

14 *Demurrer.*

United States District Court, Southern District of New York.

MYRTLE H. MACOMBER, PLAINTIFF,
against

MARK EISNER, COLLECTOR OF UNITED
States internal revenue for the third
district of the State of New York, de-
fendant.

The defendant herein, by his attorney, Francis G. Caffey, United States attorney for the Southern District of New York, appearing herein, respectfully shows to this court and alleges:

The defendant demurs to the alleged cause of action set forth in the complaint upon the grounds:

1. That it appears upon the face thereof that the complaint does not state facts sufficient to constitute a cause of action.

Wherefore the defendant demands judgment that the complaint be dismissed together with the costs and disbursements of this action.

FRANCIS G. CAFFEY,
*United States Attorney for the Southern District of New York,
Attorney for the Defendant, Office and Post Office Address,
Old Post Office Building, Borough of Manhattan, New York
City.*

15 Vincent H. Rothwell, assistant United States attorney, certifies that he has the within-entitled action in charge and that the above demurrer is not interposed for purpose of delay, and that he verily believes that the complaint is bad in law and that a determination of the question raised by the demurrer will terminate the litigation and so tend to expedite the disposition of the case.

VINCENT H. ROTHWELL,
Asst. U. S. Attorney.

(Endorsed:) U. S. District Court, S. D. of N. Y. Filed Oct. 11, 1918.

16 United States District Court, Southern District of New York.

MYRTLE H. MACOMBER, }
vs. }
MARK EISNER, COLLECTOR, ETC. }

Memorandum.

Demurrer overruled on the authority of *Towne v. Eisner*, 245 U. S. 418; see also *Peabody v. Eisner*, 247 U. S., 347.
January 23, 1919.

JULIUS M. MAYER,
District Judge.
Filed Jan. 23, 1919.

Order overruling demurrer with leave to answer.

At a stated term of the United States District Court for the Southern District of New York, held in the United States Courthouse and Post Office Building, Borough of Manhattan, city of New York, on the 28th day of January, 1919.

Present: Honorable Julius M. Mayer, United States District Judge.

MYRTLE H. MACOMBER, PLAINTIFF,
against

MARK EISNER, AS COLLECTOR OF UNITED
States internal revenue for the third
district of the State of New York, de-
fendant.

The issue of law raised by the demurrer of the defendant to the complaint of the plaintiff herein having duly come on to be heard by this court at a stated term thereof, and after hearing counsel for the defendant in support of said demurrer and counsel for the plaintiff in opposition thereto, and due deliberation having been had thereon, and the court having handed down its opinion overruling said demurrer,

Now, upon motion of Messrs. Murray, Prentice & Howland, attorneys for the plaintiff, it is

Ordered, that said demurrer be, and the same hereby is in all respects overruled, and it is further.

Ordered, that the defendant shall have twenty days from the date of service of a copy of the order to serve and file the answer to the complainant herein.

JULIUS M. MAYER,
District Judge.

(Endorsed:) U. S. District Court, S. D. of N. Y. Filed Jan. 28, 1919.

Order overruling demurrer.

At a stated term of the United States District Court for the Southern District of New York, held in the United States Courthouse and Post Office Building, Borough of Manhattan, city of New York, on the 19th day of February, 1919.

Present: Honorable Julius M. Mayer, United States District Judge.

MYRTLE H. MACOMBER, PLAINTIFF,
against

MARK EISNER, AS COLLECTOR OF UNITED
States internal revenue for the third
district of the State of New York, de-
fendant.

The issue of law raised by the demurrer of the defendant to the complaint of the plaintiff herein having duly come on to be heard by this court at a stated term thereof, and after hearing counsel for the