did she say it loudly or quietly? A. I heard it. I don't know how she said it, loud or soft.

Q. How far was she from you at the time she said these words? A. I don't remember. We were passing by and she said it. 30

Q. How far were your sons Nick and Andrew from you at the time that she passed by? A. We were walking in file, and she to make me hear it said that, "I don't want to come back. I don't want to see him any more."

Mr. Brunetto: I move that that part of the answer be stricken out, your Honor, as not being responsive.

The Court: It will be stricken out. 40

*Antonia Ciaglia, cross.*

Q. Now, will you answer my question, Mrs. Ciaglia?

(The last question is read by the stenographer.)

10 A. I don't remember. I didn't take a measure and measure it.

Q. Were your sons Andrew and Nicholas as far away from you as the interpreter is? A. I don't remember.

Q. Now, Mrs. Ciaglia, when did you pick this ring which you gave to your daughter-in-law? Do you remember when that was, calling attention to Exhibit P-1? A. Yes. She was complaining that her good ring was getting dirty while she was washing the dishes and doing housework, and I gave her that for appearances.

20

Q. When did she complain about that, that you gave her this ring? When? A. I don't know what you mean by complaining.

Q. When did the daughter-in-law say that she wanted some other ring? When was that that you finally gave her this one? A. When she came in the house I gave her that ring.

Q. Was it right after the honeymoon? A. Yes.

30

Q. And did you give your daughter-in-law the other jewelry so she could wear it; that is, the one that your son gave her, such as the engagement ring and the wedding ring and the bracelet? A. She had them. When she gave them back to me, then I gave them to her husband.

Q. And has her husband had these rings and this bracelet ever since?

40

The Court: Isn't that taking up unnecessary time when he admitted on the stand

*Antonia Ciaglia, cross.*

that he had them, when he admitted on the stand that he had these rings.

Q. Did your daughter-in-law ask you for these rings and the bracelet? A. No, never.

Q. Now, Mrs. Ciaglia, you say your daughter-in-law used to quarrel with her husband quite often. 10

(The last question is read by the stenographer.)

Question withdrawn.

Q. When was the first quarrel that your daughter-in-law had with her husband?

(Colloquy in Italian between the witness and the interpreter.)

The Court: These long talks between the interpreter and the witness—you can't remember all that now. 20

The Interpreter: Yes, but I have the approximate idea, your Honor. What she means to say is that as soon as they came back from the honeymoon she noticed that they weren't agreeing. She waited up until twelve o'clock for them, and she seen them come in. He was in front with the suitcase, and she was in the rear walking alone. 30

Q. Did they quarrel when they got in the house?  
A. No.

Q. When did they quarrel after they came back from their honeymoon? When was the first quarrel? A. I don't remember.

Q. Well, was it a week or a month or two months after or three months? A. I don't remember.

Q. Who was present when this first quarrel took 40

*Antonia Ciaglia, cross.*

place? A. I was always present. I tried to make peace. I didn't want to see them fight.

Q. When was that? A. I don't remember.

Q. Well, what did your daughter-in-law say or what did your son say to her? A. She would always speak in a nasty attitude toward my son, and my son didn't want to hear these nasty words.

Mr. Brunetto: I move that that answer be stricken out. I think the witness should be directed to answer the question.

The Court: The answer will be stricken out.

A. I am ashamed to say the bad words. "If I go away who the hell wants to see you," and such like that.

Q. The daughter-in-law said that? A. Yes, sir. My son never swears.

Q. But your daughter-in-law said, "If I go away who the hell wants to see you?" A. She would say, "I am going away. Who the hell wants to see you? I am not coming back."

Q. Well, what had your son said to your daughter-in-law before she said that? A. I don't remember.

Q. Then that is the only part of the conversation that you remember during the whole time that your daughter lived with your son at your house, that, "If I am going away, who the hell wants to see you," or something to that effect? A. Well, it was always going off. She would say, "If you lose your love for me, I will lose my love for you."

Q. Who said that? A. The daughter-in-law.

Q. What did your daughter-in-law say or what did your son say before your daughter-in-law said, "If you lose your love for me, I will also lose my

*Antonia Ciaglia, cross.*

love for you"? What was said between the two parties? That is, I want the words, what your son said and what your daughter-in-law said. A. I don't know. I wasn't always around them.

Q. Well, where were you? A. I was in the house. 10

Q. And that was the same house where your son and your daughter were, wasn't it? A. Well, there was more than one room. I couldn't hear them all the time.

Q. Well, what room did these conversations take place in? A. In the rooms of the house.

Q. Well, on the first floor or in the kitchen or the dining room or the bedroom or the store? A. Wherever they would find themselves. Wherever they would get up. 20

Q. Well, were those the only words that you can remember that you ever heard, what you have just told us? A. Yes. I would hear those words.

Q. Do you remember the time that your son stopped sleeping with his wife? A. I remember, but I don't remember just exactly when. I just remember she said she didn't want to be disturbed.

Q. How long did your son sleep alone before his wife left him? A. I don't remember. 30

Q. Do you know whether it was a day or a week or a month or two months? A. It is four years ago. I can't remember.

Q. Did your daughter-in-law complain to you about her husband not sleeping with her? A. No.

Q. Now, Mrs. Ciaglia, you knew your daughter-in-law before she was married? A. Yes.

Q. And you made the match between your daughter-in-law and your son? A. Yes. I liked her. 40

Q. How long had you known Mrs. Ciaglia before

*Antonia Ciaglia, cross.*

she married your son? A. I don't remember. I knew that they were from the same town.

Q. Well, did you know her for a day or did you know her for years back? A. I knew her for about a month, two months.

10 Q. Well, your son kept company with Mrs. Ciaglia for about six months, didn't he? A. I don't remember how many months it has been, but I knew that they had known each other.

Q. Did your son know Mrs. Ciaglia before you introduced him to your daughter-in-law? A. Where she was at home they made us meet her, as is the custom of Italian matrimonies.

20 Q. And you went with your son to your daughter-in-law's house every Sunday when he went over to see her? A. We went twice a week. I would go to the doctor and then we would go there.

Q. Now, the time that you gave her this shopping tour to Hackensack in May, that was during the time that your daughter was dead? When you took your daughter-in-law on this shopping tour in May, 1925, that was while your daughter-in-law was dead, while the body was still up at your home? A. Yes.

30 Q. And you took your daughter-in-law, Mrs. Ciaglia, to buy some mourning clothes, isn't that so? A. Yes. He had to buy some, so she had to buy some too.

Q. Outside of that trip and the trip to the chiropractor's your daughter-in-law never went automobile riding with you and your son? A. Yes. She always did. When I went to Hackensack to visit my son I would tell my son to take me and let her come too.

40 Q. You asked Nick to let his wife come along?

*Antonia Ciaglia, cross.*

A. Nick would say, "I have to go to Hackensack," and I would ask his wife to go along and she would come along.

Q. How many times did you do that during the period that Mrs. Ciaglia lived with your son at New Milford; that is, from January to June? A. I don't exactly remember how many times. It may have been four or five times, ten times, I don't remember exactly. 10

Q. When was it that Mrs. Ciaglia's brother told you that he was a gambler? A. Every time they would talk Mrs. Ciaglia would say that her brother was a gambler.

Mr. Brunetto: I move that the answer be stricken out. 20

The Court: It will be.

(The last question is read by the stenographer.)

A. I don't remember the first time.

Q. Well, did Mrs. Ciaglia's brother tell you that he was a gambler, or did Mrs. Ciaglia, your daughter-in-law, tell you that? A. My daughter-in-law would tell me.

Q. Then her brother never told you that he was a gambler? A. No. His sister told me. 30

Mr. Brunetto: Then, your Honor, at this time I move to strike out from the record her testimony on direct examination in which she said that the brother had told her that he was a gambler.

The Court: It will be.

