State of North Carolina
New Hanover County
Superior Court

State of North Carolina
To the use of Daniel O. Conner — Plaff
against
Flavel W. Foster — Defdts

The Plaintiff complain and alleges

I That on the 12th day of March A.D. 1870 upon petition of E. R. Brink filed before J. C. Mann Judge of Probate of the County of New Hanover an order was issued by the Probate Judge to the sheriff commanding him to summons a jury of twelve men to enquire of the alleged lunacy of Daniel O. Conner. That the said jury reported to the Judge of Probate that the said Daniel O. Conner was of insane mind & incompetent to manage his own affairs & the report of the said jury was confirmed by the Judge of Probate of said County

II That on the 11th day of April A.D. 1870 the said Judge of Probate appointed Flavel W. Foster one of the defendants above named guardian of the said Daniel O. Conner so found to be of insane mind.

III That on the 11th day of April A.D. 1870 the defendant Flavel W. Foster executed his guardian bond with Edwin R Brink & J. E. Eldridge as sureties under their hands & * seals & delivered the same & the said bond was acknowledge

before and approved by the Probate Judge & thereby bound themselves to the State of North Carolina in the sum of two thousand dollars with a condition that if the said Flavel W. Foster shall faithfully execute the said guardianship by securing & improving the estate of the said Daniel O Conner until he shall recover or be sooner thereto required & then render a plain account of said guardianship on oath and shall faithfully execute the trust imposed in him as such guardian & obey all lawful orders of the Probate Court or other Court touching the guardianship of the estate committed to him then the obligation to be void otherwise remain in full force

IV That after the execution of the bond aforesaid and on the same day a letter of appointment signed & sealed with the seal of his office was issued to the said Flavel W. Foster by the Judge of Probate of aforesaid & the bond or token was recorded in the Court of Probate

V That on the 20th day of November A.D. 1871 upon the petition of Daniel O Conner filed before J. C. Mann Judge of Probate of the County of New Hanover an order was issued by the Probate Judge to the sheriff commanding him to summons a Jury of twelve men to enquire into the lunacy of the said Daniel O Conner & make a report of their proceedings & doings under their hands to the Probate Court. That the said Jury were summoned & impanelled & reported to the said Court that the said Daniel O Conner

was of sound mind & capable of attending to his own business affairs & that the report of the said Jury was confirmed by the said Court

VI That the said Flavel W. Foster guardian as aforesaid of the said Daniel O Conner converted to his own use assets of the estate of his ward Daniel O Conner which came into his hands to the amount of six hundred & twenty five dollars in violation of the trust so reposed in him

VII For a further breach, That after the execution of the said bond that the said Flavel W. Foster suffered & permitted his said ward Daniel O Conner to be confined in an Asylum in the State of Maryland called Mount Hope for a period of fifteen months to which said Asylum the said Flavel W. Foster well knew that the said Daniel O Conner had been carried without any authority where the estate of the said Daniel O Conner was subject to a large outlay for his maintenance and the expenses of maintaining the said Daniel O Conner was largely in excess of his yearly income from his property and summons to his estate & that the said Flavel W. Foster expended and paid out for the board and lodging of the said Daniel O Conner to the Proprietors of the said Asylum in the State of Maryland called Mount Hope moneys belonging to the estate of the said Daniel O Conner eight hundred fifty seven dollars in violation of the trust imposed in him as guardian of the said Daniel O Conner

VIII For a further breach, That after the execution of the said bond that the said Flavel W. Foster in the month of December 1870 expended of moneys belonging to his ward the sum of

of fifty dollars for traveling expenses to the City of Baltimore & that in the month of July 1871 while on his way to California he stopped in the City of Baltimore and went out to the Asylum called mount Hope where the said Daniel O Conner was there confined & took him therefrom & carried him to Joliette in the State of Illinois where he left the said Daniel O Conner without an dollar & proceeded on his journey to California, That the said Flavel W Foster expended & squandered in this trip of moneys belonging to the estate of the said Daniel O Conner for traveling expenses the sum of two hundred & twenty eight dollars & retained for his services out of the estate of the said Daniel O Conner for this illegal act & breach of his duty the sum of one hundred dollars in violation of the trust reposed in him as Guardian of the said Daniel O Conner.

II For a further breach; that after the execution of the said bond that the said Flavel W Foster possessed himself of a number of accounts & notes belonging to the estate of his said wards the said Daniel O Conner which were due by parties who were then fully able to discharge & pay the same when the said paper came into the hands of the said Flavel W Foster viz Sixty dollars due from Daniel Rhone one hundred dollars due from Robert Stevenson and fifteen dollars due from George Withers besides other notes & accounts but that the said Flavel W Foster took no legal steps to inforce payment of the said debts & that by reason of subsequent insolvancy of the said debtors & of George Withers bearing the state & the negligence of the said Flavel W Foster

in collecting the said notes & accounts & his failure to collect, the said Daniel O Connor has had loss to his estate the sum of one hundred & seventy five dollars, And further that the negligence of the said Flavel W. Foster in failing to collect the rents due the ward Daniel O Connor from tenants who occupied the houses of his ward Daniel O'Connor and by his failure to turn out the tenants who occupied the houses of his said ward who failed to pay rent & rents the same & collect the money for the use & occupation of the said houses the estate of the said Daniel O Connor has suffered loss by not collecting the rents to the amount of five hundred dollars and that this careless & negligent attention to the estate of his said ward was in violation of the trust imposed in him as Guardian of the said Daniel O Connor

A. Empire
Atty for Plff.

A true copy
Test

Complaint

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