

Superior Court

George H Bowen

agt

Gerard R Berkeiman.

Before the County Judge William H.
Robertson At Mott Haven

1857
April 30th

R. Cochran for Plff
W. F. Purdy & E. Hudson
for Defendants.

Supreme Court
Davis & Rodman

agt

Gerard R Berkeiman

Edw J. Ginet for Plff
a assignee
W F Purdy & E Hudson
for Deft.

At 12 3/4 P.M.

Gerard R Berkeiman Sworn in both
cases.

Q. What is your name?

A. Gerard R Berkeiman

Q. Where do you reside?

A. Saratoga, Westchester County.

Q. Have you been examined in any other proceedings supplementary?

A. No Sir

Q. Do you own any property of any kind, if so state what?

A. No Sir not to my knowledge

Q. Have you any interest in any property?

A. I have not for I have made an assignment of all my right, title and interest in everything for the benefit of my creditors.

Q. To whom?

A. To William Hubbard Presd^t of the Bowery Fire Ins Company, City of New York.

Q. When did you make that assignment?

A. I can't tell exactly?

Q. About what time?

A. Some time in the year 1856. It was made June 11th 1856. (Looks at Copy)

Q. Have you inherited any property since that time, or have you a beneficial interest in any property in the hands of any other parties for your benefit?

Deft. objects to the last clause of question on the ground that the answer involves a question of law that cannot be answered by this witness.

Objection overruled. Exception.

A. I have not inherited any thing on my own right to the best of my opinion, I

do not consider that I have any right,
nothing more than the Will and Codicil
gives me.

Counsel read a copy of the Will Codicil
of Stephen D Berkman dec?

Begins at 4th Bequest, then 5th 6th 7th
8th to conclusion.

Reads Codicil, wholly including
attestation.

Q. Is this the Will and Codicil which I
have just read the Will and Codicil
to which you refer?

A. I believe to the best of my knowledge
it is.

Q. Did your father by that will leave
you an Equal undivided one half part
of the Household furniture watches &c?

Obj.

Question withdrawn

Q. Is that part of the Will which says "I
give & bequeath all & singular my house
hold goods and furniture, jewelry, watches
& plate Books and family stores to my
two sons Stephen Frederick & Gerard Ad-
olphus to be divided between them
in equal shares, as part of your father's
will & just read to you?" Question withdrawn.

Q. When did your father die

A. I think it was about Nov. 1. 1856

Q. Did he have a will & Codicil?

A. I believe he did.

Q. Of which a copy has been read to you?

A. I can't say, but to the best of my belief
is is. There never has been any Receiver
of my property
appointed.

By Mr Cochran.

Q. Have you been served with any order in
any other supplementary proceeding than
shown upon the judgment on which you
are now being examined, or any other
supplemental proceedings on foot against
you to your knowledge?

A. No Sir.

Q. At what time was the assignment you
mentioned delivered by you to Mr Hib-
bard, the assignee & when did he enter
upon the execution of the trust thereby
created?

A. It was delivered the same day it was
dated to the best of my knowledge & be-
lief by Mr Hudson my attorney to the
best of my knowledge. He entered upon the
trust immediately after its execution.

May 17. 1857.

Communication received by E. D. Hunt
that you are unemployed, having no
profession?

A. I have not, only as agent for the estate
appointed by the executors.

Q. Are you a married man?

A. No Sir

Q. Have you a family?

A. No Sir

Q. Have you any money

Nothing more than the toll and Perch

given me.

Q. How much is that?

A. That is more than I can say.

Q. How much money have you received from
the executors since your father's death?

A. I have received \$10 in a bill of exchange
and \$20 for funeral expenses.

Q. Do you keep house, or board?

A. I am in the place as agent of the estate.
Q. How pays the expenses of that establishment?

A. I should think the executors did, for

they have refused to pay me any money.
Q. Were all the personal property of your father's

place, removed as before his death.
The Sir

Q. In what respect does it vary?

A. Some have been sold by the executors and

some have been distributed between

my brother and the trustees, my lady

to him and the other half to the trustees.

Q. Who has the majority of that part also

distributed to the trustees?

A. Mr. Rickard one of the executors.

Q. Who has the possession?

A. Mr. Rickard

Q. Who has the use?

A. Mr. Agent. Edward A. Richardson, Esq.

Q. Where is that person's property?

A. In the late residence of Mr. D. B. B.

Q. Does your brother live there?

A. Not at present.

Q. How many chambers are there at the

house?

A. A little better than

Q. How many present and did you assist the

executors in making out the inventory

of your father's estate?

A. I was a little assist them

My brother now lives within the

original inventory also in the chambers

office of the County of Middlesex and

April 17, 1857 and asks him to sign

me and as of that is correct?

Q. I can say nothing further than that

I cannot say whether it is correct or not.

I never saw it before.

It is admitted that the paper produced is the Inventory filed by the executor of Stephen D. Brekman deceased.

Q. Will you please to look over that part of the paper produced in relation to the personal property, other than bonds and mortgages and notes, and state as near as may be, if any part of that personal property is a part of the personal property you have in your care as agent for the trustees as before stated.

A. There is some of it, but I cannot pick it out as my brother has not removed the whole of his.

Q. Have you in your care as agent for the trustees, any personal property not mentioned in that paper?

A. No Sir, I have not.

Q. Have the executors, set apart any property of your father for your use?

Objected to as irrelevant for the reason that if they have done so they have disregarded the provisions of the will and Codicil.