Q. Did you ever give your daughter-in-law any spending money while she was living with you? 40

*Antonia Ciaglia, cross.*

A. Yes. Every time she went out I would always give her money.

Q. Did she ever go out alone? A. No. With a sort of a country, where could she go alone?

10 Q. Did you ever go with her besides the times that you went in the automobile with Nick? A. Yes. We would always go to my daughter's home before she was dead.

Q. How far away was your daughter's house? A. About two or three blocks.

Q. Well, you wouldn't spend any money from your house to your daughter's house, would you?

A. Whenever we would go to Hackensack I would give her money. I would give her two, three, four dollars.

20 Q. At the time you used to go out to your daughter's house, did you ever go and see any neighbors? A. She would never want to go. She would always say, "Who the hell knows, who wants to know them?"

Q. And you walked around when you made these visits to your daughter's house to any neighbors? A. It was only two blocks away.

30 Q. Now, from the time that your daughter-in-law lived with her son, she did the housework, didn't she, such as washing dishes, making the beds, doing other housework? A. She didn't make my bed. She made her bed.

Q. Who made the boys' beds, Andrew and Joe? A. Well, she would make her bed and then she would make another bed.

Q. Whose bed was that? A. It was my children's bed.

40 Q. Did Joe and Andrew sleep together? A. Frank and Andy would sleep together.

*Eleanore Ciaglia, direct.*

Q. Is that the bed that your daughter-in-law made? A. Yes.

Q. Now, what other work did she do? A. Well, I would cook and she would probably take the dust away from the rooms, and then she would wash the dishes.

10

Q. Did you do any work yourself? A. The hardest thing to be done was the floors, and my son would wash the floors.

(Discussion.)

Mr. Brunetto: I move that that answer be stricken out as not being responsive.

The Court: It may remain.

Q. Did you do any work yourself, Mrs. Ciaglia? A. Well, we had the laundry. The floors, my son would wash the floors. Perhaps cooking I would do.

20

## DEFENDANTS REST.

ELEANORE CIAGLIA, the plaintiff, recalled in rebuttal in her own behalf (testifies in Italian through interpreter).

*Direct examination by Mr. Brunetto:*

30

Q. Mrs. Ciaglia, did you ever tell your mother-in-law that your brother was a gambler? A. No.

Q. Mrs. Ciaglia, did you hear the remark that Mrs. Ciaglia from Utica said that you said to your husband when this party took place in Utica? Did you say those remarks? A. I didn't say them.

Q. Did you ever stick your fingers to your nose at your husband? A. No.

Q. Did you ever whistle at your husband while he was going toward the garage as you got out of

40

*Eleanore Ciaglia, cross.*

the car and stick your fingers to your nose? A. No.

10 Q. Mrs. Ciaglia, did you say to your mother-in-law as you were going out of the Police Court from Hackensack that you would never go back to your husband? A. No.

Q. Are you ready and willing to go and live with your husband if he furnishes you a home away from your mother-in-law and your brothers-in-law?

Objected to as irrelevant and outside the realm of this case.

Objection sustained.

20 Q. Mrs. Ciaglia, were you ever disrespectful to your husband or your mother-in-law or your brothers-in-law who were living at this house in New Milford, while you were living there? A. Never.

Q. Did you ever tell your husband to go to hell? A. Never.

Q. Did you ever tell his mother? A. Never.

30 Q. Now, Mrs. Ciaglia, did you ever complain to your mother-in-law or your brothers-in-law that you didn't want them to disturb you or your husband at that hour in the morning? A. No.

*Cross examination by Mr. Agnew:*

Q. Mrs. Ciaglia, don't you remember on some occasions that you told these people while you were living in New Milford, in order to get in touch with your brother you would have to do so in cafes in New York City? A. No, I never said that.

40 Q. What did you say about the cafes in Thompson Street?

*Arthur Grimaldi, direct.*

Objected to on the ground that the witness did not say anything about cafes on Thompson Street.

Objection sustained.

Q. Did you ever say anything about the cafes on Thompson Street in New York City? A. Never. 10

Q. You know where the cafes are in Thompson Street, don't you?

Objected to.

Objection overruled.

A. No.

Q. And you waited outside while you sent word into him?

Objected to on the ground that there is no such testimony. 20

Objection overruled.

A. No, never.

Q. You weren't very happy with your husband while you were living in New Milford, were you?

The Court: Now, I think we have gone all through that.

---

ARTHUR GRIMALDI, recalled in behalf of the plaintiffs in rebuttal. 30

*Direct examination by Mr. Brunetto:*

Q. Mr. Grimaldi, do you remember the day you went after your sister? A. Yes, sir.

Q. Did you stop in this barber shop? A. Yes, sir.

Q. Did you see the son there? A. No.

Q. Whom did you see in there? A. That happened Thursday morning. 40

*Motion for Direction of Verdict.*

Q. Yes, but whom did you see in the barber shop? A. The barber.

Q. Did you make any remark while you were in the store that you were going to where your sister lived? A. Yes, sir.

10 Q. And that you were going to roast everybody in that house or in the family? A. No.

The Court: That is not rebuttal at all because that question was asked upon cross examination before.

Mr. Brunetto: Well, your Honor, I have so much of it here. Your Honor has the notes.

20 The Court: That was asked on cross examination.

Mr. Brunetto: That is all, your Honor.

30 Mr. Agnew: I would like to make a motion for a direction of a verdict, and in doing so I renew the reasons given on the motion for the nonsuit. In addition, now, that the testimony is all in, it is really apparent that this couple were not a happily married couple, that there was not the affection existing there that should exist in a normal marital relation. There was discord, argument, unhappiness of all kinds for the six months they lived in New Milford. Now, in order to establish a case in a theory of this kind, there must be affection to alienate, and if there is no affection to alienate, of course, therefore nobody can alienate it, and it appears to me that in this case if there was any alienation of affections, it was between the parties themselves and not by any outside influences.

40

(Argument.)

*Charge of the Court.*

Motion denied.

Defendants' counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

Mr. Agnew sums up the case in behalf of the defendants. 10

Mr. Brunetto sums up the case in behalf of the plaintiff.

The Court charges the jury as follows:

DUNGAN, J.:

This is a case in which the plaintiff, Mrs. Elea-  
nore Ciaglia, charges that the defendants, Antonia  
Ciaglia, Andrew Ciaglia and Joseph Ciaglia, who  
are her mother-in-law and brothers-in-law, 20  
alienated from her the affections of her husband,  
Nicholas Ciaglia, under such circumstances as give  
rise to an action for damages by her against them.

The mere fact that she lost the affections of her  
husband and that the occurrences which led to that  
loss happened in the defendants' home while she  
was living there with her husband, or the fact that  
while she was living there she had frequent dis-  
agreements or quarrels with him or with other  
members of the family, or that conditions there 30  
were so disagreeable that she left the home, would  
not entitle her to your verdict. It frequently hap-  
pens that it is a disagreeable experience for a  
daughter-in-law to live with her husband's family.  
They have their own ways and methods of living,  
which frequently are entirely different from those  
to which she has been accustomed; and if she be  
lacking in adaptability to the new conditions, her  
life is likely to be miserable.

If her failure to adapt herself to the method of 40  
living in her husband's home resulted in his loss

*Charge of the Court.*

of affection for her and even in mistreatment of her and even physical violence, of which there is no evidence in this case, that would not entitle her to damages against her husband's mother and brothers. He is not a party defendant in this suit at all. Any wrongdoing on his part is not the subject of this action. The action against him has been taken, as we have heard in this suit, in the Court in Hackensack before Judge Moore, and in the Court of Chancery of the State of New Jersey. Even though you may believe that he was unkind to his wife or mistreated her, that would give no right of action against his mother and brothers unless they wilfully and intentionally, by their words and conduct, induced his action against his wife.

