

Case No. 4,216. DWIGHT V. HUMPHREYS ET AL.
[3 McLean, 104.]¹

Circuit Court, D. Michigan.

Oct. Term, 1842.

EQUITY PLEADING—SIGNATURE OF COUNSEL TO
BILL—DEMURRER—AMENDMENT.

1. A bill must be signed by counsel, or it is demurrable.
2. But a signing on the back of the bill is sufficient. The court, as a matter of course will give leave to amend the bill so as to obviate the objection made by the demurrer.

Mr. Romeyn, for complainant.

Mr. Bates, for defendants.

OPINION OF THE COURT. This is a bill to foreclose a mortgage. The defendants demur on two grounds. 1. That the bill is not signed by counsel. 2. That Bacon having no interest in the foreclosure, should not have been made defendant. In regard to the first ground, it is not denied, that the English practice requires a bill to be signed. This practice seems to have been introduced by Sir Thomas More, who made an order to that effect. And if a bill be not so signed, it is demurrable. 2 Coop. Eq. Pl. 18; Story, Eq. Pl. \$47. But in this case the bill is indorsed by counsel, and that is a sufficient signing within the rule. It seems that Bacon is not a party to the mortgage, nor does it appear how he is interested in the decree. No decree is prayed against him. The objection to the bill on this ground may be obviated by an amendment, and leave is given to amend the bill.

¹ [Reported by Hon. John McLean, Circuit Justice.]