Did the defendants pay to the Plaintiff any amount of Confederate money other than the $1000. admitted by the Plaintiff. — if so, how much and when!

The Defendant claims to have paid $4800. to one Fitzgerald whom he claims to have been an agent of the Plaintiff. In the decision of this question it your duty first to determine whether Fitzgerald was the Plaintiffs agent or not - the only testimony upon this point is that of Fitzgerald himself and of the Plaintiff. — The testimony of Fitzgerald is entirely silent as to any positive authorization as such agent - He has no recollection to enable him - as he says - either to admit or deny such authority - His testimony discloses certain facts showing that he did act as an agent - either by authority or as an officious intermeddler — He received the money signed the receipts and forwarded the same to the Plaintiff — The testimony of the Plaintiff is that he never authorized Fitzgerald to act as his agent in any manner or to any extent except to deliver the invoice and account rendered here for transmission to Wilty. Upon this point you may also consider the purport of the letter accompanying the money and check — There is no evidence that the action of Fitzgerald — if voluntary and of his own motion — has been confirmed by any subsequent action of the Plaintiff — but on the contrary - that that he expressly refused to receive the money as a payment on the tobacco when presented to him by Fitzgerald's messenger — If you rely upon the testimony of the def Plaintiff you will find this issue in the negative - But if you are of the opinion

CHAUTAUQUA COUNTY NY HISTORICAL SOCIETY 2013

Fitzgerald –

Plaintiff asked wit. if he was in the habit of receiving money and packages for others and forwarding them to the parties – Defts then inquired if he was in the habit of receiving money and signing the names of others to receipts without authority – Deft – ~~excepts~~ objects – over –

D X' – ruled – Deft – Excepts –

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And the circumstances shown in testimony on the fact of agency - notwithstanding his denial you will find it in the affirmative -

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