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State of North Carolina

In Equity

Davidson County

To the honorable the judge of the court of equity in for said county.

The bill of complaint of George Zarecor residing in Sumner County Tennessee administrator of John Zarecor deceased against Samuel Rothrock administrator of Catherine Zarecor deceased.

Your orator George Zarecor humbly complaining shows to your honor that many years ago John Zarecor the elder settled in this country, and by his industry & frugality accumulated what was considered in his day a large fortune consisting chiefly of gold & silver coins.

—That in the year 1803 the said John executed his last will & testament by which he gave to his widow Catharine Zaricor the elder all his property both real & personal during her life, & at her death he gave a legacy of \$50. to his son John Zarecor & another of \$40. to his daughter Margaret Daniels, and the balance of his estate to be equally divided between his other children (viz) Jacob Zarecor, Samuel Zarecor & Catherine Zarecor the younger share & share alike & making the said Jacob & Samuel his executors.

—That soon thereafter said testator died leaving his

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said widow surviving who entered upon his estate under the provisions of said will.

—That his said widow survived him only a few years when she also died about the year 1810.

—That at her death the estate of her late husband with the exception of the above named legacies to John the younger & Margaret paped into the hands of the aforesaid legatees Jacob, Samuel & Catharine the younger according to said will & that a division of said estate was actually made among them in

the presence of one Ripple, the said executor Jacob & Samuel assisting to the legacies.

Your orator further shows to your honor that after the death of Catharine the elder, aforesaid the said Jacob, Samuel & Catherine the younger lived & kept house together in an unmarried state, holding all their property as tenants in common & by industry & economy adding to their wealth until the year 1837 when Jacob died having first executed his last will & testament by which he gave all his estate to his surviving brother & sister, the said Samuel & Catherine the younger & appropriated Samuel his executor.

—That with the exception of the above mentioned legacies of \$50. to John and \$40. to Margaret the whole estate of John Zarecor the elder together with such increase as had been added by Jacob had thus fallen into the hand of Samuel & Catharine, which your orator believes amounted to several thousand dollars.

Your orator further shows to your honor that the said Samuel & Catharine the younger continued

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To live at the same place & keep house together both being unmarried, living very much retired from the world & making it their chief business to take care of their wealth which was mainly in money in an undivided state & daily increasing in amount.

—That they lived thus until March 1841 when Cathrine died intestate being the owner & keeper of a large personal estate & particularly as your orator is informed & believes of much gold & silver coin.

—That the defendant Samuel Rothrock took letters of administration upon her said estate as the May term of Davidson County Court 1841 and proceeded to take charge of her effects.

—That the said intestate left surviving her the said Samuel Zarecor & the aforesaid John Zarecor the younger her brother and next of kin and also a sister the aforesaid Margaret who left the state a long time ago & hath not been heard of for many years.

—That the said John the younger was entitled to one third part of the estate of his sister the said intestate.

—That he received during his life time \$94.17 cents as a part of his said distribution share from the hands of defendant & having survived his sister Catharine but a short time he also departed this life 23 December 1842 and

your orator became his administrator as February term of Davidson County Court gave bond & proceeded to administer.

Your orator further shows that the said Samuel Zarecor continued to live unmarried after the death

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of his sister Catharine without making any or if any very little attention in the amount of his estate until October 1842 when he also died leaving a paper writing which defendant alleges to be the last will & testament of said Samuel, but which is contested by your orator & others & concerning which a f??? is now pending.

—That under said pretended will the deft claims to have been appointed the executor of said Samuel & as such has taken charge of his estate.

—That deft hath as administrator of this intestate the said Catharine & as executor of said Samuel made two several inventories of their respective estates & returned the same to the clerk of Davidson County Court

—That he thus returns the whole amount of said Catherine's estate to be only \$311.06 cents, while he returns said Samuel's estate as amounting to \$2300.93 cents when your orator believes & charges that both estates were equal in fact & that Catharine's should have been returned as large as that of Samuel.

Your orator further shows that deft was appointed by the superior court of this county at its spring term 1841 as a commissioner to sell the joint personal property of the said Samuel & Catharine, that he took the same in hand & sold it & accounted to the court for Catharine half as only \$184. While your orator believes & so charges that said property brought or ought to have brought at the sale about \$500.

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1. Your orator therefore charges that the said defendant Samuel Rothrock hath confederated with some person unknown in order to defraud & deceive your orator, in that he hath not accounted to the county of Davidson for the whole of his intestates the said Catharine's estate coming to his hands as administrator & because he hat

- neglected & refused & still refuses to tender to your orator the distributive share of said estate due to your orator's intestate.
2. That said deft hath failed to sue for & recover his intestates legacy under the will of Jacob Zarecor in the hands of the executor Samuel & to sue for & collect other funds in the hands of said Samuel Zarecor belonging to the estate of defts intestate & is liable for the source.
 3. That defts hath failed to exercise due diligence in collecting together & faithfully accounting for the estate of his intestate & is therefore liable in equity for the full amount of said estate.
 4. That deft hath not accounted for half the joint property of Samuel & Catharine sold by him as commissioner as afore said & is still liable for the same.

All which actings & doings of the defendant Rothrock are contrary to equity & good conscience & greatly injurious to your orator & for which said injuries & wrongs your orator hath no remedy or no sufficient

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Remedy as law.

Your orator therefore prays that the state writ of subpoena may i??? summoning the defendant to appear & answer upon his corporal oath the contents of this bill according to his knowledge, remembrances, information & belief, and particularly that he may be required to answer the following interrogatories

1. What property & money the said Catharine his intestate owned & possessed at the time of her death & how much & what part of the same came to his hands as her administrator.
2. Whether deft does not know or believe that at the death or after the death of the widow of John Zarecor the elder deft intestate did receive one third part of the estate of said John as a legatee & whether a division was made & what was the amount of each share.
3. Whether deft hath in his possession any paper belonging to the estates of John Zarecor the elder on the said Jacob or Samuel or his intestate which show the amount of said estates or any of them & that his intestate the said Catharine had received her legacies out of the same. And whether deft. Does not know or believe his intestate did receive

said legacies or one of them & what amount he believes her to have received from each.

4. Whether Jacob Zarecor did will the

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whole of his estate to his brother Samuel & defts intestate jointly & what was the amount of the same.

5. Whether deft did as commissioner sell the personal property held in common by Samuel & Catharine Zarecor & what was the value of said property.

Your orator prays your honor to decree that an account be taken of the estate of said Catharine now in the hands of her administrator the defendant & also of what she owned & possessed at the time of her death & that your honor will decree to your orator the full share or balance yet due of the distributive share of said Catharine's estate belonging to the estate of your orators intestate.

Your orator prays for such other & further which whitin premises as may be equitable & right. And that said Samuel Rothrock be made a party defendant & be required to answer & abide by the determination & judgment of this court and as in duty bound will ever pray.

Julius L Clemmons
Solicitor for Complainant