No. 4454 Equity.

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| John William Hargate Assignee of J. M. Frailey use of Margaret A. Frailey vs. Joshua J. Zimmerman Trustee, and others | } | No. 4454 Equity<br>In the Circuit Court for Frederick County, in Equity. |

Bill of Complaint.

To the Honorable the Judges of the Circuit Court for Frederick County, sitting in Equity.

The Bill of Complaint of John W. Hargate respectfully shows to your Honors.

That a certain Nicholas Holtz, late of Frederick County deceased, by his last will and testament, devised as follows, among other legacies "And the nett proceeds of my Estate after payment of debts, Expenses and specific legacies, I will to divide into seven parts, one share I bequeath to the children of my nephew George Zimmerman of John deceased, share and share alike with the Express understanding that the shares which shall or may be distributed to Charlotte Fraley child of my nephew George Zimmerman of John, be paid to my nephew John Zimmerman of John, and his heirs in trust, to be by him invested for the separate use of the said Charlotte Fraley, in such manner as he in his judgment may deem advisable, and the proceeds thereof to pay to her annually or semiannually, as he may receive them, during her natural life, and her receipt, though covert, shall be a sufficient discharge; and after her death the portion or principal from which she was drawing the proceeds, shall be paid to her heirs entitled to receive the same"

And your Orator further shows that the said Charlotte mentioned, was the mother of a certain Francis M. Fraley: that she left as her heirs at law Entitled to the fund mentioned at her decease, the said Francis M Fraley, a certain Ella N. Stone who is intermarried with a certain George C. Stone and a certain Anna Mary Fraley, who is the child of John Fraley, who was a child of said Charlotte Fraley, who deceased before his said mother, leaving the said Anna Mary his only child and heir at law now living, and that the principal of said fund becomes to said Francis M, Ella N and Anna Mary, the said Charlotte Fraley having died in the month of August 1878.

And your Orator further shows that the true name of the Charlotte Fraley mentioned in said last will of Nicholas Holtz was Mary Ann Fraley, and that the name Charlotte in said will, was a mistake, and that the said Mary Ann Fraley has always been recognized and dealt with as said party named in said will as Charlotte Fraley by those who have been engaged in managing said trust.

And your orator further shows that said John Zimmerman of John accepted said trust, named in said will of Nicholas Holtz: that sometime about the month of July 1863. the said John Zimmerman of John died, and upon the petition of his Executors, a certain Joshua J Zimmerman was appointed by the decree of the Circuit Court for Frederick County, sitting in Equity, Trustee to carry out the trust created by the will of said Nicholas Holtz, as before stated, as will more fully appear by reference to the papers in the cause No. 3112 Equity in your Honorable Court will appear.

And your orator further charges that the amount which passed into the hands of said Joshua J Zimmerman, as Trustee under said decree, was a large