

Case No. 2,305.

CALDWELL v. WALTERS.

[4 Cranch, C. C. 577.]¹

Circuit Court, District of Columbia.

March Term, 1835.

DISSOLUTION OF INJUNCTION—SERVICE OF NOTICE OF MOTION.

If the answer be filed in term time the court will hear a motion to dissolve the injunction at any time upon reasonable notice. Three days' notice, left at the office of the complainant's solicitor, in his absence from town, is reasonable.

[In equity. Bill by Timothy Caldwell against Walters, the executor of Moore.]

The bill was filed and injunction granted by CRANCH, Chief Judge, on the 18th of May, 1835. On the 3d of June the answer was filed, and on the same day notice of motion to dissolve on this day was left at the office of Z. C. Lee, the complainant's solicitor, Mr. Lee being then absent from this city.

Mr. Coxe now moved for dissolution, Mr. Lee not being present, and, as it was said, not in the city. Mr. Coxe said, that according to the rule of this court, or a former decision of this court, when the answer is filed in term time, the court will hear a motion to dissolve at any time, upon reasonable notice.

CRANCH, Chief Judge, said he had no recollection of such a decision; but MORSELL, Circuit Judge, said there was such an one.

THE COURT (CRANCH, Chief Judge, *contra*) said the notice was reasonable, and took the bill and answer to consider the motion; and afterwards dissolved the injunction.

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