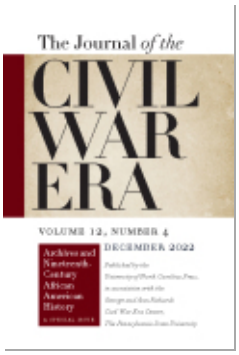
The Stability of Fortunes: A Free Black Woman, Her Legacy, and the Legal Archive in Antebellum New Orleans



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A Free Black Woman, Her Legacy, and the Legal Archive in Antebellum New Orleans

After Eugene Macarty's death in 1846, his white distant heirs sued Eulalie Mandeville, Eugene's partner of fifty years and a free woman of color, for approximately $155,000. This article follows the trial that ensued, Macarty et al. v. Mandeville, *a Louisiana civil suit that lasted two years, spanned more than 350 pages of written testimony and evidence, involved some of New Orleans's leading families, and concerned one of the largest fortunes held by a free Black woman in antebellum America. By employing a close reading of a single lawsuit, this article shows that trial court records function as a form of archives in themselves and Black Americans both used and produced those archives. Reading a trial record as an archive, that is, for its very intentionality, careful and selective curation, and coproduction, reveals the myriad ways Black Americans collected, collated, preserved, and interacted with documents and therefore shaped the narratives the archives tell.*

On September 19, 1846, Eugene Macarty's white collateral heirs sued Eulalie Mandeville, Eugene's intimate partner of fifty years and a free woman of color. Eugene's brother, Nicolas Theodore Macarty, spearheaded the lawsuit, and forty-four of Eugene's distant relatives joined him, claiming portions of Eugene's estate ranging from 1/7 to 1/420.[1] The amount they sought was not inconsiderable. Eulalie, they insisted, was "illegally in possession" of $111,280 in cash, a building valued at $11,000, six lots of ground purchased for $5,870, and six slaves worth a collective $4,362. Over the years, they claimed, Eugene had illegally "purchased property and deposited large sums of money in the bank" under Eulalie's name "with the fraudulent purpose of violating the law, and depriving his legitimate heirs of his estate." He did this to circumvent a Louisiana law that forbade the donation of property to "those who have lived together in open concubinage."[2] While Eulalie possessed a tract of land that "has always been and is still now unproductive," Eugene, aided by an initial loan of $2,000

from his sister, made an "immense fortune" lending money at usurious rates. Eulalie, whom the plaintiffs depicted as "entirely destitute of any means" when Eugene took up with her "some fifty years ago," withdrew $111,280 from the Bank of Louisiana twenty-three days before Eugene's death. What is more, she was in possession of the building, the land, and the slaves—property that should be in their hands. They wanted the cash and the proceeds from the sale of the property returned to Eugene's estate and divided among his "legitimate" heirs. They also wanted Eulalie to pay interest, court costs, and any other relief the court deemed just.[3]

On October 12, 1846, Eulalie answered their petition and denied all their allegations.[4] The property was hers, not Eugene's, and the fruits of a long and productive life. As an unmarried woman, she acted autonomously before the law and in the economy, and she built and operated a vast and successful business in her own right. All told, Eulalie later revealed, she was worth $155,000 ($5 million today)—a sum that made her a wealthy woman in New Orleans and the richest Black businesswoman in the country.[5]

Macarty et al. v. Mandeville, a local court case in the Second District Court of New Orleans, spans more than 350 pages of witness testimony; interrogatories; attorney's arguments; summonses; evidence such as personal letters, deeds, accounts, and contracts; and judicial opinions (complete with the judges' doodles, scribbles, and crossed out sections)—a rich and extensive handwritten case file that includes both the lower court trial record and the appeal to the Supreme Court of Louisiana.[6] Court records, especially those of the local courts, offer an important vantage point into the lives of Black Americans. The printed reports of state appellate courts (with which legal scholars are most familiar) are easy to access via Westlaw and other online databases, but they contain only brief summaries of the facts of the case, the court's ruling, and the legal reasoning the court used to make its ruling. By contrast, in many states—Louisiana included—trial court records do not reside in the special collections of a library or similar repository. Instead, they remain in the possession of the county clerks of the courts' offices and in varying, often shocking, conditions.[7] Thus, they are accessed less frequently by historians. Yet lower court records, even fragments of cases with missing verdicts and rotting or torn pages, provide a wealth of information that an appellate court's printed report can only hint at. The printed report for this lawsuit, for instance, omits Eulalie's first name; in the text of the report, she is merely referred to as "the defendant" and "she," and we only know her surname from the title of the case.[8] Moreover, the vast majority of court cases went unappealed, and ordinary people, including free and enslaved African Americans,

participated in and shaped legal processes in their local communities.[9] The case file for *Macarty et al. v. Mandeville* is, admittedly, longer than most local court cases, namely because of the size of the fortune involved, but it is not unusual in its potential for exploring the history of African Americans' lives. Eulalie was also wealthy and well connected. And she was free and unmarried; both statuses provided her with the capacity to act at law in many more circumstances then the enslaved or even married free woman.[10] However, as recent scholarship has shown, enslaved people participated in legal proceedings in myriad ways, including suing directly for their freedom.[11] They left traces of their lives throughout the legal record. Freedom suits, in particular, often contain a similar selection of documentation and testimony.[12]

