had knowledge of the existence of said Mortgage at the time of the execution of the said deed to him dated 25th November 1856 He was definitely informed of the existence of said Mortgage by Wm. L. Rose Esquire in my presence Jacob McKinkle desiring that Sophia Fitzhugh and Sarah Margaret Fitzhugh should unite with me on the days of the 25th of November 1856 to release his moiety of the estate from the lien of those Mortgages it being at the time understood and agreed between Jacob M. Kunkel myself and said ladies that said Mortgages were to remain liens on the half of said property remaining to me
The Solicitor for L. M. Kunkel here recites for parol evidence of the intentions and purposes of the parties in the premises) the witness resuming says, I also look at the paper here shown me marked L. K. No 2 being a Copy of a release from Sophia Fitzhugh and Sarah Margaret Fitzhugh to Ferdinand Fitzhugh dated 6th of January 1857 - I look also at the paper marked Exhibit No 9 being a Copy of a mortgage from Ferdinand Fitzhugh to Sophia Fitzhugh dated 6th of January 1857 and also at a paper marked Exhibit No 7 being a Copy of Mortgage from Ferdinand Fitzhugh to Sarah Margaret Fitzhugh dated 6th January 1857 and also at the paper marked Exhibit L. M. K. No 3 which is a Copy of the last named mortgage and also at paper marked Exhibit L. M. K. No 4 which is a Copy of said release above mentioned Jacob M. Kunkel had knowledge of the execution of said release and the said mortgages at the time of and prior to the executing thereof and assented thereto the object was to release the mortgages of the 11th of December 1854 because a considerable amount had been paid on said mortgages and to give the said Mortgages of the 6th of January 1857 for the actual amount remaining due on said mortgages of the 11th of December 1854 in order that the records might show the actual amount due from defendant to said Sophia Fitzhugh and Sarah Margaret Fitzhugh respectively on said mortgages. It was agreed between the said Mortgagees and myself that the said Mortgages of the 6th of January 1857 should be given as renewals of or substitutions or continuations of said mortgages of the 11th of December 1854. and said agreement was the knowledge and consent of said Jacob M. Kunkel (The Solicitor of Jacob M. Kunkel recites to the competency of parol evidence as to these agreements) the witness proceeding says - I also look at the paper here shown me marked Exhibit No 8 being Copy of a mortgage from defendant and wife to Sophia Fitzhugh dated 14th July 1857 it was given to secure the payment of $1200 Cash loaned by Sophia Fitzhugh to me on that date -
The Solicitor of the respective parties here file with me