

Case No. 9,244.

MASON v. MASI.

[5 Cranch, C. C. 397.]¹

Circuit Court, District of Columbia.

March Term. 1838.

WITNESS—COMPETENCY—INDORSER.

An indorser of a promissory note is a competent witness for the defendant in an action by the indorsee against the maker.

[See Bank of Alexandria v. Clarke, Case No. 844.]

{This was an action at law by Milo Mason's administrator against Seraphim Masi.}

Assumpsit, upon the defendant's promissory note to Nicholas Harper, and by him indorsed to the plaintiff's intestate.

Mr. Morfit, for defendant offered the indorser, Nicholas Harper, as a witness to prove payment by the defendant; and cited White v. Kibling, 11 Johns. 128; Cooper v. Davies, 1 Esp. 463; Charrington v. Milner, Peake, 8, and Starkie, Ev. pt. 4, p. 300.

THE COURT (THRUSTON, Circuit Judge, contra, and the other judges doubting) permitted

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him to be sworn and examined, to prove payment by the defendant; and said they would hear a motion for a new trial if the verdict should be for the defendant.

Verdict for the plaintiff, \$50, with interest from the 25th of March, 1835.

Judgment for the plaintiff.

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