

Case No. 5,888.

{4 McLean, 540.}¹

HACKER V. STEVENS ET AL.

Circuit Court, D. Indiana.

May Term, 1849.

UNNECESSARY PLEA—INCUMBRANCE OF RECORD.

An unnecessary plea will, on motion, be directed to be withdrawn, as improperly incumbering the record.

At law.

Mr. Stevens, for plaintiff.

Mr. Smith, for defendant.

OPINION OF THE COURT. This action was brought on a promissory note given by defendants, to [William E.] Hacker, Brother & Co., at Philadelphia. The defendants first pleaded jointly that one of them was garnisheed by Berryhill, a creditor of Hacker & Brother, against whom judgment was obtained. The case of garnishee is still pending, and that was pleaded in abatement Also a single plea of Stevens was filed, setting up the same defense. Motion by plaintiff to withdraw the single plea—and the court directed the plea to be withdrawn as unnecessarily incumbering the record.

{For subsequent proceedings, see Case No. 5,887.}

¹ {Reported by Hon. John, McLean, Circuit Justice.}