In a sense, cases like *Macarty et al. v. Mandeville*—and trial court records more generally—function as a form of archives in themselves. The records of a single trial court case, are, like any archive, created through intentional and interested processes. These records preserve oral histories and personal papers and documents that no longer exist elsewhere. Here we find family lore retold in plaintiffs' petitions, defendants' answers, and witness testimony, along with long-lost letters, deeds, certificates, maps, images, accounts, and much, much more. The case file reveals glimpses into both the vexing issues of the day in nineteenth-century America—in this case, matters ranging from the moral and social implications of mixed-race relationships to the sanctity of property in a slave society—*and* an individual's ordinary or intimate predicaments. While traces of Eulalie's financial and legal pursuits can be found in other trial courts records, such as debt recovery litigation or notarial acts involving her contracts to purchase or sell immovable property, no other archive of her life exists, let alone one that includes her personal letters or provides insight into her private life.[13]

These are, however, deeply interested documents. This is in part because courthouses and the proceedings that occurred within them were instruments of state power and violence, and people had unequal access to the courts and were treated differently by them. Our evidence, moreover, is mediated by clerks, lawyers, and other legal professionals, and genre, form, and the type of legal action people took and the remedy they sought limited that they could say or do in court. Courtroom language also involved performance. And people lied, making it difficult to uncover "what actually happened."

But most importantly, like archives, the documents are curated—purposeful, rather than reflective of objective fact. While legal professionals provided some of the stock phrases, arguments, and formulas present in

the petitions, and specific rules dictated what could be said in and submitted to the court and when, court records are multiauthored. They reflect the perspectives, experiences, genealogies, and ideas of justice of numerous people, including those with limited legal rights.[14] Litigants actively shaped their cases by engaging in a vast repertoire of moves aimed at achieving the best outcome. Therefore, the evidence submitted by legal parties such as Eulalie (and Eugene's collateral heirs) was simultaneously their *construction* of the evidence itself: of their present circumstances, their pasts, and their desired futures. These documents reflect, moreover, the intentionality of multiple people, revealing to us both the story they chose to tell the court *and* their silence regarding the one they did not. These narratives are also expressions of emotion: of hope, fear, fury, guilt, disappointment, betrayal, delight, and care. In other words, working with trial court records makes us attentive to what people value and the lengths they are willing to go to in order to protect those things. Such performances are useful for the historian because they help us unravel a complex social, legal, political, and personal landscape.[15]

Indeed, at work in the narratives presented by Eugene's white collateral heirs, on the one hand, and Eulalie, on the other, was a set of competing understandings about legacy—in the literal sense of a bequest, but especially the more abstract afterlife embodied by the bequest—and its relationship to race.[16] These opposing positions invited the court to address a question: in whose hands should wealth sit? According to the plaintiffs, Eulalie was a Black "concubine" and a small-time peddler, a person whose race and gender made her illegitimate as a legal wife and incapable of being an economic actor of any gravity.[17] Much less was she worthy of respect—especially the sort due to households and lineages like their own. Such respect was, of course, highly racialized. She had, moreover, committed fraud, and that she held anything of substance to pass to her children resulted from this fact. For Eulalie, by contrast, the case concerned the proceeds of her hard work and sharp mind, certainly; the property at issue was hers. But most importantly, the lawsuit involved her right to secure a future for her children—the specific right contested by Eugene's white heirs, who contended that the transfer of wealth should never benefit the mixed-race and "illegitimate" offspring of a "bird of prey," a set of evocative images to which I shall return.[18] The litigants, therefore, compelled the courts, both local and appellate, to consider the importance ascribed to the creation and perpetuation of *durable* systems of wealth, power, and control—lineage—and the threat posed by the potential success of "inferior," excluded people within those frameworks. When faced with the evidence, the courts did indeed choose to protect, in the words of the lower court

judge, "the stability of fortunes."[19] But in this case, the right of property went to Eulalie, a free Black woman.

