

William Rutt  
and Margretta Rutt  
vs.  
George Reuling

In the Baltimore  
City Court  
March Return Day  
1878.

Mr. Robertson, Clerk,

Issue in this case  
and make the writ returnable on the second  
Monday of March 1878.

J. Mason  
Atty for plffs.

Reg 335 35 260  
9

Inte Batione  
City Court

William Ruth &  
Margretta Ruth

vs.

George Keuling  
Obst. Charles J.

Filing

Mr. Robertson

Issue as directed

within.

260 J. Mason  
att. for pl. & d.

275

sd Mch 8/78

WRIT OF SUMMONS.

BALTIMORE CITY, to wit:

State of Maryland to the Sheriff of Baltimore City,

GREETING:

You are hereby commanded to summon

*George Reuling*

of Baltimore City, to appear before the Baltimore City Court, to be held at the Court House in the same city,  
on the second Monday of *March* next, to answer an action at

the suit of

*William Ruth & Margretta Ruth*

and have you then and there this writ.

WITNESS, the Honorable GEORGE WILLIAM BROWN, Chief Judge of the Supreme Bench of

Baltimore City, the

*14* day of *January* 18 *78*

ISSUED the

day of

*March* in the year of 18 *78*

*W. B. Robertson*

CLERK.

No 35

Baltimore City Court.

William Ruths &  
Margretta Ruths

VS

George Raulin of  
66 N-Charles St

Summoned  
Philip M. Snowden  
Sheriff

**WRIT OF SUMMONS.**

~~Copy of writ and notice to plead within~~  
to be served on defendant.

A. J. Mason  
(Murphy)

In the Baltimore  
City Court

William Ruth &  
Margaret Ruth

vs  
George Keuling

Declarator -

W. Robertson

Filed this 20th

day of June

1878  
J. Mason R.  
atty for pl'tfs.

Amicus copy admitted

Mr. Fordgett  
Feb 2nd 1878

In the Superior Court of Baltimore City Court  
Baltimore City, to wit: \_\_\_\_\_  
William Ruth and Margaret Ruth,  
his wife, by John L. Mason R., their  
attorneys and George Keuling \_\_\_\_\_  
For that the plaintiffs, at the defendant's  
request, retained and employed the  
defendant as a surgeon and oculist  
to attend upon the said Margaret and  
endeavour to cure her of a disease  
under which she then laboured,  
for reward. And the defendant ac-  
=cepted and entered upon the said  
retainer and employment; yet the  
defendant conducted himself in an  
ignorant unskillful and negligent  
manner in that behalf; whereby the  
said Margaret became worse  
and was greatly injured in her  
health and constitution, and  
suffered pain, and was prevented  
from following her usual employment,  
and her recovery from said disease  
rendered impossible. \_\_\_\_\_  
and the plaintiffs claim therefor  
\$10,000. \_\_\_\_\_

J. Mason R.  
atty for pl'tfs.

In the Baltimore  
City Court

William Rutch  
his wife  
vs.

George Reuling.

Declaration

Mr. Robertson  
Please file this <sup>and</sup>

in the only place.

C. J. Mason  
for pt. & co.

Sealed & submitted  
- 60 -

Attest  
14 Dec 1878

In the Baltimore City Court,  
Baltimore City, to-wit:

William Rutch and Margretta Rutch,  
his wife, by John C. Mason, their  
attorney, sue George Reuling.

1. That the plaintiffs, at the defendants  
request, retained and employed the  
defendant as a surgeon and oculist  
to attend upon the plaintiff Margretta  
and endeavor to cure her of a disease  
under which she then labored for  
rewards. And the defendant in  
consideration of being paid for his  
skill and labor, accepted and  
entered upon said retainer and  
employment and undertook and  
promised to cure the plaintiff  
Margretta. Yet the defendant not  
regarding his promise and un-  
derstanding and the duty of his  
business and employment, con-  
ducted himself in an ignorant,  
unskillful, and negligent manner  
in that behalf, whereby the said  
Margretta became worse and was  
entirely deprived of her eyesight,  
and suffered great pain and was  
prevented from following her usual

