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Weisel and Henry H. Gaither their attorneys for cause why the Judgment by default in this case should not be stricken out, and the said cause opened as the defendant by her petition has here moved the Court, show –

First – That the motion made by the defendant as aforesaid, is too late in point of time.

Secondly – That the notice given to the defendant at the institution of this suit was sufficient to inform her of the nature of the action, and her neglect or refusal to appeal and defend the suit accordingly was such laches as should bar her from further proceedings in this behalf –

Thirdly – That the title to the real estate in this cause recovered is derived to the Lessors of the plaintiffs by Deed of Bargain and Sale from a certain Nathaniel Rochester, to the said Sophia Morris then Sophia Creek executed in the year 1810 and on record among the Land Records of Washington County –

Fourthly – That although the said property has been in the possession of the defendant and her former husband for several years yet said possession has neither been peaceable and undisputed nor of the space of twenty years prior to the commencement of this action –

For which and other causes which here might be shown the lessors of the plaintiff object to making the rule in this case absolute, and move that it may be discharged, and the possession of said property awarded to them by writ of Habere Facias possessionem, &c.

D. Weisel
H. H. Gaither } for Plaintiff

On the back of the aforegoing is the following indorsement to wit:

Affidavit } State of Maryland, Washington County to wit: on this 11th day of April 1837, appears George W. Foil, and makes oath that he then being Deputy Sheriff of the County aforesaid served the Declaration in the Ejectment cause within mentioned upon the defendant Kitty Shorter therein named, and that he served it in the following manner. He repaired with a witness Mr. J. Harrison Kidwell (now absent) to the defendant then residing in the property named in said declaration – He there saw said defendant, and in the presence of said witness read and explained to her the declaration and notice thereto annexed, and recollects among other things stating to her that she should appear and defend the suit, otherwise she would be dispossessed – This service was made as well as this affiant can recollect within proper time, before the term of Court to which said writ or declaration was returnable – Sworn to in open Court –

Test, O. H. Williams, Clerk –

Motion to arrest overruled and Judgment confirmed } Which being read and heard, it is considered by the Court here that the Judgment aforesaid so as aforesaid rendered ought not to be set aside, but that the same be and remain the same as rendered and that the said Kitty Shorter take nothing by her motion and that the same be overruled, and so forth –

Appeal Prayed – } And thereupon the said Kitty Shorter, by her attorney aforesaid prays that she may appeal from the Judgment aforesaid of the Court here, so as aforesaid rendered, to the High Court of Appeals and to her

Appeal Granted – } the same is granted by the Court here – Thereupon it is ordered by the Court here, that a record of the proceedings aforesaid with all things thereunto relating be transmitted to the High Court of Appeals and they are transmitted accordingly this 28th day of May eighteen hundred and thirty eight –

Test, O. H. Williams, Clk –

Memorandum } Memorandum: After the Appeal was granted by the Court here the parties aforesaid by their attorneys aforesaid filed in Court here an agreement which is in the words and of the tenor following to wit –

Agreement of parties } Gerard Morris and wife vs Kitty Shorter – Ejectment – It is agreed that the Appeal shall be taken in this case and proceedings

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stayed without an Appeal Bond – No objection to be made in Court of Appeals of the want of such Bond & deposite of money having been made to cover costs in lieu of said Bond –

D. Weisel, for Plffs
Wm. Price for Defts –

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(Seal) In Testimony that the aforegoing is truly taken from the Records of Washington County Court aforesaid I hereunto subscribe my name and affix the seal of said Court this 28th day of May A.D. 1838 –

O. H. Williams Clk. Washington County Court, Maryland.

And now come into the Court of Appeals here, as well the said Kitty Shorter by William Price her attorney as the said John Denn Lessee as aforesaid by Henry Gaither and Daniel Weisel his attorneys, and thereupon on motion of the said John Denn Lessee as aforesaid by his attorneys aforesaid, it is ruled by the Court here, that the said Kitty Shorter assign the errors in the record of proceedings aforesaid or in the giving the judgment aforesaid so as aforesaid brought before the Court of Appeals here, for correcting the errors supposed to be therein or judgment by the Court of Appeals here, will be entered against him in default thereof. And the said Kitty Shorter by her attorney aforesaid says that in the record of proceedings aforesaid, and also in the giving of judgment aforesaid there is manifest error in this, to wit that by the record aforesaid it appears that the judgment aforesaid in the plea aforesaid given in as given for the said John Denn Lessee as aforesaid against the said Kitty Shorter when by the law of the land that judgment ought to have been given for the said Kitty Shorter against the said John Denn Lessee as aforesaid therefore in that there is manifest error, and she prays that the judgment aforesaid for that error and others being in the record of proceedings aforesaid, may be reversed, annulled and held entirely as void and that she the said Kitty Shorter may be restored to all things which she hath lost by occasion of the said judgment and that the said John Denn Lessee as aforesaid may join to the errors aforesaid and so forth – And thereupon it is ruled by the Court of Appeals here, that the said John Denn Lessee as aforesaid join in the errors by the said Kitty Shorter above assigned in the record of proceedings aforesaid or judgment by the Court of Appeals here, will be rendered against him in default thereof. And the said John Denn Lessee as aforesaid by his attorneys aforesaid prays that a day may be given to him to join in the error by the said Kitty Shorter above assigned in the record of proceedings aforesaid until the first Monday in December next; and to him it is granted; the same day is also given to the said Kitty Shorter – At which said first Monday in December being the third day of the said month, in the year of our Lord, one thousand eight hundred and thirty eight, which said day is given to the said John Denn Lessee as aforesaid to join in the error by the said Kitty Shorter above assigned come again into the Court of Appeals here the parties aforesaid by their attorneys aforesaid; and the said John Denn Lessee as aforesaid by his attorney aforesaid says there is no error in the record of proceedings aforesaid nor in the giving of the judgment aforesaid and he prays that the Court of Appeals here will proceed to the examination as well of the record of proceedings aforesaid as of the matters aforesaid, by the said Kitty Shorter above for error assigned and that the said judgment may be in all things affirmed and so forth. Thereupon further process of and upon the premises between the parties aforesaid is by virtue of an Act of Assembly in such case made and provided, further continued before the Court of Appeals here, until the second Monday in June next; the same day is given to the said parties there, then to hear the judgment of the Court of Appeals here, of and upon the said premises, and so forth –

And now at this day, to wit, the said second Monday in June being the tenth day of the said month, in the year of our Lord one thousand eight hundred and thirty nine come again into the Court of Appeals here, the parties aforesaid by their