One of the things we shall see in Eulalie's case is that her particular estate plan, and Eugene's, was made in anticipation of precisely the issue that landed them in court: over the course of many years, they assiduously constructed a wealth management strategy and a cache of documents attesting to it—indeed a *purposefully* curated archive in itself—to keep Eugene's family out of their money and move wealth to their children, whose rights of inheritance the law did not fully protect. She and Eugene spent decades building a documentary record in anticipation of the greed of Eugene's relatives and knowing that the relatives would rely on racial arguments and stereotypes to prevail over the wealth in question. Trial court records, therefore, offer insight into how African Americans managed risk in a racially unequal society and how they built financial structures that would anticipate the schemes of, in this case, a set of grasping, white potential heirs. By seeing the casefile as an assembly of documents and reading it like an archive—that is, for its very intentionality—we can also reconstruct a broad spectrum of behavior, of cares and concerns, buried in the collection of diverse written sources and testimonies bound together, behavior that speaks to plans for future generations, even as it focuses on trouble in the present.

■ Eulalie Mandeville was born enslaved in 1774. Her father, military commander and planter Pierre Phillipe de Mandeville de Marigny, was one of the largest landholders in the region and worth approximately $7 million when he died.[20] Her mother was enslaved, but Pierre and his parents manumitted Eulalie and her mother and included Eulalie as a full and legitimate member of the family.[21] According to her lawyers, her white relatives treated her "with regard, confidence, and affection." She grew up in Pierre's mother's household, raised and educated by a grandmother who loved and nurtured her. Her half-siblings Bernard, Jean, and Celeste, Pierre's children with his white wife, considered Eulalie their true sister. Pierre set up Eulalie in business, gifting her $3,000 in cash, a large tract of land in St. Bernard Parish, and sixty to eighty head of cattle that she used to run a dairy. Letters from her father included in the trial record demonstrate that he "showed the most affectionate feelings" toward her and "considerable confidence in her judgment."[22] Pierre consulted Eulalie on plantation business and the construction of buildings, thanked her for shirts she made him, and inquired after her and her children. He signed each letter with love and well wishes.[23] Eulalie used the money from her father and the proceeds of her dairy and other ventures to begin a mercantile trade. By

the time she and Eugene began their relationship in 1793, she had already embarked on the business that would make her a wealthy woman in her own right: a dry goods dealer of high-end French imports.

Eugene Macarty, meanwhile, was also born into a prominent Louisiana family.[24] His paternal grandfather, a member of the Irish aristocracy, fled to France in 1690 in the wake of the Battle of the Boyne, joined the French army, and achieved the title of Chevalier of the Royal and Military Order of St. Louis. Eugene's father, also accorded the title Chevalier of St. Louis, spent much of his life as an esteemed military man in French-controlled Illinois Territory and later settled on a plantation south of New Orleans. He died in 1781 without leaving a will, and his eleven children divided his estate between them. Some of Eugene's siblings rose to prominence; for instance, his brother Louis followed his father's footsteps and had an illustrious military career. His sister Céleste married Spanish governor Esteban Miró. Other members of the family fared less well. Theodore, another brother and the lead plaintiff in the lawsuit, spent much of his life destitute and reliant on others. In 1771, slaves murdered Eugene's brother-in-law, Jean Baptiste Césaire le Breton, on his uptown plantation.[25]

When Eugene met Eulalie, he had recently returned from Europe penniless and in debt to his sister Madame Miró for $2,000—a loan to help him get on his feet. His family situated him on a plantation adjacent to the Marigny property. Although Eugene returned from France having spent his "little patrimony," he was not idle. He rented land from Eulalie and on it raised vegetables to market and cut and sold firewood. There, at Terre aux Beoufs, Eulalie and Eugene began their family. With her family's blessing, Eulalie and Eugene formed, in the words of her lawyers, "a serious connection, entered into with the consent of her family, the nearest approach to marriage the law would permit, and looked upon as morally binding, much more so than in these days." Eulalie's father also gave her money as a marital gift, as was the custom "when they contracted such pseudo-marriages."[26]

Sex across the color line was not unusual in Louisiana. Intimate encounters ranged from life partnerships to, more commonly, violent acts of rape, sexual assault, and coercion.[27] Eulalie's position as a beloved member of one of the region's most prominent families protected her, and by all appearances she was free to make choices. Others were not. The contours of Pierre's relationship with Eulalie's enslaved mother, for instance, are unclear. Although he freed her at the same time he manumitted their daughter, when she conceived and gave birth to Eulalie, she was Pierre's property. Even seemingly consensual relations between white men and Black women were forged in the shadow of slavery and the rampant sexual exploitation of Black women.[28]

