Brayfield late of Frederick County aforesaid the brother of your petitioner died intestate and without issue at the County aforesaid leaving a considerable personal Estate —

That shortly after the death of the said Samuel Brayfield some person or persons unknown to your petitioner exhibited into this court a certain paper writing purporting to contain the testamentary words spoken by the said Samuel Brayfield in the making of a nuncupative will in his last illness.

That your petitioner having had no notice that such nuncupative will was about to be proven he had no opportunity of contesting the probate thereof and the said probate was taken without contest and letters of administration with a copy of the said will annexed was granted to a certain Jane Brayfield — Your petitioner being informed that the said will was improperly proven and also that in truth no such nuncupative will ever was made by the said Samuel Brayfield He therefore prays your worships that the said case may be again examined & heard and that the said probate may be vacated and set aside. and that the letters of administration granted to the said Jane Brayfield may be revoked and new letters of administration may be granted to such person to whom the right of administering may lawfully appertain. and may it please your worships to grant your petitioner such other and further remedy in the premises as shall appear just and right

R. Nelson
R. Brooke for Petr.

Whereupon the said Court after hearing the prayer of the said petitioner ordered a summons to issue to the said Jane Brayfield the administratrix aforesaid in the following words to wit.

State of Maryland To the sheriff of Frederick County Greeting we command you to cite and summon Jane Brayfield that all excuses and delays set a part she be and appear before the Judges of our orphans Court to be held at the Court house in Frederick Town on monday the 25th day of May instant to answer the petition of John Brayfield exhibited in said Court, respecting the nuncupative will of Samuel Brayfield deceased whereof fail not and have you then and there this writ witness John Schley Esq. chief Justice of our said Court this 17th day of May 1808

Issued 17th day of May 1808. Test. Richd Butler Regr

At which said day to wit the twenty third day of May eighteen hundred & eight the said Jane Brayfield by Roger Brooke Taney her attorney appears herein Court and denies the allegations contained in the said petition — And thereupon the said Court proceeds again to examine and hear the said case setforth in the petition aforesaid and now at this day to wit the third day of June to which day the Court aforesaid was adjourned the depositions of Reubin Davis and Daniel Dagon witnesses summoned and sworn in behalf of the said petitioner were taken in open Court in writing and filed in said Court which said deposition here follow in their words and (figures)

figures to wit. Reubin Davis a witness produced by the petitioner aged about 55 years after being duly sworn saith that Eleanor P. Davis a witness to a nuncupative will is the wife of this deponent, that the property bequeathed to him by the will aforesaid is still in his possession that he knows Samuel Brayfield the testator for a length of time who left at his death a brother and sister of the full blood and three sisters of the half blood that the property released by this deponent to John Brayfield and Milly Brayfield has not been delivered to them, that he executed the release in question by and through the persuation of Jane Brayfield administratrix and Ignatius Davis and that he received no consideration for doing the same from any person that he did not execute any other release for any property left to him in said will named except the one to John Brayfield and his sister Milly and that since the death of Samuel Brayfield he has not been called upon for the rent mentioned in the will aforesaid and that the 1st release is in the following words and figures, to wit;

Know all men by these presents that I Reubin Davis do hereby release unto John Brayfield and his sister Milly (be her name by marriage what it may) or to whom soever upon my releasement of interest may be legally entitled to the property bequeathed to me by Samuel Brayfield deceased by his nuncupative will, all my right claim and interest in or to the property so bequeathed as aforesaid to me and I do hereby renounce and quit claim to all right title and interest that I may or might have in the will and bequest aforesaid or the property therein mentioned Witness my hand and seal this 28 day of April 1807.

Signed Sealed & Delivered
in presence of — Reubin Davis (Seal)
Henry Howser Ig. Davis

On the back of the foregoing release is the following probate, to wit,

Orphans Court May 13th 1807 then Ignatius Davis made oath that he saw Reubin Davis sign and seal & heard him acknowledge the within release to be his act and deed agreeably to the purport and meaning thereof. Test Richd Butler Regr

And by this deponent delivered to Ignatius Davis and is the same paper filed in Court, That as an inducement to him to release as aforesaid Ignatius Davis and Jane Brayfield said they would be as good friends to him as John Brayfield ever would be or Samuel Brayfield had been, that there was no promise to give him up the property released by him or any other thing, That no threats were made to compel him to release, that there was no rent due at the death of Samuel Brayfield and that the land was the Estate of his wife Jane Brayfield, This deponent and Ignatius Davis have been as friendly since the death of Samuel Brayfield as heretofore and not more so, that he has not been spoken to by John Brayfield or any other person to set a side the will of Samuel Brayfield — that Samuel Brayfield was sick about one week before his death —

(Daniel)