On the other hand, bad temper on her part or her failure to do her share of the cooking and other household work, which might have indicated the desirability of her husband and her seeking other living quarters, would not justify the mother and brothers in saying and doing those things which they intended should alienate the affections and separate these young married people. Even though, as intimated by the husband, he had lost his affection for his wife because of her bad temper, language and conduct, and there was no affection left for his wife which could be alienated,—even that did not justify them, his mother and brothers, in doing those things which they intended should separate these spouses. As our courts have said, the gist of an action for alienation of affections is not so much the loss of love as it is the loss of the support and conjugal society and consortium of her husband, loss of consortium meaning the loss of the aid, support,

*Charge of the Court.*

protection, comfort and society of her husband, to which she is entitled, even though he no longer loves her.

The question in this case therefore is whether or not the evidence shows that Antonia Ciaglia, the mother-in-law, and Andrew and Joseph, the brothers-in-law, or one or more of them, said and did those things which the plaintiff says they said and did, most of which they deny, I should say in passing.

10

I am not calling your attention to the testimony, gentlemen. That has been called to your attention in the two arguments which you have had.

I will repeat. The question in this case therefore is whether or not the evidence shows that these defendants, or one or more of them, said and did those things which the plaintiff says they did and with intent to alienate the affections of their son and brother Nicholas from his wife and to separate them, and that it was what they said and did which actually resulted in their separation. Now, that is the main point that you are to consider when you go to the jury room, whether they said and did things which they intended should alienate the affections of Nicholas from his wife and to separate them. If it was the mere quarrels that occurred in the family, the bad temper and the bad feeling thus engendered, and there was no intention on their part to say and do things to separate these young people, that would not be alienation of affections.

20

30

The burden of proving by the greater weight of the evidence that they said and did these things which the plaintiff asserts, and that these things were what caused the loss of affections of the husband and their separation, is upon the plaintiff.

40

*Charge of the Court.*

10 Before she is entitled to recover you should find those facts to be established by the greater weight of the evidence in the case. If they are not so established as to any one or more of the defendants, your verdict should be in favor of that defendant or defendants; and if they are not established against any of them, your verdict should be against the plaintiff and in favor of all the defendants.

20 However, if you should decide that the greater weight of the evidence establishes the guilt of one or more or all of them and shows that they purposely intentionally endeavored, successfully, to separate these people, then your verdict should be in favor of the plaintiff and against such or all of the defendants whose wrongdoing appears, without any attempt on your part to apportion the damages which you shall find in her favor between or among them if your verdict should be against more than one. If you do so decide that the plaintiff is entitled to your verdict, you should award to her such sum as will make up to her, so far as money can do so, the value of the support and consortium lost by her through the wrong of the defendants, not her husband, but through the wrong of the defendants, not only up to the present time but in the future; and if you believe from the evidence that what they have wrongfully said and done has resulted in that loss being permanent, then for her permanent loss and for the wrong and injury done to her feelings, character and reputation.

40 As has been suggested to you in the argument these damages, if you decide in her favor, are not such damages as can be accurately calculated as you would calculate the amount due upon a note

*Exhibits.*

or upon a book account or upon a contract, but are such as must be left very much to the sound discretion and judgment of you twelve gentlemen to say what will be a money return to her for the deprivations which she has suffered through the wrongful intentional acts of these defendants. 10

**Exhibit P-3.**

COPY

If not delivered in 5 days return to (Stamp)

A. CIAGLIA

70-72 Bowery

New York

July 14, 1926

Hud. Term Sta.

N. Y.

20

July 21, 8:30 P. M.

1926

E. Ciaglia

272 liberty Ave

Bklyn

If not delivered in 5 days return to (Stamp)

A. CIAGLIA

70-72 Bowery

New York

Aug. 3, 1926

30

Hud. Term Sta. 4

Aug 7

5 P. M.

1926

N. Y.

E. Ciaglia

272 liberty Ave

Bklyn

N. Y.

40

*Exhibits.*

- If not delivered in 5 days return to (Stamp)  
 A. CIAGLIA  
 70-72 Bowery  
 New York  
 Aug. 17
- 10                   Hud Term Sta. N. Y.  
                       Aug. 19 8 P. M.  
                       1926
- E. Ciaglia  
                       272 liberty Ave  
                       Bklyn  
                       N. Y.
- 
- If not delivered in 5 days return to (Stamp)  
 A. CIAGLIA  
 70-72 Bowery  
 New York
- 20                   Hud Term Sta. N. Y.  
                       Sep. 23  
                       10:30 A. M.  
                       1926
- E. Ciaglia  
                       272 liberty Ave  
                       Bklyn  
                       N. Y.
- 
- If not delivered in 5 days return to (Stamp)  
 A. CIAGLIA  
 70-72 Bowery  
 New York
- 30                   New York, N. Y. Sta. S  
                       Oct. 28  
                       3 P. M.  
                       1926
- E. Ciaglia  
                       272 liberty Ave  
                       Bklyn  
                       N. Y.
- 40

*Exhibits.*

If not delivered in 5 days return to (Stamp)  
 A. CIAGLIA  
 70-72 Bowery  
 New York  
 Hud Term Sta. N. Y.  
 Oct. 9 10  
 5:30 P. M.  
 1926  
 E. Ciaglia  
 272 liberty Ave  
 Bklyn  
 N. Y.

**Exhibit P-4.**

Nov. 16, 1925. 20

Mr. Thomas Brunetto,

Dear Sir

In reference to your letter of Nov. 12, the young lady in Mr. DeLorenzo's office told me that Mr. Brunetto called up and said that Mrs. Ciaglia needed money and I went out and borrowed the most that I could as for \$15.00 a week alimony until the trial the only way I could raise same I would have to go out and steal it in reference to going out and see my wife what is the use she had no respect for me or for my mother who was the one that made the match also gave her \$100.00 dollars to go and buy herself a coat and other clothes also fitted up a bed room for us about one month before our marriage she had a good home only she had no respect for anybody and also knew my circumstances that I could not afford a home of my own, 30

Yours,

NICHOLAS CIAGLIA. 40

*Exhibits.*

**Exhibit P-5.**

June 25, 1926

Mr. Thomas Brunetto.

Dear Sir:

10

Received your letter of June 23. I am in arrears of four weeks. I had an accident and almost lost 3 fingers. I did consent to give her \$10.00 a week. Thinking for about one or two months while she was sick. I had some jewelry which I sold and that is how I have been able to send her \$10.00 a week in the past. How can I paid \$10.00 a week when I have all to do to send her \$5.00 a week.

Yours truly,

20

NICHOLAS CIAGLIA.

30

40

[1223]

## New Jersey Court of Errors and Appeals

ELEANORA CIAGLIA,  
*Plaintiff-Respondent,*

*against*

ANTONIA CIAGLIA, JOSEPH CIAGLIA  
and ANDREW CIAGLIA,  
*Defendants-Appellants.*

### BRIEF OF THE APPELLANTS.

#### Statement of Facts.

This is an action on the case instituted by the plaintiff, Eleanora Ciaglia, against Antonia Ciaglia, Andrew Ciaglia and Joseph Ciaglia, to recover damages for the alleged alienation of the affections of the husband of the plaintiff, Nicholas Ciaglia. The defense was the general issue and the case was tried before Circuit Judge DUNGAN at the Essex Circuit, with a jury. The jury returned a verdict of \$10,000 damages against the defendants, and they bring error.

#### POINT I.

**The Trial Court erred in not granting defendants' motion for a non-suit because the venue was improperly laid in Essex County.**

The complaint in this cause says the plaintiff lives in Newark, Essex County. On cross examination she testified that she lived at Bayside, Long Island, and had lived there since 1925 (p. 30, fol.

20). The defendants live in Bergen County, and the cause of action, if any, arose in that county. The venue was therefore improperly laid in Essex County and the question is: Does this constitute reversible error? We say it does.

Section 202 of the Practice Act of 1903 (P. L. 1903) provides as follows:

“An action merely transitory shall at the discretion of the court be tried in the County in which the cause of action arose, or the plaintiff or defendant reside at the time of instituting such action, or if the defendant be a non-resident, in the County in which process was served upon him.”