With some frequency, however, in Louisiana Black women entered serious, marriage-like partnerships with white men. As one study has shown, the demography of late colonial New Orleans favored relationships between white men and Black women. White men far outnumbered white women, and free Black women outnumbered free Black men. Life partnerships between white men and free Black women peaked between the late 1770s and 1800, when marriage rates between free Black people increased and sex ratios among whites balanced out.[29] The French banned marriages between whites and Blacks in the 1724 *Code Noir* although some couples circumvented this prohibition through sacramental marriage in the church.[30] No law in Spanish-controlled Louisiana explicitly prohibited marriages between white men and free women of African descent, but attitudes toward it proved hostile. Once under the American regime, Louisiana banned marriages between free persons and slaves and free white persons and free persons of color.[31]

Eulalie's lawyers and witnesses, however, described a highly successful relationship with Eugene; it emulated legal marriage in striking ways and lasted five decades. Eulalie and Eugene are buried together in the same tomb. As Eulalie's lawyers put it, Eugene "treated and considered the defendant as his wife, and his destiny was linked to hers for life."[32] A few days before Eugene died, the couple managed to marry in the St. Augustine's Church in New Orleans (and are listed in the church's marriage register under white persons), however, this marriage would never receive the recognition of Louisiana law. Legally, Eulalie remained a single woman.[33]

Nonetheless, Eulalie and Eugene established a household and had several children.[34] The evidence convinced the lower court judge in the lawsuit, E. A. Canon, that the couple "brought them up with some care" and with "parental love, the strongest tie on earth." While their children benefitted from the wealth of both parents, Eugene financed their education and established them in business.[35] Eugene also officially recognized his sons and daughters as his "natural children," a legal condition that separated them from the designation of "bastard" and one that had both social and financial benefits.[36] This recognition tempered the stigma of illegitimacy, and it provided them with a claim to Eugene's property—both during his lifetime and upon his death.[37] As natural children, the Mandeville-Macarty clan acquired the right to alimony (akin to child support) for their care.[38] In addition, unlike bastards, natural children could inherit. Fathers were limited in what they could bequeath to natural children, however. In 1808 and 1825, Louisiana tightened its restrictions on inheritance. If the deceased remained unmarried but had any legitimate relatives, however distant, natural children could only inherit one third of their father's estate. If he

had legitimate children, they could not inherit anything more than what was absolutely necessary for their care.[39]

The 1825 law also restricted what Eugene could give Eulalie, either before death (inter vivos donations) or after death as testamentary bequests (mortis causa donations). In an effort to dissuade white men from interracial relationships and procreation, Louisiana strengthened a law intended to keep (white) property out of the hands of Black women and their children. The law stipulated: "Those who have lived together in open concubinage [often shorthand for mixed-race partnerships] are respectively incapable of making to each other, whether *inter vivos* or *mortis causa* any donation of immovables; and if they make a donation of movables, it cannot exceed one-tenth part of the whole value of their estate."[40] It was this law that the plaintiffs relied on when mounting their case against Eulalie.

■ The plaintiffs alleged fraud: Eugene's brother and the other collateral heirs claimed that for more than twenty years, Eugene and Eulalie had evaded the 1825 law that forbade the donation of property to "concubines." In his will (written days before his death), Eugene followed the law precisely, bequeathing nearly all of his estate to white collateral heirs (a brother, godson, and niece). He provided his natural children with $300 and left Eulalie nothing. Yet, according to the plaintiffs, Eugene was a wealthy man, and the $12,000 named in his estate in no way represented the immense fortune he had possessed. He was worth at least $100,000, his collateral heirs insisted, probably more. Eulalie, then, held that property in her name—passed to her fraudulently through disguised sales and deposits. When Louisiana tightened its restrictions on mixed-race relationships and banned the transfer of property to concubines, Eulalie and Eugene reacted accordingly and began a deceptive practice: Eugene would pretend that his money was Eulalie's by signing promissory notes in her name, lending the money at interest, and depositing the proceeds in her bank account. For two decades, they kept up this ruse, with the purpose of withholding Eugene's estate from the plaintiffs—his legitimate heirs. Every transaction was a cheat, meant to transfer one of New Orleans's great fortunes to a concubine and her illegitimate children.[41]

The evidence the plaintiffs submitted to support their narrative of deceit, however, was thin. They depended entirely on the distant memories of witnesses, whose testimony, in actuality, aided the defense. When that did not work, they moved to conjecture and then—in a final argument before the state supreme court about why property should pass to whites and not to people of African descent—to insults. That Eugene's white collateral heirs repeatedly used the term *concubine* when referring

to Eulalie is significant—and deliberate.[42] It was, first of all, a legal status. Concubines were not wives; concubines were not eligible for the protections and obligations of marriage. As a concubine, the plaintiffs gestured, Eulalie had no hold on Eugene's property, and the law owed her little.[43] But in the slave society that was antebellum Louisiana, the plaintiffs also used it to signify the relationship between illegitimacy, sexuality, and race. It was important to signal to the court that Eulalie was not just a concubine but also a woman of color, which, as we will see below, made her especially threatening. Indeed, as historian Alexandra Finley has recently shown, while the legal designation *concubine* could be applied to all women, it was particularly devastating for women of African descent. As, she writes, they were "already subject to racist stereotypes about their sexuality, they were less likely [in property or inheritance disputes] than white concubines to receive the sympathy of a judge."[44] Using such terms, therefore, was a conscious strategy; the plaintiffs assumed the court would recognize, share, and reward their viewpoints and values.

