

HAMMERSCHLAG MANUF'G CO. v. JUDD.

Circuit Court, D. Massachusetts. January 29, 1886.

WITNESS—TAKING TESTIMONY OF UNWILLING
WITNESS ON MOTION FOR PRELIMINARY
INJUNCTION.

In Equity. Motions of defendant for order for
subpœna and attachment.

Livermore & Fish, for complainant.

Browne & Browne, for defendant.

COLT, J. When either party, on motion for a preliminary injunction, desires to take the testimony of an unwilling witness, application should be made to the court, and notice given to the other side. The motion should be in writing, and should set forth the name or names of the witnesses, and briefly the purpose for which they are to be called. The court should then, if the application is a proper one, appoint an examiner to take such testimony, due notice to be given to the other side, who should have the right of cross-examination. The defendant's motion for subpœna, in its present form, and also his motion for attachment, must be denied.

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