Employment another recovery from  
her said disease rendered impossible  
2. And for that the defendant was a  
surgeon and oculist and was  
retained and employed as such  
surgeon and oculist for a certain  
reasonable reward to be to him therefor  
paid, to treat, attend and cure the  
plaintiff Margretta of a disease  
under which she then labored.  
And the defendant in consideration  
of being paid for his skill and labour  
accepted and entered upon said retention  
and employment and undertook and  
promised to cure the plaintiff  
Margretta. Yet the defendant not  
regarding his promise and undertaking  
and the duty of his business and  
employment, conducted himself in  
an ignorant, unskillful and negligent  
manner in that behalf, whereby  
the said Margretta became worse  
and was entirely deprived of her  
eyesight and suffered great pain  
and was prevented from following  
her usual employment and her  
recovery from her said disease,  
rendered impossible.

And the plaintiff claims therefor  
\$10,000.

J. J. Morsink  
Atty. for plffs.

William Ruth } In the Baltimore  
& wife } City Court  
vs.  
George Reuling }

To the Hon. J. F. Garey, Judge etc,  
The plaintiffs in this case  
pray leave of the court to  
renew their declaration  
J. Mason  
Att for plffs

Leave granted as prayed this  
5<sup>th</sup> day of Dec. 1878.  
Henry F. Garey



# In Baltimore City Court,

Term. 18780

*Rush*

VS.

*Keeling*

No. ....

The *Defendant* in this case suggests to the Court here, that he believes he cannot have a fair and impartial trial in this Court, and prays the Court to order and direct the removal of the record of proceedings in his case to the Court of some adjoining Circuit for trial.

On this *25<sup>th</sup>* day of *February* A. D. 18780 appears in open Court here *George Keeling* the *defendant* in the above case and makes oath on the Holy Evangelry of Almighty God, that the matters and things contained in the above suggestion are true to the best of his knowledge and belief.

*N. C. Robertson* Clerk.

Baltimore City Court.

Ordered by the Court this *20* day of *February* 18780 that the record of proceedings in the above case be transmitted to the *Circuit* Court for *Howard County* for trial.

*N. C. Robertson*  
*Henry F. Garey*

William Ruths } In the Baltimore  
+ wife } City Court  
vs. } Mayor Stone  
George Keuling } 1879. —

It is agreed in the above entitled  
Cause that all errors of pleading  
shall be waived and either party  
may prosecute or defend as they  
shall in any state of the  
pleadings. —

W. Mason R.  
Atty. for plffs.

R. Morrison

Atty. for defendant

Butterworth  
Laird's Journal

William Butts  
autotype

by,

George Kurling

agreement

Matthewson

Harrold's  
O. H. Munnick

Feb May 15/79

Richter  
" "  
Reuling }

The plaintiffs object specially to the granting of the first, third, fourth and fifth prayers of the defendant on the ground that there is no evidence in the case to sustain the hypothesis of fact on which said prayers are based, and particularly that there is no evidence <sup>as to any of said prayers</sup> that the plaintiffs or either of them employed the defendant to treat the eyes of the plaintiff Margetta, or to do more than treat the left eye of said Margetta, and as to the fifth prayer that there is no evidence that there was any contract between the plaintiffs and the defendant as to any specific disease known as glaucoma.

J. Packard  
J. J. Maron R.  
Counsel for Plffs

for Nov 24/79

No. 67 Ruths }  
vs. Reuling }  
Foreman.

1- HOWARD BOKEE, //

~~HUGH J. McCANN,~~

2- JOHN E. BEAHAN, /

~~BENJAMIN EGGLESTON,~~

~~CYPRIAN JENKINS,~~

~~CHARLES A. WHEELER,~~

3- THOS. J. ROBINSON,

4- RICHARD D. MAYNARD, / 5

5- HENRY T. ARTHUR, / 5

~~ELISHA HARRINGTON,~~

6- JOS. GALLAGHER, JR.