The plaintiffs began by using oral testimony to establish Eugene's industriousness, acuity, and entrepreneurial spirit. Witnesses for the plaintiffs agreed that in 1792, just before he set up a household with Eulalie, Eugene, "then very young and very active, wishing to create an honorable future for himself through honorable work," borrowed $2,000 from his sister and entered into business.[45] As J. Bermudez testified, Eugene "superintended his affairs better than most men . . . [and] was very careful in his transactions and dealings." A "prudent" and "strict" man, Eugene did not engage in "bad business." Instead, he surmised, Eugene had "a very lucrative business."[46] For the next fifty-three years, the plaintiffs argued, he worked tirelessly and built a vast fortune. He started out modestly, selling firewood, vegetables, and milk. With the proceeds, he began to lend money at high rates of interest and proved to be a talented businessman. He quickly became wealthy.

The plaintiffs' case hung on Eugene's reputation as a rich man. When making their determinations, antebellum courts utilized the personal assessments of observers about the involved parties. This "information," as it was called, was prized for its subjectivity.[47] It was not unusual for witnesses to repeat gossip or offer character evidence, and courts often determined cases based on the reputations of the plaintiffs and defendants and opinions of witnesses.[48] In Eugene's roles as creditor, discounter, and occasional broker, his business associates relayed, hundreds of thousands of dollars moved through his hands. His estate, then, should hold at least $100,000, not the paltry sum of $12,000. Jean St. Avit, an acquaintance of forty-five years, testified that in the wake of the financial upheaval of the

late 1830s, he pressed Eugene about the size and welfare of his fortune: "But you Eugene . . . you are still a man of three hundred thousand dollars. Macarty answered him 'no no, you can deduce two-thirds' . . . one hundred thousand dollars was the amount of his fortune."[49] Others claimed that they "had always heard that Macarty was rich," that he "had the reputation of being a rich capitalist," and that "he passed for a rich man."[50]

The plaintiffs, however, offered little documentary evidence to support their thesis about Eugene's enormous fortune. When the court ordered a meeting of auditors to examine Eugene and Eulalie's finances (one representing the interests of the plaintiffs, one for the defendant, and one "umpire," or neutral party), it ended quickly. The plaintiffs admitted that "they had no accounts to present." Rather, they would "proceed" with "written and verbal evidence."[51] (For her part, Eulalie stated that she possessed accounts but would not reveal them until she had a chance to present her defense.) The plaintiffs did, however, have Eugene's first will, written in 1807 after a brief but serious illness. It documented a $20,535 fortune in cash, stocks, notes, land, slaves, and other property, most of which he distributed to Eulalie and their children, as was legal at the time. But they were unable to produce tangible evidence of his fortune in the years after that.

Instead, they presented witnesses who corroborated Eugene's long career as a moneylender and "shaver."[52] To be sure, this was lucrative work. Credit was in high demand. As one historian put it, "the antebellum economy was structured as much around borrowed money and promises of payment as it was around the routes of rivers, roads, canals, and, by the 1840s, railroads."[53] Eugene began lending at interest as early as 1802. Jean St. Avit testified to Eugene's many decades as a creditor. He knew Eugene when he began the practice, and in 1842, when St. Avit returned from twenty years in France, he found that Eugene had continued to lend "money on large scale," often "enormous sums," and boasted "a big, well-stocked purse."[54] This "well-stocked purse" was in part the result of large interest payments: Eugene lent at usurious rates. A. D. Doriocourt testified that he had borrowed $500 from Eugene in 1836 and another $800 in 1840. In each instance, he paid "more than the conventional interest," plus fees and commission for renewing the notes, because he could not pay the amount by the due date.[55] Louis Laribeau conveyed that in 1839 he borrowed $4,000, and Eugene charged him "20 or 21 percent." Thus, he "paid up to $800 dollars of interest per year."[56] Charles Claiborne borrowed money from Eugene on a number of occasions, including a transaction of $1,200, for which he was lucky enough to pay only 12 percent interest.[57]

Through witness testimony, the plaintiffs established that Eugene *should* be rich, but they could not establish that he *was* rich. His associates

recalled significant sums moving through Eugene's hands. But the plaintiffs offered little evidence in the form of receipts, accounts, or other documentation to substantiate their version of events.

