

## Case No. 9,333.

MAX V. HARPER ET AL.

{4 N. B. R. 478 (Quarto, 156);<sup>1</sup> 18 Pittsb. Leg. J. 105; 2 Leg. Gaz. 381; 4 Brewst. 253.}

Circuit Court, W. D. Pennsylvania.

1871.

BANKRUPTCY—PETITION—DEPOSITION—AMENDMENT  
THERETO.

The deposition of a witness to acts of bankruptcy in an involuntary proceeding cannot be amended, because it is the proof upon which the rule to show cause issues, and without which the whole proceeding is defective.

{Cited in Be Hanibel, Case No. 6,023.}

{Action by May against W. L. Harper & Atherton.}

This was a hearing sur motion to dismiss creditors' petition.

MCCANDLESS, District Judge. A jury being called, and before they were sworn, attorney for creditors asks and has leave to amend the petition which is allowed because the creditors' petition is a part of the pleadings in the case. He further asks leave to amend the deposition of the witness as to the acts of bankruptcy, which is refused, because it is the proof upon which the rule to show cause why he should not be declared a bankrupt issues, and without which the whole proceeding is defective. This deposition of W. L. Harper proves no act of bankruptcy, and the proceedings are dismissed at the cost of the petitioning creditor.

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