

Case No. 1,842.

BRENT v. VENABLE.

[3 Cranch, C. C. 227.]¹

Circuit Court, District of Columbia.

Dec. Term, 1827.

PRACTICE—FILING PAPERS AND PLEADINGS.

The complainant in equity may file exceptions to the defendant's answer, although two months have expired after the answer was put in; if the defendant has not left a rule to reply with the clerk of the court.

In equity, a question arose whether the complainant's exceptions to the defendant's answer were filed in due time, and should be received. They were filed more than two months after the answer was put in; but before the defendant had left a rule to reply, with the clerk of the court, according to the 13th rule of practice established by the supreme court of the United States, for the circuit courts, which is as follows: "Rule 13. The complainant shall put in the general replication, or file exceptions within two calendar months after the answer shall have been put in. If he fails so to do, the defendant may leave a rule to reply, with the clerk of the court, which being expired, and no replications or exceptions filed, the suit may be dismissed with costs; but the court may, for cause, order the same to be retained, on payment of costs." "Rule 17. Rules to plead, answer, reply, rejoin, or other proceedings not before particularly mentioned, when necessary, shall be given from month to month with the clerk in his office."

THE COURT (MORSELL, Circuit Judge, contra) was of opinion that the exceptions were filed in time, and ought to be received.

¹ [Reported by Hon. William Cranch, Chief Judge.]