

not authenticated by the signature of the witnesses ;” that by the return of the commission to *Magruder*, it appears that one witness was examined, not on oath, but on affirmation, neither the form, nor the terms of which are set forth, nor has the witness signed his deposition ; that this plaintiff, *William Scott*, is the administrator of the late *Kinsey Gittings*, and the other plaintiffs are his children and next of kin, who as such are the persons really and exclusively interested in the matter in controversy, and ought to have been made parties to the suit, in which the decree of the 4th of August, 1825, was passed. Instead of which this plaintiff, *William Scott*, alone was made defendant and charged by the decree, in that case, in his own proper person, although he could only be held liable, if at all, as administrator of the late *Kinsey Gittings*, being as such no more than a trustee for his creditors and next of kin.

They further state, that, from certain judicial proceedings and other circumstances, it appeared, that this plaintiff, *William Scott*, was entitled to various credits, which had not been given, and an *ex parte* decree had been obtained by *Thomas Burch*, and others, in that case, for a sum greatly exceeding their just due, by their fraudulently concealing the proper sets off and deductions, some of which they had all along admitted, and others were clear and indisputable.

And they further state, that this plaintiff, *William Scott*, was frequently, and contrary to his anticipations and expectations, disappointed in having the business put in train for a decision ; he at length became so anxious and uneasy on the subject, that, hearing of his counsel being in attendance at the Court of Appeals at Annapolis, at the June term of 1824, he came from his home in Montgomery to Annapolis, for the express and only purpose of having an interview with his counsel, and getting his answer drawn, and filed, &c. But he found his counsel on the eve of returning to Washington, whither he accompanied him, and immediately on their arrival, the answer was drawn, regularly sworn to, and put into the hands of his counsel, to be transmitted by the stage next morning, to the register of this court ; that he had frequent interviews afterwards with his counsel on the subject ; he as well as his counsel, took it for granted, the answer and exhibits had been duly received ; and he was informed by his counsel, that he had made an arrangement with *Mr. Key*, one of the opposite counsel, who resided in Georgetown, to fix upon some day convenient for them both, to go to Annapolis and argue the cause ; and