

CAREY, JR., *v.* ROCHEREAU AND OTHERS.*

Circuit Court, E. D. Louisiana. February, 1883.

AGENT—LIABILITY TO THIRD PERSONS.

An agent is liable only to his principal for non-feasance. Whether an agent *per se* is liable to third persons on any account, doubted.

Delaney v. Rochereau, 34 La. Ann. 1123, followed.

At Law.

Joseph P. Hornor and *Francis W. Baker*, for plaintiff.

Charles E. Schmidt, for defendants.

PARDEE, J. An agent is liable only to his principal for *non-feasance*. At common law this proposition is not disputed. That the same rule prevails under the law of Louisiana is settled by the very able and exhaustive opinion of Chief Justice BERMUDEZ, of the supreme court of Louisiana, in the late case of *Delaney v. Rochereau*, 34 La. Ann. 1123. It is very doubtful if an agent *per se* is liable to third persons on any account. A person acting as agent for another is liable for his own *mifeasance*, but this results not from the agency but in spite of it.

The exception in this case should be maintained.

* Reported by Joseph P. Hornor, Esq., of the New Orleans bar.

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