In addition, they were unable to show that the money with which Eugene dealt was in fact his. Instead, the plaintiffs' witnesses noted that the funds belonged to Eulalie. For instance, Andre Seixnyder testified that he had borrowed money regularly from Eugene for twenty-three years and "the notes were always in the name of Eulalie Mandeville."[58] Although note and exchange broker Rene Salaun could not recall whether Eulalie signed the checks, Eugene told him that he conducted business on Eulalie's account, and he "heard it said in public that Macarty used Eulalie Mandeville's money."[59]

The clerks, bankers, and builders who did business with Eulalie and Eugene corroborated this fact. For instance, Victor Vizinier, bookkeeper at the Bank of Louisiana, where Eulalie withdrew $111,280, saw Eugene at the bank "very rarely" and testified that "checks . . . were signed by Eulalie Mandeville."[60] Eugene merely acted as her manager, witnesses relayed. When the plaintiffs' attorneys asked whether the money was Eugene's, Martin Duralde said it was not. "Eugene Macarty contributed to her [Eulalie's] fortune because he always conducted defendant's business . . . he was a good manager," he noted. While Duralde viewed Eugene as a "laborious and hard-working man, and one who knew how to make money . . . Eulalie Mandeville was still cleverer and more economical than Eugene Macarty; they suited one another very well."[61]

Despite considerable evidence to the contrary, the plaintiffs also sought to delegitimize Eulalie as a successful merchant by downgrading her to a small-time peddler with few customers. To that end, the plaintiffs used their two final witnesses, clerks in the New Orleans mayor's office, to show that Eulalie did not seek a license to sell her goods or keep a store. Thus, they insinuated, she could not have been a serious dealer. Upon cross-examination, however, the witnesses admitted that "many persons peddling in the city neither take out licenses nor have them recorded."[62] With this line of questioning, the plaintiffs attempted to show that Eulalie held little of her own, whereas Eugene had made a fortune. While they did not get very far this time, the plaintiffs would revive this line of argument when facing the Supreme Court of Louisiana.

■ In her defense, Eulalie presented a straightforward story: the property in question belonged to her, "truly, honestly, and legally." She had accumulated $155,000 in cash, immovables, and personal property over the course of her long and enterprising life. When she was a young woman, her father

had provided her with assistance to start a dairy and to set her up in business. She remained on the family plantation at Terre aux Beoufs, outside New Orleans, until her paternal grandmother died in 1799. By then, however, "she was carrying on a trade in dry goods," selling luxury imports to "the women of the Spanish settlements." Once she moved to New Orleans, this trade "became very extensive and profitable," and she continued with great success until the 1840s. Thus, she "had a trade and business of her own," and she built a large fortune "with greater assistance from her family" and "with better pecuniary advantages" than Eugene.[63]

Eulalie oversaw a sizable enterprise—one that began in Terre aux Boeufs, extended to New Orleans, and reached as far as Donaldsonville and Attakapas.[64] She also kept a large depot in Plaquemines Parish and visited clients in St. John the Baptist Parish.[65] She purchased goods from importers and wholesale merchants and sold the high-end items—such as parasols and silk handkerchiefs, muslin, and other luxury fabrics—to her numerous wealthy clients. Many of her wares shipped from France, and several clients requested that she alert them when she received deliveries.[66] Merchants sent her their lists of new products, and she "called on the ladies of the city . . . being in high favor with them" and sold them the items.[67] She did not keep a New Orleans storefront—although at times had things for sale in her home)—preferring instead to use a number of *marchandes* to market her goods door to door. Retailing in this fashion was customary at the time, and she engaged the services of at least three (and often more) free women of color whom she paid a commission and a handful of her female slaves to sell for her.[68]

The mercantile trade, as Eulalie documented meticulously, provided her with significant returns and underwrote her substantial economic footprint in New Orleans and beyond. One close acquaintance and fellow dry goods trader testified that Eulalie took "fifty, sixty, and sometimes one hundred percent" profit. The risk was low.[69] As another person familiar with the industry stated that dry goods dealers "lost very little . . . to bad debtors."[70] Several women generated considerable wealth through the dry goods trade, testified Louis Sejour, and none, he said, enjoyed a business as extensive as Eulalie's. In the 1810s, traders Lise Perrault, Aurore Maton, Agate Fauchon, and Marie Louise Panis (all free women of color) "made fortunes" and most left Louisiana for France with $20,000 to $30,000 (approximately $432,000 to $648,000 in buying power today). This amount, he continued, "was considered a fortune . . . in 1817 or 18."[71] Several witnesses pointed to the profitability of this line of business and noted that all who engaged in it did well.[72] Residents of New Orleans and its environs, moreover, believed Eulalie a very rich woman—and an industrious one.[73]