This section of the act was construed by the Supreme Court in the case of *Schmehl v. Transportation Co.*, 63 Law 141, where the Court, speaking through Mr. Justice LIPPINCOTT, held:

“This section establishes the practice as to venue and place of trial in all actions merely transitory, and it must be followed, and the court will not interfere with its directions unless upon proof of special circumstances moving the court to exercise its discretion otherwise.”

At first blush it might seem that the laying of the venue is discretionary with the court in any event, but a true construction requires the logical conclusion that this discretion must be exercised as provided by the statute itself, namely, the residence of the parties or the county where the cause of action arose. Naturally, this does not attempt to deprive the Supreme Court of an inherent right to change the venue when it appears that a fair trial cannot be had in the county where the venue is laid. But the venue must be laid according to the mandate of the statute. Certainly this must have been the intent of the Legislature in passing

the statute; and unless the venue is laid according to the statute, it is a useless piece of legislation. The Supreme Court by rule 54 has provided that a failure to lay the venue shall be cause to strike the complaint from the files, and this rule is referred to with approval by Mr. Justice PARKER, speaking for the Supreme Court in the case of *Metropolitan Credit Corp.*, 118 Atl. Rep. 581 (not officially reported).

Certainly no legal reason can be advanced for laying the venue in Essex County. If such a practice be approved by the courts of this State a defendant can be put to the greatest inconvenience by being compelled to answer an action in the remotest part of the State.

The objection to the venue was timely raised by defendants' motion for a nonsuit and exception taken (Rec. p. 99). It is difficult to see what other action could have been taken to bring the matter properly before the court. No explanation appears in the record for laying the venue in Essex and there is no allegation of any kind that a fair trial could not be had in Bergen County, where the defendants reside.

We are quite familiar with the inclination of this Court not to lightly disturb verdicts on mere technical grounds. We nevertheless insist that the defendants were prejudiced by the improper laying of the venue. If the trial had taken place in Bergen County the defendants would have had the benefit of a trial amidst familiar surroundings, and the issues heard by a jury selected from their neighbors. Certainly we cannot conceive that the plain intent of the Legislature can be thwarted by merely alleging a fictitious address in the complaint, and when the fact appears on the trial of the case, for the first time, advise the defendant that he has waived his right. Such a

practice is reprehensible and contrary to legislative mandate, and unless properly checked, will lead to grave abuses.

## POINT II.

**The Trial Court erred in not granting defendants' motion for a nonsuit on the ground that plaintiff had not made out a *prima facie* case (R. p. 99).**

The plaintiff in this case had the burden of proof and had to prove her case by a fair preponderance of the evidence. We contend that she did not meet this test, and in so contending, we are mindful of the decisions of this Court that in deciding motions of this nature all the plaintiff's testimony together with all the necessary inferences to be drawn therefrom is presumed to be true.

At the threshold we must have a clear understanding of the nature of an action as in the case *sub judice*. It is usually treated by authors of digests under the caption, "Enticement and Alienation," and no attempt is made to distinguish actions in which the elements of adultery and criminal conversation are involved, and those involving merely an interference with the contractual relationship by third parties. The cases are clearly distinguishable, and it is necessary to observe a few of the distinctions. In the first class of cases the controlling element is the defilement of the marriage bed, with the accompanying humiliation to the plaintiff. In the second class, malice either express or implied must affirmatively appear.

Although it has been decided by the Supreme Court that an action for alienation is an action on the case, we feel that the correct theory is

that of an interference with a contractual relationship by third parties, and that the reasoning of such cases as *Lumley v. Gye*, 2 El. & Bl. 216, is controlling. Marriage is a civil contract; a contract *sui generis*, but a contract nevertheless. It was therefore incumbent upon the plaintiff to prove affirmatively these elements:

- (1) A contractual relationship.
- (2) A duty on the part of the defendants not to interfere with such relationship.
- (3) The breach of such duty.
- (4) Damage resulting to the plaintiff as the proximate and efficient cause of such breach.

The marriage being admitted by the defendants, the first element need not be discussed, and from this state of the case, the second element flows as a legal duty.

But we contend that the third and fourth elements are not to be found either directly or by necessary inference in the plaintiff's case.

In the instant case it must be borne in mind that the defendants are related to the plaintiff's consort, and therefore good faith on their part is presumed. The rule is succinctly stated in 13 *R. C. L.* 522, as follows:

"It is also now very generally held that in case of unhappiness and disagreements between a married couple, the law recognizes the right of a parent to advise a son or daughter and where such advice is given in good faith and results in a separation the act does not give the other spouse a right of action, though in a similar case a stranger would be liable."

And again we find in 13 *R. C. L.* 512, the statement that it must be alleged that the acts were

done maliciously as the presumption is that they (parents) acted for the best interests of the child. And on page 515 we find the following:

“Merely giving advice to a wife which induces her to leave her husband is not actionable if given honestly, with a view to the welfare of both parties, by one who has no special influence or authority over her.”

To our mind there is nothing appearing in the plaintiff's case which shows any malice either express or implied. The presumption of good faith is not negated in the slightest degree, and it follows therefore that in this respect plaintiff has not sustained the burden of proof.

The rule is laid down by the Supreme Court in the case of *Milewski v. Kurtz*, 77 N. J. L. 132, 71 Atl. 107, by Mr. Justice VOORHEES as follows:

“The plaintiff to sustain his case, is obliged to show by a preponderance of evidence that the defendant wrongfully and wilfully attempted to alienate the affections of the consort, and to deprive plaintiff of the consort's society, that such attempt was successful, and that plaintiff was not a consenting party.”

A reading of the testimony adduced by the plaintiff discloses the following situation: Plaintiff and her husband lived with the defendants since the return of the former from their honeymoon. Friction between the mother-in-law and the wife resulted in the wife leaving the home.

There is nothing uncommon in disagreements between wives and mothers-in-law and we believe that this Court can take judicial notice of that fact. Certainly there does not appear anywhere in the plaintiff's case any evidence of a concerted effort to steal her husband's affections. At best it showed a dislike for the plaintiff by the husband's people. We do not believe it can seriously be contended

that this alone will give rise to an action. There is no duty incumbent upon the defendants to be agreeable to the plaintiff. The home belonged to the mother-in-law, and not to the plaintiff. Plaintiff and her husband were there by sufferance. It may have been incumbent on the husband to provide a home for his wife, but certainly this duty was not owed by the defendants to the plaintiff. As a common sense proposition it would appear that the plaintiff could have asked her husband to move, and thus promptly terminate any cause for friction. The home was the mother's and she certainly had a right to run it as she saw fit. In fine, it appears that the plaintiff didn't like her surroundings, couldn't get along with the defendants and left. Any injury suffered by her is *damnum absque injuria*.

Furthermore, it is elementary law that any injury resulting to the plaintiff must be shown to be the proximate cause of the defendants' acts, *i. e.*, it must be the *causa causans* and not merely the *causa sine qua non*. It is not a question whether defendants did anything to bring about the injury but whether those acts were the procuring or proximate cause of the alienation. The rule is admirably stated by Mr. Justice PARKER, speaking for the Supreme Court in the case of *Larabee v. Lynch*, 143 Atl. 742 (not yet officially reported) as follows:

"In a suit by the husband for alienation of his wife's affections, it is error to charge that defendant is liable if he did anything to entice the wife of the plaintiff or alienate her affections. Defendant's actions must have been the procuring or proximate cause of the alienation."

We wish to urge at this point that the plaintiff in the instant case left her husband. This is not a case where the mother or father acting with mis-

taken zeal has procured one spouse to leave the other. It can therefore be easily distinguished from cases such as *Hunke v. Hunke*, 103 Law 645. In the *Hunke* case, *supra*, there was active wrongdoing on the part of the defendants in taking plaintiff's consort from his home and harboring him. That situation is not presented in the case at bar. Plaintiff left her husband without notifying her husband where she was going. Under the circumstances there was nothing for the husband to do, but remain with his people and certainly they were under no duty to direct him to leave.

