

Case No. 17,627.

WIGGINS v. WIGGINS.

[1 Cranch, C. C. 299.]¹

Circuit Court, District of Columbia.

March Term, 1806.

DEPOSITIONS—TIME OF TAKING.

A deposition, taken more than six months after replication, in a chancery suit, cannot be read at the hearing, unless taken by consent, or by order of the court, or out of the district.

Bill, answer, replication, and dedimus awarded in October, 1804. The cause was set for hearing in October, 1805. A deposition was taken in July, 1805.

Mr. Taylor objected, that the deposition being taken more than six months after the replication, could not be read as evidence on the hearing. See Act Assem. Va. Nov. 29, 1792, p. 67, § 46.

Mr. Swann, contra, contended, that the act of assembly means six months after the cause is set for hearing.

Mr. C. Lee and Mr. Simms stated the practice to be as stated by Mr. Swann.

But THE COURT said, that the words of the act of assembly, were too clear and positive to admit of a doubt, and this court cannot say, that a practice, not sanctioned

WIGGINS v. WIGGINS.

by any judicial decision, and in opposition to the express words of the act, is a correct practice.

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