

and Lot of Ground Belonging thereto Situate on the North Side of Patrick Street in the City of Frederick on which said Testator then resided, if she shall think it for the better for herself and her children, and either to purchase a smaller House and Lot of ground out of said purchase money and invest the residue or balance of proceeds in some safe investment or rent a comfortable dwelling her house for herself and children, and after her death directed the house so purchased or the house in Patrick Street if unsold to be sold and the proceeds thereof and of the residue of his Estate to be divided among his children. And constituted his wife Mary M. Nichols, and his son Clayton to be Executors and Executor of his Will, all of which will more fully and at large appear by reference to a Copy of said Will herewith Exhibited, Marked Exhibit No. 3 ~

Your Complainers further charge that Clayton Nichols is refused to act as Executor and that letters testamentary were granted to the said Mary M. Nichols, who has given her approved Bond and entered upon the duties of her said Office ~

Your Complainers charge that the said Seth H. Nichols died on the Month of June 1871, without having revoked said Will, and that the said Mary M. Nichols in the exercise of the powers conferred upon her by the said Will of said Seth H. Nichols, she deeming a sale thereof to be best for the interests of herself and children, did on the 29th day of June 1872 sell the House and Lot on Patrick Street Frederick City, the late dwelling House of said Seth H. Nichols to Thomas Claggett at and for the sum of \$4025 ~

Your Complainers charge that the said Mary M. Nichols as Executrix of Seth H. Nichols has settled her second and final account, and has distributed and paid out the personal assets of said Estate, leaving the claims of your Complainers unpaid, as will appear by a certified copy of said account herewith Exhibited Marked Exhibit No. 4. ~

Your Complainers charge that the personal Estate of said Seth H. Nichols is insufficient for the payment of his debts, and that it will be necessary to apply a portion of the proceeds of sale of the real Estate of said Seth H. Nichols to pay his debts. ~

Your Complainers charge that said Thomas Claggett has not yet had the whole of the purchase money for the house and lot purchased by him, and that he had notice of the deficiency of the personal Estate of said Seth H. Nichols to pay his debts. ~

Your Complainers further charge, that at the death of said Seth H. Nichols he left a widow Mary M. Nichols, who is also sole Executrix of his will, and the following children, Clayton Nichols of full age, and Cornelia Nichols, William Nichols, Anna C. Nichols, and Seth H. Nichols, who are infants under the age of twenty one years. ~

It is the end therefore that the Defendants herein after named may answer the premises, and that so much of the proceeds of sale of the real Estate made by Mary M. Nichols to Thomas Claggett, as may be necessary, to pay the debts of Seth H. Nichols deceased, not discharged or paid by his personal Estate, may be appropriated by a Decree of this Court to pay the debts of your Complainers and all other Creditors of Seth H. Nichols who may come in under the decree, and that your Complainers may have all such other and further relief in the premises as the nature and Equity of their case may require. ~

May it please your Honors to grant to your Complainers the writ of Subpoena against Mary M. Nichols widow and Executrix of the Will of Seth H. Nichols Clayton Nichols, Cornelia Nichols, William Nichols, Anna C. Nichols and Seth H. Nichols and Thomas Claggett of Frederick County, to be and appear in this Court on a certain day to be hereinafter named in person or by Solicitor, to answer the premises, and show cause if any they have, why a decree ought not to pass as prayed for. ~

Wm J. Ross

Solicitor for Complainers

Filed August 13<sup>th</sup> 1872. ~

Exhibit No. 1.



Frederick Maryland March 3<sup>rd</sup> 1871 ~

Four Months after date we jointly and severally promise to pay to Perry B. McCleary Cashier or Order Five Hundred Dollars for value received, near like