According to some of New Orleans's "oldest and most respectable" white merchants, Eulalie had "unlimited" credit—and in every sense of the word.[74] Duncan Kennedy, a merchant in the city for forty years, explained that he dealt with the "remarkably industrious" and "honest" Eulalie often. When she came looking to buy, "she always brought the money to pay." She could have anything she wanted; indeed, "she could have obtained from $15,000 to $20,000 of goods on credit" from him at any given time (this is approximately $510,000 and $685,000 in purchasing power today).[75] William Dubuys, who as a young man worked as a salesman in the commercial house of Peters Laidlaw & Company, sold Eulalie wholesale goods. His employers "directed [him] to let the defendant have all the goods she wanted."[76] Bank president, legislator, and architect of the Forstall System of Banking Edmund J. Forstall testified that from about 1810 to 1820, as a clerk in the house of William Simpson, he had sold Eulalie goods. She "paid punctually" and was among the clients "who bought on the largest scale."[77] Even witnesses for the plaintiffs admitted that Eulalie had "good credit" and "could have whatever she wished."[78]

In anticipation of the possible future hostilities of Eugene's white family members, the couple had devised a wealth management strategy, involving moneylending, aimed at *publicly* building Eulalie's personal economic portfolio—a strategy that would allow the property to pass to their children.[79] On this front, Eulalie relied on Eugene's expertise as a creditor and permitted him to oversee some of her investments. He did so by lending it out at interest. Eugene proved a shrewd manager. According to frequent borrower Casimir Lacoste, Eulalie paid Eugene a 1 percent commission for conducting these affairs. Lacoste borrowed $3,000 from her in 1818 and recollected another twenty transactions after that. At times, he went to Eulalie for money, but more often she "directed him to Eugene, as a matter of convenience, and as he could see Macarty at the exchange without giving himself the trouble of coming to her." Eugene merely acted as her (paid) agent in these dealings.[80] More than simple convenience, however, this was a tactic for keeping the money public; thus, they could document it as hers. Indeed, as even witnesses for the plaintiffs recalled, they "heard it said in public" that Eugene lent in Eulalie's name.[81] Widow Chabenet, neighbor, intimate acquaintance of the couple, and witness for the defense, claimed to be "present at least 30 or 40 times when Eulalie Mandeville gave money to Eugene Macarty . . . [to] loan on interest." Eugene also consulted Eulalie about partaking in "such and such transaction" and if interested, Chabenet continued, Eulalie withdrew money from her armoire and gave it to him to manage.[82] Through Eugene and on her own accord, Eulalie lent significant sums of money and enjoyed a healthy profit. Extracts from Eulalie's bank

accounts submitted as evidence show "cash deposits from notes collected" (deposits that witnesses from the bank testified they saw Eulalie make and thus lay claim to) ranging from $2,110 (deposits for January 31, 1831, to July 31, 1832) to $51,397 (deposits for January 31, 1837, to July 31, 1837). In 1845, she had $112,000 in her Bank of Louisiana account.[83]

Eugene helped invest Eulalie's profits, but ultimately, the money was hers—and hers to defend. Additional trial court records (in this instance, debt recovery litigation in the local courts of New Orleans) further underscores Eulalie's capacity as an economic and legal actor in her own right and substantiates the evidence she presented in her defense. Such evidence also confirmed the importance of impressing upon the public *her* particular claims. For instance, if an investment proved unsound, it was Eulalie who acted at law to protect it. It was not unusual for a Black woman to sue white borrowers in the antebellum South. Black people initiated legal actions in myriad cases ranging from debt recovery to suits for back wages to lawsuits over property and personal status. More often than not, they won.[84] As an unmarried woman, moreover, Eulalie was not bound to the doctrine of marital unity that subsumed a wife's legal identity into that of her husband. Thus, she could act at law to protect her investments. Lending money, particularly without requiring security, as Eulalie did with Casimir Lacoste and a handful of other borrowers, was a gamble. She took several precautions to reduce her risk. On Eulalie's behalf, Eugene sought out sound and reputable borrowers, certainly, but she typically required collateral in the form of mortgaged land or slaves to secure the debt.[85] When borrowers failed to pay their debts, Eulalie sued. And she often won.[86] For instance, when Jacques Prevost borrowed $3,000 from her, he mortgaged a tract of land to secure his debt. After he failed to repay her, Eulalie sued him for $3,000 plus interest and requested that the court seize the land and sell it to satisfy her claim. The court issued a verdict in her favor and ordered Prevost's land seized and sold.[87] In another successful lawsuit over a $1,600 loan, she indicated that Eugene served as her financial "agent" but she was the sole plaintiff, and she signed the petition to the court as well as all financial documents.[88]