In the case of *Morril v. Morrill*, 104 Law 557, Mr. Justice MINTURN, speaking for this Court, made the following observation which so clearly bespeaks our thought that we quote it at length:

"To create a legal liability upon the part of a defendant there must be something more apparent in the case than mere physical damage; there must exist under the well-settled rule of tort liability legal damages resulting from what has been scientifically termed a legal injury. In other words, the two elements of tort feissance according to the civil and common law commentators must concur, *damnum et injuria*. It is upon the recognition of that fundamental rule that the uniform rule of English and American law has been predicated, that the mere occurrence of physical injury involves no presumption of a legal injury with its consequent legal liability. This basic conception of the law has also given rise to the rule of *damnum absque injuria*, under which the physical damage is apparent, but the legal injury is not apparent. (Citing cases.)

"Thus observes Blackstone:

"Though there may be damages sufficient, yet if the fact be true it is *damnum absque injuria*, there is no injury (Legal), the law gives no remedy' 3 Com. 125. Dr. Ludding-

ton, an eminent commentator upon English law recognized by Kent and others, observes, 'It is essential to an action in tort that the act complained of should under the circumstances be legally wrongful as regards the party complaining—that is, it must prejudicially affect him in some legal right. Merely that it will, however, directly do him harm, is not enough. Cases are of daily occurrence in which the lawful exercise of a right operates to the detriment of another without being actionable.' In consonance with this basic theory of legal injury American commentators have similarly declared: 'The law does not infer that merely because one man has suffered harm he must have compensation and some other must pay. The monstrous task of ensuring against all loss has not been undertaken. On the contrary, not only have large and important classes of losses been denied judicial recognition, but the very nature of many admitted rights necessitates that much harm should go uncompensated.' 1 Jaggard Torts 89; citing *Tucker v. Drake*, 11 Allen (Mass.) 145; *O'Donnell v. Segar*, 25 Mich. 367; 1 Cooley Torts 82, and cases:

"From this fundamental conception of a legal wrong or injury as the cause or basis of the legal damage has arisen the corollary or legal rule now substantially automatic in its application, that the existing legal wrong or injury which presents the basis of the suit must be predicated upon the violation, neglect or omission of some legal duty which was imposed upon the defendant, and which constituted the proximate cause of the damage. The cases sustaining that principle are uniform throughout the states and numerous in this jurisdiction. *Monroe v. Pennsylvania Railroad Co.*, *ubi supra*; *Kingsley v. Delaware, Lackawanna and Western Railroad*, and cases *supra*.

"In the latter case the court declared: 'The mere happening of an accident without some proof of facts from which the violation of a

duty due to the plaintiff by the defendant may be legitimately inferred as a rule will not constitute negligence.' Hence, it becomes imperative before legal liability for conceded damages can be imposed upon a defendant, for the court in the first instance to inquire and determine the character of duty which the law under the facts imposed upon the defendant as the basis of liability; for manifestly it cannot be conceded that the jury from their inner consciousness may evolve in every variety of tortfeasance a legal duty as the standard of liability. The rule of legal duty or the standard of human conduct under any given circumstances must be declared by the court as a preliminary to the submission of the case to the jury, and if upon the conceded facts no rule of legal duty can be said to have been transgressed, legal liability cannot be said to supervene so as to warrant the submission of the case to the jury. *Meyer v. Venton*, 74 N. J. L. 533."

It might be pertinent to remark at this point that there doesn't seem to be the slightest evidence of any wrongdoing on the part of the defendants Andrew Ciaglia and Joseph Ciaglia. Conceding, for the sake of argument, that there was evidence against Mrs. Ciaglia, the defendant, we can scan the record in vain for any evidence which, under the law of this State can be said to identify these men with any wrongdoing. To permit these men to be mulcted in damages from the flimsy evidence adduced at the trial would be a plain miscarriage of justice.

**POINT III.**

**The Court erred in permitting plaintiff's counsel to give his version of the testimony given by the witnesses in Italian.**

A reading of the testimony shows that Mr. Brunetto, attorney of the plaintiff, repeatedly contradicted the Italian interpreter of the Court, and insisted on giving his own version of the testimony. That this was prejudicial to a fair and impartial trial, goes without saying. Plaintiff's counsel's duty to his client was to represent her in court, look after her interests and present her case. There is nothing appearing in the record to show that he was better qualified to interpret the Italian language than the interpreter supplied by the Court. That his action in this respect was unethical goes without saying, and in addition we claim it constitutes reversible error. The record shows that Mr. Brunetto was admonished by the Court (fol. 10, p. 29), but disregarding this admonition he continued his practice (p. 40, fols. 10, 20; p. 41, fol. 10; p. 43, fol. 30; p. 49, fol. 20; p. 52, fol. 10; p. 54, fol. 20; p. 171, fol. 30; p. 173, fol. 10). A request by defendants' counsel to have Mr. Brunetto admonished was, therefore, unnecessary and apparently would have been futile. When it is necessary for witnesses to testify through an interpreter the trial of the case is naturally more tedious, and it is also more difficult for the jury to follow the case. There does not appear to be any good reason for making the case more difficult to grasp by having counsel contradict and argue with the interpreter.

**POINT IV.**

**The Trial Court erred in permitting counsel for the plaintiff to make a statement in the presence of the jury and over objection of counsel for the defendants to the effect that defendants paid plaintiff alimony for the purpose of keeping plaintiff and her husband apart.**

Counsel for the plaintiff made a statement in the presence of the jury that the defendants paid the plaintiff alimony for the purpose of keeping plaintiff and her husband apart (Record p. 27). There does not seem to be the slightest reason for making such a statement, and the Court should have instructed the jury to disregard it, or declare a mistrial.

Obviously, if any testimony along this line was available it should have been introduced and the defendants given an opportunity to cross examine the witnesses. The judge of a court is present for the purpose of superintending the trial of the case, and particularly to restrain counsel from transgressing the bounds of propriety. To permit such a statement to be made could not but have an unfavorable effect on the defendants' case.

**The judgment of the Essex Circuit should be reversed.**

JOSEPH H. GAUDIELLE, and  
JAMES A. MAJOR,  
Attorneys of Appellants.

NEW JERSEY SUPREME COURT  
ESSEX COUNTY

---

ELEANORA CIAGLIA,

Plaintiff,

-vs-

ANTONIO CIAGLIA, et als.,

Defendants.

---

ACTION AT LAW  
CERTIFICATE OF THE HON. NELSON  
Y. DUNGAN, JUDGE OF THE ESSEX  
COUNTY CIRCUIT.

---

Thomas Brunetto,  
Atty. for Plaintiff,  
9 Clinton Street,  
Newark, New Jersey.

THE UNITED STATES OF AMERICA  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

ALBERTA PROVINCE  
CANADA

SECTION 10  
TOWNSHIP 10N  
RANGE 10W

SECTION 10  
TOWNSHIP 10N  
RANGE 10W

SECTION 10  
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SECTION 10  
TOWNSHIP 10N  
RANGE 10W

*Copy from 1911*

SECTION 10





NEW JERSEY SUPREME COURT  
ESSEX COUNTY

---

ELEANORA CIAGLIA,  
Plaintiff,

-vs-

ANTONIO CIAGLIA, et als.,  
Defendants.

---

ACTION AT LAW  
CERTIFICATE OF THE HON. NELSON  
Y. DUNGAN, JUDGE OF THE ESSEX  
COUNTY CIRCUIT.

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Thomas Brunetto,  
Atty. for Plaintiff,  
9 Clinton Street,  
Newark, New Jersey.

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Period: October 17, 1933.

