

THORP v. ORR.

{2 Cranch, C. C. 335.}¹

Circuit Court, District of Columbia. Oct. Term, 1822.

DEPOSITION—RETURN—PROPER
DIRECTION—SEALING—EVIDENCE—ACCOUNTS—COPY.

1. It is no valid objection to a deposition taken under the act of congress [1 Stat. 73] that its envelope is not directed to “the court,” if it be directed to “the judges” of the court.
2. It is sufficient evidence that the deposition was “sealed up” by the magistrate, if the envelope is sealed, and the name of the magistrate written across the seal.
3. It is not competent for the plaintiff to give parol evidence that the defendant saw and acknowledged the balance stated in the plaintiff’s ledger, without producing the ledger itself; a copy of the account is not competent evidence.

Mr. Key, for defendant, objected to a deposition taken under the judiciary act, that it was not directed to this court; it was directed “To the Judges of the Circuit Court for the District of Columbia, Washington City.” He also objected that it did not appear that it was sealed up by the judge who took it. He also certified that he intended to seal it up. The envelope was sealed with two seals, and the name of the judge written over each seal.

THE COURT (THRUSTON, Circuit Judge, absent), overruled both objections. The deposition stated that the deponent showed the plaintiff’s ledger to the defendant, (the balance being \$107.) who acknowledged to be correct. It stated also that the paper annexed to the deposition, was a true copy of that account, and that the deponent afterwards showed the balance, being \$107, to the defendant, who promised to pay it.

THE COURT (THRUSTON, Circuit Judge, absent), rejected that part of the deposition.

Non-pros. Mr. Lear, for the plaintiff.

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

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