

Hiloboro Sept, 28th 1869

Hon. A. W. Touque

Sir

A notice has been served to the instance of
W. J. Hooper Plaintiff
Martha Kirkland - Defendant;

advising the defendant, that before you, & 6 lawbers on
the 4th of October 1869, a motion will be submitted, to set off
a judgment alleged to have been rendered by a magistrate
in favor of the Plaintiff against the defendant, against
a decree of the Supreme Court of N. C. rendered in favor of
defendant against the Plaintiff above named, & to restrain
proceedings upon the execution issued thereon.

1. It is submitted that no such motion can be entertained
by a Judge of a Supreme Court - The Supreme Court alone
being competent to determine, in what manner its
judgments are to be satisfied.
2. That W. J. Hooper having been declared a bankrupt more
than 12 months since, & his alleged cause of action existing
before this decree, he was incapable of procuring any
action when his pretended judgment was rendered, and
the judgment is void.
3. That the decree of the defendant against him, was for

The payment of a legacy under the will of their Father:
and the pretended claim on which his judgment was taken,
was brought before the Clerk & Master in Equity in stating
the account of the Plaintiff as Executor, & rejected -

It is to be noted the judgment was rendered by default in the
absence of the ^{defendant} Plaintiff, when she was too unwell to
appear before the Judge.

If the motion be not dismissed on the ground
first above stated, I beg opportunity to verify
the other defences as above set forth.

Very Respectfully
W. A. Graham

CHAUTAUQUA COUNTY NY HISTORICAL SOCIETY 2013

Hon Com Graham
Keellboro
N.C.

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