Court:  
Judge of the Essex County Circuit

held without any objection on behalf of the defendants.  
attorneys for the respective parties during the balance of the  
next interpretation. The said assignment was carried out by the  
interpretation of the interpreter should be accepted as the cor-  
dinary was a disagreement between the interpreter and him; the  
said, but that it, after he had expressed his interpretation,  
permitted to give his interpretation as to what the witness had  
witnessed as given by the interpreter, Mr. Brunette was to be  
over Mr. Brunette disagreed with the translation of any of the  
discussed in chambers, and it was finally stipulated that where  
4. That a brief recess was taken, and the matter was  
once of the attorney for the defendants.  
questioned that the matter be discussed in chambers, in the pres-  
ence and the answers given by her, and that Mr. Brunette's re-  
difficultly with the witness in translating the questions to  
and that he protested to the court, that the interpreter had  
3. That Thomas Brunette represented the plaintiff,  
be given through an interpreter.

2. That on the 13th day of October, 1933, at  
March Term, 1933,  
above entitled cause, in the Essex County Circuit Court, on  
1. That I presided at the trial of the issue in the  
court, do hereby certify as follows:

I, HILSON Y. DUNHAM, Judge of the Essex County Circuit  
Court,  
Defendants:  
CLAUDE A. ANDREW CLAUDE,  
ANTONIO CLAUDE, JOSEPH  
CLAUDE,  
Plaintiff,  
HELENORA CLAUDE,  
THE ESSEX COUNTY CIRCUIT,  
HILSON Y. DUNHAM, JUDGE OF  
CERTIFICATE OF THE HON.  
NOTION AT LAW

NEW JERSEY SUPREME COURT  
ESSEX COUNTY.



NEW JERSEY SUPREME COURT  
ESSEX COUNTY

---

ELEANORA CIAGLIA,

Plaintiff,

-vs-

ANTONIO CIAGLIA, et als.,

Defendants.

---

ACTION AT LAW  
CERTIFICATE OF THE HON. NELSON  
Y. DUNGAN, JUDGE OF THE ESSEX  
COUNTY CIRCUIT.

---

Thomas Brunetto,  
Atty. for Plaintiff,  
9 Clinton Street,  
Newark, New Jersey.

October Term 1929

ESSEX COUNTY

THE LONDON COUNTY  
COUNCIL

MEMORANDUM

TO THE MEMBERS

OF THE LONDON COUNTY COUNCIL

ON

THE

PROVISION OF  
SERVICES BY THE  
LONDON COUNTY COUNCIL

IN CONNECTION WITH  
THE PROVISION OF  
SERVICES BY THE  
LONDON COUNTY COUNCIL

Dated: October 14, 1933.

COURT  
JUDGE OF THE Essex County Circuit  
NELSON V. DUNGAN

trial without any objection on behalf of the defendants,  
attorneys for the respective parties, during the balance of the  
next interpretation. The said objection was overruled by the  
interpretation of the interpreter should be accepted as the cor-  
rect one was a disagreement between the interpreter and him, the

permitted to give his interpretation as to what the witness had  
witnesses as given by the interpreter, Mr. Brunetto was to be  
over Mr. Brunetto disagreed with the translation of any of the  
discussed in chambers, and it was finally stipulated that when  
4. That a brief recess was taken, and the matter was  
once of the attorney for the defendants.

questioned that the matter be discussed in chambers, in the pres-  
ence and the answers given by her, and that Mr. Brunetto, her  
ability with the witness in transmitting the questions to  
and that he protested to the Court that the interpreter had  
be given through an interpreter.

3. That on the trial started, in accordance of the  
March 1933,  
shows exhibited cases in the Essex County Circuit Court, on  
1. That I presided at the trial of the issue in the  
Court, do hereby certify as follows:

I, NELSON V. DUNGAN, Judge of the Essex County Circuit  
Defendants:

ANTONIO CIAGLIA, JOHN  
CIAGLIA and ALFRED CIAGLIA,  
-vs-  
Plaintiffs

THE ESSEX COUNTY CIRCUIT,  
NELSON V. DUNGAN, JUDGE OF  
CIRCUIT COURT OF THE HON.  
ACTION AT LAW

NEW JERSEY BURRING COURT  
ESSEX COUNTY

October Term 1929

NEW JERSEY SUPREME COURT  
ESSEX COUNTY.

ELEANORA CIAGLIA,

Plaintiff,

-vs-

ANTONIO CIAGLIA, JOSEPH  
CIAGLIA and ANDREW CIAGLIA,

Defendants.

ACTION AT LAW

CERTIFICATE OF THE HON.  
NELSON Y. DUNGAN, JUDGE OF  
THE ESSEX COUNTY CIRCUIT.

I, NELSON Y. DUNGAN, Judge of the Essex County Circuit Court, do hereby certify as follows:

1. That I presided at the trial of the issue in the above entitled cause, in the Essex County Circuit Court, on March 19th, 1929.

2. That as the trial started, on account of the plaintiff's inability to speak English, her testimony had to be given through an interpreter.

3. That Thomas Brunetto, represented the plaintiff, and that he protested to the Court, that the interpreter had difficulty with the witness in translating the questions to her and the answers given by her, and that Mr. Brunetto, requested that the matter be discussed in chambers, in the presence of the attorney for the defendants.

4. That a brief recess was taken, and the matter was discussed in chambers, and it was finally stipulated that whenever Mr. Brunetto disagreed with the translation of any of the witnesses as given by the interpreter, Mr. Brunetto was to be permitted to give his interpretation as to what the witness had said, but that if, after he had expressed his interpretation, there was a disagreement between the interpreter and him, the interpretation of the interpreter should be accepted as the correct interpretation. The said stipulation was carried out by the attorneys for the respective parties, during the balance of the trial without any objection on behalf of the defendants.

Dated: October 17, 1929.

NELSON Y. DUNGAN,  
Judge of the Essex County Circuit Court.

NEW JERSEY SUPREME COURT  
ESSEX COUNTY

---

ELEANORA CIAGLIA,

Plaintiff,

-vs-

ANTONIO CIAGLIA, et als.,

Defendants.

---

ACTION AT LAW  
CERTIFICATE OF THE HON. NELSON  
Y. DUNGAN, JUDGE OF THE ESSEX  
COUNTY CIRCUIT.

---

Thomas Brunetto,  
Atty. for Plaintiff,  
9 Clinton Street,  
Newark, New Jersey.

Case No. 1789

ESSEX COUNTY

THE UNIVERSITY OF CHICAGO  
LIBRARY

ALBERT EINSTEIN

1905

ALBERT EINSTEIN

1905

THE UNIVERSITY OF CHICAGO  
LIBRARY

ALBERT EINSTEIN  
1905

Dated: October 17, 1933.

COURT,  
Judge of the Essex County Circuit  
HEIRSON Y. DUNGAN,

trial without any objection on behalf of the defendants,  
attorneys for the respective parties, during the balance of the  
said interpretation. The said stipulation was carried out by the  
interpretation of the interpreter should be accepted as the only  
there was a disagreement between the interpreter and him, the

permitted to give his interpretation as to what the witness had  
witnesses as given by the interpreter, Mr. Brunetto was to be  
even Mr. Brunetto disagreed with the translation of any of the  
discussed in chambers, and it was finally stipulated that where  
4. That a prior record was taken, and the matter was  
once of the attorney for the defendants.

disputed that the matter be discussed in chambers, in the pres-  
ence and the answers given by her, and that Mr. Brunetto, her  
attorney with the witness in translating the questions he  
was asked be presented to the court that the interpreter had  
be given through the interpreter.

It is that on the 17th day of October of the  
month of 1933,  
above entitled case, in the Essex County Circuit Court, on  
1. That I presided at the trial of the issue in the  
Court, do hereby certify as follows:  
I, HEIRSON Y. DUNGAN, Judge of the Essex County Circuit

Defendants:

OLIVIERA AND ANTONIO OLIVIERA,  
ANTONIO OLIVIERA, JOSEPH

Plaintiff:

ELIZABETH OLIVIERA

THE ESSEX COUNTY CIRCUIT,  
HEIRSON Y. DUNGAN, JUDGE OF  
CERTIFICATE OF THE HON.  
ACTION AT LAW

ESSEX COUNTY,  
NEW JERSEY SUPERIOR COURT

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10-1



NEW JERSEY SUPREME COURT  
ESSEX COUNTY

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ELEANORA CIAGLIA,

Plaintiff,

-vs-

ANTONIO CIAGLIA, et als.,

Defendants.

