

Case No. 4,517. ERIKO E. AL. V. BOMFORD ET AL.  
[1 Hayw. & H. 261.]<sup>1</sup>

Circuit Court, District of Columbia.

May 17, 1847.

ATTORNEY AND CLIENT—APPEARANCE—MOTION TO STRIKE OFF—CONTROL OF CAUSES IN WHICH COUNSEL APPEAR.

1. It is not the practice of the court to order the name of a counselor or attorney to be stricken off in any particular case, who has entered his appearance. It is a matter that must be decided by the attorney and his client.
2. The court will not decide which of the contending counsel has the better right to control the causes in which they appear. This, also, must be left to their clients.

[This was an action at law by Hyppolitus Eriko and others against George Bomford and others.] Heard on motion to strike out the appearance of Fendall and Bradley.

On the 12th of April, 1847, Gaspard Tochman, Esq., claiming to be an attorney, solicitor and counsel of the plaintiffs in the above entitled cause depending in the circuit court of the District of Columbia, and whose name in December, 1845, had been entered upon the docket of the court, together with the names of Joseph H. Bradley and P. R. Fendall, Esqrs., also claiming to be attorneys, solicitors and counselors of the plaintiffs in the said cause, moved the court: That the names of Messrs. Fendall and Bradley be stricken off the docket in all the cases of the Eriko branch of the heirs and next of kin of General Thaddeus Kosciusko; in other words, “that they be not permitted to appear for the heirs in any of said cases, for want of authority.” And he asks leave to file certain papers in said cause to show Ms own authority, and the want of authority an Messrs, Fendall and Bradley, to appear for the Eriko branch of the heirs. The court refused to permit him to file the said papers, but permitted his motion to be entered upon the docket,

It appears by the records of the court that in December, 1845, there had been a rule laid on those parties to give security for costs. This security was given by Messrs. Fendall, Bradley and Tochman, and their appearance was entered in their own hands respectively upon the dockets and the papers in all the cases of the Eriko family.

When an attorney or counselor or proctor of this court offers to appear in any cause depending, or any suit to be brought in this court, the court does not generally require evidence of his authority. They have such confidence in the gentlemen of the bar as to believe that they would not attempt to impose on the court, and after the appearance, has been entered it is not the practice of the court to order it to be stricken off in any particular case without the consent of the attorney or counselor who has entered the appearance. We have no recollection of any such order in this court or in any other. It is a matter between the client and his attorney. The court will not undertake to decide which of the contending counsel has the better right to control and manage the respective causes in

which they appear. It is a question which must be left to their constituents, who have the right and the authority to grant and revoke from time to time such powers as they deem proper and expedient.

The COURT must therefore overrule the motion to order the names of Messrs. Fendall and Bradley to be stricken off the docket in the cases of the Eriko branch of the heirs of Gen. Kosciusko, and it is ordered that Mr. Tochman have leave to take from the clerk's office all the papers which he has produced and offered to file in support of his motion.

<sup>1</sup> [Reported by John A. Hayward, Esq., and Geo. C. Hazleton, Esq.]