

Case No. 2,894.

CLIFFORD V. COLEMAN ET AL.

{13 Blatchf. 210.}¹

Circuit Court, S. D. New York.

Dec. 7, 1875.

AMENDMENT IN EQUITY.

A motion to amend a bill, by adding new parties defendant, after replication filed and the production of evidence, it appearing that the plaintiff was in a position to make the amendment before replication filed, refused.

{In equity. Bill by Neil Clifford against John Coleman and others.}

R. B. McMaster, for plaintiff.

George Gallagher, for defendants.

JOHNSON, Circuit Judge. An application to amend the bill after replication and the production of evidence ought to be accompanied by very satisfactory proof that the proposed amendment could not, with reasonable diligence, have been sooner introduced into the bill. The amendment asked for is to add as parties defendant George H. Newbold and Susanna Newbold individually and as executrix of John A. Newbold, deceased. Upon the case, as presented to me on this application, I am satisfied that the complainant was in a position to make the proposed amendment, certainly before the replication was filed, and that he ought not now to be allowed to change his case, according to the rules governing amendments, at such a stage of the cause. Motion denied.

¹ [Reported by Hon. Samuel Blatchford, District Judge, and here reprinted by permission.]