---

ACTION AT LAW  
CERTIFICATE OF THE HON. NELSON  
Y. DUNGAN, JUDGE OF THE ESSEX  
COUNTY CIRCUIT.

---

Thomas Brunetto,  
Atty. for Plaintiff,  
9 Clinton Street,  
Newark, New Jersey.

NEW YORK COUNTY OFFICE  
NEW YORK

ALBERTA CIRCUIT  
MONTREAL

ANTONIO DIABLO, et al.,

Defendants.

ACTON AT LAW  
DEPUTY ATTORNEY GENERAL  
Y. BROWN, JUDGE OF THE COURT  
COUNTY OFFICE.

Wm. Brown  
Att. Gen. for Mont.  
2 Clinton Street,  
Montreal, Que. Can.

100

100

1. The first part of the paper is devoted to a general survey of the history of the subject, and to a discussion of the various theories which have been advanced to explain the origin of the disease.

2. The second part of the paper is devoted to a description of the various forms of the disease, and to a discussion of the various theories which have been advanced to explain the origin of the disease.

3. The third part of the paper is devoted to a description of the various forms of the disease, and to a discussion of the various theories which have been advanced to explain the origin of the disease.

4. The fourth part of the paper is devoted to a description of the various forms of the disease, and to a discussion of the various theories which have been advanced to explain the origin of the disease.

5. The fifth part of the paper is devoted to a description of the various forms of the disease, and to a discussion of the various theories which have been advanced to explain the origin of the disease.

6. The sixth part of the paper is devoted to a description of the various forms of the disease, and to a discussion of the various theories which have been advanced to explain the origin of the disease.

October Term 1929

NEW JERSEY SUPREME COURT  
ESSEX COUNTY.

ELEANORA CIAGLIA,	)	
	)	
Plaintiff,	)	ACTION AT LAW
-vs-	)	
	)	
ANTONIO CIAGLIA, JOSEPH	)	CERTIFICATE OF THE HON.
CIAGLIA and ANDREW CIAGLIA,	)	NELSON Y. DUNGAN, JUDGE OF
	)	THE ESSEX COUNTY CIRCUIT.
Defendants,	)	
	)	

I, NELSON Y. DUNGAN, Judge of the Essex County Circuit Court, do hereby certify as follows:

1. That I presided at the trial of the issue in the above entitled cause, in the Essex County Circuit Court, on March 19th, 1929.

2. That as the trial started, on account of the plaintiff's inability to speak English, her testimony had to be given through an interpreter.

3. That Thomas Brunetto, represented the plaintiff, and that he protested to the Court, that the interpreter had difficulty with the witness in translating the questions to her and the answers given by her, and that Mr. Brunetto, requested that the matter be discussed in chambers, in the presence of the attorney for the defendants.

4. That a brief recess was taken, and the matter was discussed in chambers, and it was finally stipulated that whenever Mr. Brunetto disagreed with the translation of any of the witnesses as given by the interpreter, Mr. Brunetto was to be permitted to give his interpretation as to what the witness had said, but that if, after he had expressed his interpretation, there was a disagreement between the interpreter and him, the interpretation of the interpreter should be accepted as the correct interpretation. The said stipulation was carried out by the attorneys for the respective parties, during the balance of the trial without any objection on behalf of the defendants.

Dated: October 17, 1929.

NELSON Y. DUNGAN,  
Judge of the Essex County Circuit Court.

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/

New Jersey Court of Errors and Appeals 10

OCTOBER TERM—No. 23.

ELEANORA CIAGLIA, <i>Plaintiff-Respondent,</i>	}	Action at Law.	
vs.		On Appeal from Supreme Court.	20
ANTONIA CIAGLIA, JOSEPH CIAGLIA and ANDREW CIAGLIA, <i>Defendants-Appellants.</i>			

**BRIEF OF PLAINTIFF-RESPONDENT.**

It is difficult to know just how to answer the brief of the appellants, because the brief fails to comply with those provisions of the rules of the Court which are intended not only to inform the Court but also to inform the respondent of the appellants' theory of the case on appeal. Thus, the brief fails to satisfy the requirements of Rule 35 B in that it contains

(1) No "concise abstract or statement of the case, presenting succinctly the questions involved, in the manner in which they are raised."

October Term 1929

(2) No specification of the grounds of appeal relied upon set out separately, much less each ground of appeal asserted and intended to be urged.

10 (3) No "clear statement of the points of \* \* \* fact to be discussed," with substantially no reference to the pages of the record relied upon.

All of this is done notwithstanding the requirements of Rule 35 B.

20 It is difficult to conceive how this Court can consider the case when the appellants have failed to reveal to the Court the facts in the case as disclosed by the evidence. The alleged "statement of facts" on page 1 of the brief comprising ten lines, merely states the nature of the cause of action and that the defense was the general issue, where and before whom the case was tried, and the amount of the verdict and judgment. No-  
30 where in the brief is there the slightest discussion of the proofs, although there are general statements of what counsel for the appellants contend were proved upon certain questions of fact, with no reference whatever given as to the pages where such proofs may be found. Inasmuch as it is the duty of the appellants to show to the appellate court why the judgment below should be reversed, this respondent does not feel any necessity of constructing an affirmative case in this brief, but will merely meet the points in the brief of appellants.

## POINT I.

There was no error in the refusal to grant a non-suit because the venue was laid in Essex County.

The contention under this point is that while the complaint recited the place of residence of the plaintiff-respondent as Newark, in Essex County, her admission when on the stand was that she lived at Bayside, Long Island (Case 30, fol. 20). The claim is that the defendants lived in Bergen County, and the cause of action, if any, arose there, and that, therefore, the venue was improperly laid in Essex County; and that the failure of the court below to grant a non-suit upon this ground constitutes reversible error. 10

Section 202 of the Practice Act of 1903 is cited to indicate that a transitory action shall, at the discretion of the Court, be tried either in the County where the cause of action arose, or the plaintiff resided at the time of instituting such action, or, if the defendant be a non-resident, in the county in which process was served upon him. It is to be noted that this statute refers to the place of trial, and that the Supreme Court, upon proper cause being shown, may allow a rule changing the venue to a different county than that laid in the complaint. In this case, no application for such a rule was made. It would have been easy for defendant to have ascertained whether the recital of the plaintiff's residence in the complaint was correct or not. *First*, he could have availed himself of the provisions of Section 4 of the Practice Act of 1903 (3 Comp. St., 1910, p. 4053), which provides as follows: 20 30 40

10 “Any attorney whose name is indorsed on a summons or *capias ad respondendum* shall, on demand in writing made by or on behalf of any defendant, declare forthwith in writing whether such writ was issued by him or by his authority and also the place of abode of the plaintiff; and if such attorney shall declare that the writ was not issued by him or by his authority, or shall refuse to declare the place of abode of the plaintiff, then no further proceedings shall be taken in the action without leave of the court.”

This statute was passed particularly to furnish a defendant with an easy mode of acquiring knowledge of the place of abode of the plaintiff.

20 *Second*, defendant could have had recourse to his right to examine the adverse party before trial, and could thus have obtained the necessary information upon which to base an application for a change of venue.

30 On the facts disclosed in the record, the objection to the venue was not timely. The rule seems to be that an application for a change of venue should be made as soon as the moving party acquires knowledge of the facts upon which the motion is based, and *failure so to do will constitute a waiver*. (Emele vs. Arrow Carrier Corp., 146 Atl., 790 [not yet officially reported]; Peister vs. Public Service, 100 N. J. L., 53.)