7- D. G. CARLISLE, /

8- CHARLES R. CADWELL, / 5

~~W. H. LEWIS,~~

9- CHARLES A. CARROLL, / 5

~~JOHN MULLIN,~~

~~ADAM DIETZ,~~

10- GEORGE J. REESE, X

11- AUGUSTUS G. MYERS, / 5

~~WYLLIAM REED,~~

12- Jas. L. Mills /

~~Robt B. Young~~

2

Deeds 5th Prayer

The Defendant prays the Court to instruct the jury that if they find from the evidence that the plaintiff, Margaret Ruth, visited the defendant on the 4th of July, 1875, to consult him as an oculist in reference to a disease of the eyes, and if they find that the defendant examined the eyes of the said Margaret and found that she was afflicted with the disease known as Glaucoma, that said disease was total or almost total in the left eye and in a progressive stage in the right, and if they shall further find that afterwards, & it, or about the 6th of July, 1875, the plaintiff, William Ruth, entered into a contract with the defendant for the treatment of the Plaintiff, Margaret, of ~~her~~ <sup>his</sup> disease, and if they shall further find from the evidence of the expert examined in the case, that it is the ~~act~~ <sup>usage</sup> of an oculist, <sup>of ordinary skill & experience</sup> when they discover the disease of Glaucoma in both eyes of a patient to perform the operation of Prolectomy in both eyes with reasonable promptness, and if they shall further find that the defendant informed the plaintiff that an operation would be necessary, and that he would perform the same operation on the left eye at once; and if they shall find that

Refused

The Secretary, Discharge, has taken the information  
of defendant mentioned in the return, and  
that the defendant in the case of the day of  
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is being & thus in the eye eye in a  
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the said Discharge - because the name  
found in the return of the defendant and Dr.  
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that the said Discharge has an entry  
of entry this and evidence, and that  
all consideration the defendant and said  
Discharge, and that it has not  
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the first return, and that after an ex-  
amination of the eye by the of them, the  
defendant and the said Discharge, and  
in the return that the said Discharge  
is set on in the eye - at the time,  
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with reference to the case of the defendant  
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that the defendant in the case of the day -  
and in a 6th eye in the eye and state



Sept 5/13  
Prayer



Defendant's 4<sup>th</sup> prayer.

The defendant prays the Court to instruct the jury that if they find from the evidence the employment ~~of~~ defendant as mentioned in the ~~first prayer of the defendant -~~ evidence, and if they find that the plaintiff Margaret Rush at the time of said employment was suffering from a disease of the eyes known as Glaucoma, and if they shall find that the defendant performed the operations mentioned in the evidence and if they shall find from the evidence of the experts given in the cause that that operation was proper to be performed for that disease then their verdict must be for the defendant unless they shall find that there was some want of ordinary care or skill in the performance of the operations, and there is no evidence in the case from which they can find such want of care or skill in the performance of said operation.

Granted

Defendant's 3<sup>rd</sup> prayer

The defendant prays the Court to instruct the jury that if they find from the evidence that the plaintiff William Rush employed the defendant <sup>generally</sup> to treat the plaintiff Margaret Rush for a disease of the eyes and that the defendant is skilled in his profession as an Oculist and that the defendant accepted the said employment and did treat the said Margaret for the said disease and if they find that in so ~~treating the said Margaret the defendant~~ <sup>did</sup> ~~that~~ only which in his judgment it was his duty as an Oculist to do under the circumstances and that only which in his judgment as an Oculist it was for the best interest of his patient that he should do and if they shall further find that in so treating the said Margaret the defendant used and exercised such skill and ~~care~~ <sup>care</sup> as is ordinarily used and exercised by Oculists of ordinary skill and experience in the treatment of diseases similar to that of the said Margaret then their verdict must be for the defendant. ~~Provided they further find that said Margaret had a disease of the eyes for which an operation was necessary~~

Printed as amended

Granted as amended

## Defendant's 2<sup>nd</sup> prayer

The defendant prays the Court to instruct the jury that the burden of proof is on the plaintiffs to show that the injury of which the plaintiffs complain is the result of a want of ordinary care and skill on the part of the defendant in the treatment of the plaintiff Margaret Ruth for a disease of the eyes.