Committee de vantage. which can be a matter of no importance in these proceedings.

Pemberton v. P.

The question involves a question of law.

Obj. Overruled.

A. I am unable to state.

Agreed that when we adjourn we adjourn to meet at Robert Cochran's office June 2^d next at 11 A.M.

Q. Had your father been in ill health for many years?

A. Well, he had been, I suppose in rather ill health but not to affect his ability to transact business. He was executor to an estate.

Q. What was his condition mentally at the time of making the Codicil to his last will. Pemberton v. P., as vice court seeking the opinion of the witness.

Q. Did your father own any real estate at the time of his death?

A. It was reported he did.

Q. Did you know of any he owned at that time?

A. Nothing more than reported.

Q. What is reported?

A. Nothing more than was reported.

Q. Did he own the place he lived on?

A. To the best of my knowledge I believe he did.

Q. What other property was he reported to own?

Q. It is a difficult question to answer.

A. I cannot answer.
Q. Have you had any income since your father's death other than that cleared from the Corp. & before estate?

A. I am not sure.
Q. Answer taken subject to objection.
Ans. No Sir.

Examination by Mr. Graham at 4.10 PM
No. 11th was with you in your late father's place?

A. Yes the Misses Burdett. My father's former housekeeper & her mother & a little waiting boy. When the mother & this matter was over, my father and his wife and daughter.

Q. You think the father to whom the Corp is apprehensive certain personal property as you have stated?

A. It was my father's property to whom the Corp is out of your payment property.

Q. When was that distinction, what property your father leaving the house, was it before or afterwards or about the same?

A. It was before & afterwards, it was about 30 April last.

Q. When did your father take away any

portion of that property so distributed
to him from the place in which they
were before distributed?

A. I think it was the day after the 31st
April. She is moving more to day.

Q. From what place has he removed them?

A. From Dr S D Beckman's late residence
where I am at present living.

Q. Where is now that portion of the personal
property so distributed to the trustees?

A. On the premises.

Q. Since that distribution have those articles of
personal property ~~be~~ referred to been in
the actual possession of the trustees or
have they been in the actual possession
of any other person than yourself &
if so where and when?

A. On the distribution they took possession
and handed over to me to occupy as
their Agent.

Q. Since those articles were so handed over
to you have they been in the actual
possession of the trustees or either of them
except by you as their Agent?

A. They came up with the other day &
used some of them at dinner.

Q. Do you keep house at that place at
the house lately occupied by your father?

A. The house keeps me! They keep the Home.

Q. Which one of the Es^{rs} lives at the house.

A. Neither

Q. Do you pay any rent to the Est^{ts} for the use of that personal property or any part of it?

A. No Sir.

Q. At the time that the Est^{ts} took possession of that property on the distribution as you have stated, where did they take possession, & in what manner?

A. Mr. Hubbard on the House & also by letter previous, directing me to go on & make selection, for then with Frederick, of the property, thus I was to do as Hubbards Agent

Q. After those goods were so passed over to your care by Mr. Hubbard, what act of agency were you to perform toward that property?

A. General charge of the place.

Q. Are those articles so distributed to your trustees or any of them in use or on the place for household or other purposes, or are they boxed up somewhere?

Wht[?] to by Pemberton as immaterial. Answer taken subject to objection.

A. They are in ordinary duty, or the majority of them are.

Q. You say that you cannot say whether the Est^{ts} have set apart any of your fathers property for your use, can you

say ~~whether~~ that they have not done so?
 Hudson objects on ground that it in-
 volves construction of the will and
 questions of law.

June 16. 57 by. recorded.

A. They have not done so further than
 what the will and Codicil gives.

Answer reserved subject to decision.

Q. Have you ever since receiving that
 property from the Exor^r as you have
 stated rendered to them any accounts
 of the use you have made of it.

A. I have never rendered any account
 further than to send them bills that
 I have laid out which they have paid.

Q. Have you any instruction from your prin-
 cipals to sell or otherwise dispose of the
 said articles of personal property?

Obj^y it is immaterial. ~~Question~~
 also Mr Hudson on the same ground
 Question / Obj^y resumed.

Q. Obj^y resumed.

Ans No Sir.

Q. Were you present with the appraisers
 & assistants during the entire or the
 larger part of the time, when they were
 making the inventory of your father's estate.

A. I suppose I was there the greater part
 of the time.

Q. Were the articles now in your possession

as you have already stated included in the inventory made by the the appraisers and executors upon that occasion And You Sir.

Q. What is about the value of those articles of personal property in your possession as agent for the estate? at the late residence of your father.

Mr Hudson, ob as immaterial I am calling for the opinion of this Court. Answer, subject to objection.

A. In the neighborhood of \$500 or \$600 to the best of my belief.

Q. What proportion of those articles are housekeeping articles?

A. They are all housekeeping articles.

Q. Have you ever had occasion to buy or sell such articles?

A. I have, I did ^{when} some 2 or 3 years ago.

Q. Were the articles distributed as you have stated between your brother & trustees divided equally between them or nearly so & if not in what proportions?

A. They were divided equally, the goods my brother got were of about equal value there was an arbitrator appointed Jacob B. Adell.

Examination of
Gerard R Beekman
before Judge Robertson
April 30/57
May 17/57