40 It appears from the proofs that one of the defendants, Andrew Ciaglia, knew that the residence of the plaintiff was in Brooklyn, because between July 14, 1926, and October 28, 1926, he sent at least six letters to the plaintiff-respondent addressed to her at 272 Liberty Avenue, Brook-

lyn, New York (Case, p. 111, fol. 33 to p. 112, fol. 30; Ex. P-3, p. 193).

It is submitted that the defendants-appellants, having some knowledge of the fact that the plaintiff had resided out of the state, having the right to ascertain her place of abode by virtue of the statute by two different methods, and having, under these circumstances appeared, answered the complaint, made no motion for a change of venue, appeared upon the trial, made no objection to the trial proceeding and cross-examined the plaintiff's witnesses, had submitted to the jurisdiction of the Supreme Court Circuit for Essex County and were too late to raise the question, as to where the venue should have been laid at the close of the plaintiff's case. A similar situation was presented in *Peister vs. Public Service*, 100 N. J. L., 53. The question there arose on a rule to show cause for change of venue. The opinion of Mr. Justice Minturn so fully covers the question that it is here quoted in full:

“After issue had been joined, the plaintiff served a notice of trial upon the defendant, and the latter duly admitted service thereof. The case was thereafter listed upon the day calendar of the Hudson Circuit, and upon the opening day of the term was marked ready for trial. When called upon the day calendar it was again marked ready for trial. During a period of three days the plaintiffs with their witnesses attended court ready to go to trial. Upon the last day of their attendance, the defendant produced a physician's certificate to the effect that one of the defendant's material witnesses was ill, and unable to attend, and

requested a postponement of the trial for two weeks, upon that ground, which motion was granted. Before the expiration of the two weeks, the defendant obtained this rule to show cause insisting upon a change of venue from Hudson to Essex county. This case is now upon the daily calendar awaiting the determination of this motion.

10

The granting of the application under the statute is discretionary with the Court (section 202 Practice act).

The discretion of the Court will never be exercised in favor of an application where the result of its exercise would entail hardship or injustice, created by the laches or neglect of the party seeking the relief. In such a situation his inaction is tantamount to an estoppel.

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In this instance the defendant must be held, under the circumstances, to have waived his right to change the venue by practically proceeding with the case up to the point of trial, thereby in effect consenting to the jurisdiction. Upon that subject the rule is quite general, that an application for a change of venue should be made as soon as the moving party acquires knowledge of the facts upon which the motion is based, and failure so to do will constitute a waiver. 27 *R. C. L.*, 820, and cases cited.

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So, it was declared in an early English case that where the venue was laid in London, and no objection was made thereto, objection could not afterwards be taken to the venue, notwithstanding it ought under a particular act of parliament to have been laid in Surrey

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for *Consensus tollit errorem*. *Furnival vs. Stringer*, 1 B. N. C., 68 (27 E. C. L.).

The result is that for the reason stated the rule will be discharged.”

## POINT II.

As to Point II there was no error on the part of the trial Court in refusing a non-suit on the ground that plaintiff had not made out a prima facie case. 10

Here again the appellants fail to demonstrate that the ruling of Judge Dungan in the Essex Circuit, in refusing to grant a non-suit upon this particular ground, was erroneous. Nowhere do they discuss the evidence, having failed to furnish a statement of the case in their brief, and under this point failed also to refer to any testimony or other proofs in the case. They discuss abstract propositions of law, and in portions of discussion state that certain facts are established in this case, but do not refer either the Court or opposing counsel to the evidence which they claim establishes them. 20

In order that the Court and opposing counsel may be apprised of the basis of appellants' contention under Point II, there should be, of course, an analysis of the proofs from their standpoint presented, in order that it may be perceived whether or not the trial Judge should have taken the case from the jury and granted a non-suit. 30

There is no exposition of the case to show that at the close of plaintiff's case there was no evidence which would have entitled the plaintiff to have the case go to the jury. The rule is, of course, well established that if upon the close of 40

the plaintiff's case there is any evidence upon which the jury might base a verdict for the plaintiff, the trial Judge may not take the case from the jury upon such ground. Appellants having demonstrated no such case in their brief, respondent finds nothing to answer therein except to call attention to the well established rule last above stated (Tansey vs. Tedesco, 93 N. J. L., 259-261 [E. & Ap.]; Wolfarth vs. Sternberg, 70 N. J. L., 198 [Sup.]).

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Moreover, should this Court consider it necessary, although appellants have presented no statement of the case and no reference to testimony upon which they base their contentions, to read the testimony in the case in order to ascertain whether it can find that there was no testimony in the case sufficient to justify the refusal to nonsuit, attention is called to the fact that the appellants have failed to include in the state of the case, Exhibit P-2, the file of papers in the suit between Eleanora Ciaglia and Nicola Ciaglia, in the Court of Chancery, received in evidence (Case, p. 98, fols. 20 to 30).

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Attention is further called to the fact that although the defendants-appellants made a motion for a direction of verdict upon this same ground (Case, p. 188, fols. 20-40), and an exception was taken to the denial of the motion (p. 189), there is no contention offered before this Court that at the close of the entire case there was not sufficient evidence to go to the jury. The failure to urge the exception to the denial of a direction of a verdict would fairly signify that appellants were satisfied that the denial of the direction was proper and that there were then before the Court sufficient facts to warrant the Court in sending the case to the jury.

**POINT III.**

The action of plaintiff's counsel in offering corrections of the translation of testimony given by witnesses in the Italian language was in compliance with a stipulation or understanding between counsel in the presence of the trial Judge.

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The state of the case shows that when an Italian interpreter endeavored to act, Mr. Brunetto, who was examining the witnesses on behalf of the plaintiff, was not satisfied with the translation of some of the answers. This appears in one instance on pages 28 and 29. On page 39, lines 20 to 30, the plaintiff's attorney interrupted the examination to ask for a conference with the trial Judge and the opposing counsel out of the presence of the jury, and a brief recess was taken for that purpose. From that time, Mr. Brunetto occasionally corrected the interpreter, and the interpreter, in most instances, accepted the correction. On page 49, lines 20 to 40, when plaintiff's attorney endeavored to translate an answer, and opposing counsel apparently took exception to it, the trial Judge said, "I thought we had agreed that if Mr. Brunetto did not agree with the interpretation that it might be suggested to the interpreter." To this there was no reply from the opposing attorney. This would seem to indicate that there was an understanding between the Court and counsel that Mr. Brunetto might do as the judge said in the quoted sentence above; and that is all that Point III of appellants' brief is based upon or relates to.

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**POINT IV.**

There was no error, as contended, in plaintiff's attorney stating to the trial Judge what he proposed to prove by a witness, which is the subject of Point IV of appellants' brief.

10 The "statement" referred to in plaintiff's brief consists of a statement by the plaintiff's attorney as to what he proposed to prove by the witness then on the stand, which statement was made in view of objection by opposing counsel to the testimony. The statement was as follows (Case, p. 27, lines 15 to 21):

20 "What I intend to prove, and the complaint charges, that they paid the husband's alimony for the purpose of keeping them away from each other. They have helped him financially. That is what I charge in my complaint."

The objection to the question was overruled and the testimony of the witness was that she received her alimony by check of the defendant Andrew.

30 The "statement" objected to was an attempt by plaintiff's counsel to show the Court and opposing counsel that the testimony was relevant to the issues tendered by the complaint.

**POINT V.**

There is no complete case before the Court because of the failure to print in the state of the case, Exhibit P-2.

Exhibit P-2 hereinbefore referred to consisted of filed papers in a Chancery proceeding. There has been no attempt to print them; no attempt to agree upon any abridgement of them for the purpose of having them printed for the state of the case; and within six days after the state of the case was served upon respondent, respondent gave notice of her objection to the state of the case because of the failure to print this exhibit, and filed such notice, with acknowledgment of service, with the Clerk of this Court on August 7, 1929. The Court, therefore, has before it an incomplete record of the trial.

For the reasons above given it is submitted that the judgment below should be affirmed.

Respectfully submitted,

THOMAS BRUNETTO,  
Attorney and Counsel for  
Plaintiff-Respondent.

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