Provided they also find that the defendant was employed generally to treat the eyes of the female plaintiff.

Defendant's 1<sup>st</sup> Prayer

The defendant prays the Court to instruct the jury that if they find from the evidence that the plaintiff William Rank employed the defendant to treat the plaintiff Margaret <sup>generally</sup> Curtis for a disease of the eyes and that the defendant is skilled in his profession as an oculist, and that the defendant accepted the said employment and did treat the said Margaret for the said disease and if they find that in so treating the said Margaret the defendant used and ~~was~~ exercised such skill and ~~diligence~~ <sup>care</sup> as is ordinarily used and exercised by oculists of ordinary skill and experience in the treatment of diseases similar to that of the said Margaret ~~then their verdict must be for the defendant.~~ if they find that her eyes were diseased, then they must find for the defendant.

Given as amended

Plaintiffs' first prayer.

If the jury shall find from the evidence that the defendant is a physician or surgeon who makes a specialty of the treatment of the eye, and that so being he was employed to treat the plaintiff Margretta for a disease of the eye, and that the defendant examined the eyes of said Margretta and said that a small or slight operation upon the left eye would be necessary, and that he would guarantee the success of such operation and that in a few days she would be able to go about as usual; and that thereupon the plaintiffs consented to such operation upon the left eye, to be performed for a stipulated fee; and that afterwards the defendant performed such operation, and that such operation was unsuccessful and resulted in said left eye becoming useless or seriously and permanently impaired; then the plaintiffs are entitled to recover

Granted

Plaintiffs' second prayer.

If the jury shall find from the evidence that the defendant is a physician or surgeon who makes a specialty of the treatment of the eye, and that so being, he was employed to treat the plaintiff Margretta for a trouble of the left eye, and that the defendant examined the eyes of said Margretta, and told her that a small or slight operation upon the left eye was necessary, and that thereupon the plaintiffs consented to such operation upon the left eye to be performed for a stipulated fee; and that upon the occasion of performing said operation the defendant operated upon both of the eyes of said Margretta without the consent of herself or her husband as to the operation upon the right eye, and that such operation upon the right eye was unsuccessful and resulted in said right eye becoming useless, or seriously and permanently impaired; then the plaintiffs are entitled to recover.

Granted



Plaintiffs' third prayer.

If the jury shall find for the plaintiffs, <sup>as to the wife's ~~left~~ right eye</sup> then they are instructed that in estimating the damages which they are to award, they may consider the pain anguish and suffering of the body and mind which the plaintiff Margretta has already undergone, the future pain anguish and suffering which it <sup>may be</sup> reasonably certain that she may yet have to suffer and also the loss and damage for the permanent injury which she has received (if they shall find such injury) in its effects on ~~her power to earn money and attend to her duties in life~~ her right eye.

And if the jury shall find for the plaintiffs the guaranty of the operation upon the left eye, then they must find give such damages as they find that ~~she~~ she suffered by said operation by reason of any loss of value in the said left eye by such operations.

Gain or amended

# In Baltimore City Court,

*Jan* Term, 187*80*

*Smith*

VS.

*Keeling*

No. \_\_\_\_\_

The *Defendant* in this case suggests to the Court here, that he believes he cannot have a fair and impartial trial in this Court, and prays the Court to order and direct the removal of the record of proceedings in his case to the Court of some adjoining Circuit for trial.

On this *25<sup>th</sup>* day of *February* A. D. 187*80* appears in open Court here *George Keeling* the *defendant* in the above case and makes oath on the Holy Evangelry of Almighty God, that the matters and things contained in the above suggestion are true to the best of his knowledge and belief.

*N. C. Robertson* Clerk,

Baltimore City Court.

Ordered by the Court this *20* day of *February* 187*80* that the record of proceedings in the above case be transmitted to the *Circuit* Court for *Howard County* for trial.

*February* 187*80* that the *Circuit* Court

*Nancy F. Garey*

for July 20/88