Because her strategy was to build a documentary record, Eulalie submitted a mountain of evidence to the court to corroborate her case. She could do so because for years she and Eugene had built a verifiable, official, and public trail. Eulalie provided the court with promissory notes bearing her signature, notarial acts in which borrowers pledged property to her to back their loans (a Louisiana requirement when someone secured a debt with mortgaged immovables), and excerpts from her personal bank accounts demonstrating large and regular deposits—accounts that bank clerks

testified were hers alone and into which she did the depositing. Eulalie also submitted investment documents indicating that Eugene acted on her behalf, as well as letters and receipts from borrowers.[89] She presented dozens of witnesses whose testimony told the story of an enterprising woman of good repute who built a successful, lucrative, and extensive dry goods trade and who lent large amounts of money on interest. Witnesses for the plaintiffs further reinforced her account. Phillip Lacoste, notary and witness for the plaintiff, claimed he had "passed" several notarial acts at Eugene's request but did so under Eulalie's name. Eugene, he reported, merely "gave the directions."[90] B. Bisinier, a clerk at the Bank of Louisiana and another witness for the plaintiffs, stated that he "does not think he ever saw Eugene Macarty Senior more than once or twice at the Bank."[91]

Yet letters from Eugene's brother and lead plaintiff in the case provided some of the most damning evidence—letters that Eulalie shrewdly kept as a forewarning of Theodore Macarty's greed. She submitted eight letters addressed to "my dear Eulalie," "my good Eulalie," and, in one telling instance, simply "Please, Eulalie," from Theodore, beseeching her to lend him money and "come to my rescue."[92] The letters expressed a similar theme: Theodore was "penniless," in an "unfortunate situation," unable to meet his expenses, and frequently in need of money to "buy milk" or "to pay my rent."[93] In each, he begged for small sums ranging from one to twenty dollars and once sent a promissory note along with a letter pledging to pay her back soon.[94] He made other requests as well, such as asking for her to send "your negress Suzanne" to help bathe him and serve him.[95] He appealed to "her good heart" and asked for her sympathy, claiming, "you have done it so often that I am sure you will do it again."[96] He ended his letters by thanking her for her kindness and pledging his endless devotion and love. While he used his lawsuit to claim that the $155,000 belonged to his brother, it was Eulalie to whom he appealed—for her kindness and her deep pockets—time and again to bail him out. "I only have you who will help me in my unfortunate situation," he wrote her.[97] Even Eugene asked Eulalie to spare him some cash to help his brother. He wrote in a letter to her: "Do me the pleasure of sending me a hundred dollars. I absolutely need it, to pay money for Theodore."[98]

The moment of inheritance is, in some ways, a moment of truth—for it forces a reckoning, in countable units, of the material realities that underpin public performances. Indeed, Eulalie ended her case by providing the court with a chronicle backed by tangible evidence about what came of Eugene's alleged fortune. He used his money to "support" and "establish" their children and also invested in a Cuban coffee plantation that went belly up. To that end, Eulalie provided receipts for the remittances he sent

their son who managed the coffee plantation, daughter, and son-in-law who served as overseer, in Cuba as well as bank drafts totaling $30,986 to help save the operation and "disencumber them of debts." She also submitted several letters from her son Barthélémy, apprising his father of the plantation's increasingly desperate financial situation. The climate turned out to be too warm for coffee, and prices fell significantly. Letters from their children and Eugene's business partners describe "seizures, executions, complaints of bad crops, cries of misery, and calls for money." The venture proved "most disastrous."[99] In all, Eugene lost between $40,000 and $45,000.[100] He may have once held a fortune of roughly $57,000, Eulalie demonstrated, but by the early 1840s, this amount was reduced to the $12,000 he left behind and distributed to his collateral heirs in his final testament, as required by law. Yet this "loss" may very well have been strategic too: an attempt to move the bulk of his extra cash offshore to keep it from passing into the hands of his white relatives.

■ "Fraud," wrote Judge E. A. Canon of the Second District Court of New Orleans, "cannot be presumed." Such an accusation "is easily brought" but "must be strictly proven." In this case, Canon surmised, the plaintiffs failed to substantiate their fraud accusations. Instead, the evidence presented by both sides convinced him that the property in question belonged to Eulalie. "This evidence," he wrote in his final judgment, "taken together with the [bank] account always kept" in Eulalie's name, "is very strong, and leaves hardly any room to doubt." "The court cannot treat as nullities the numerous and respectable testimony introduced by the defendant," he continued, for "it was copious and concordant." The plaintiffs' testimony "was equally abundant and equally deserving of confidence," but perhaps not in the way the plaintiffs had hoped: "It fully establishes that the deceased [Eugene] was a close-fisted and most hard-hearted usurer without feelings or bowels" and that "he must have made a large fortune." But the testimony did not show that the "assets described in the petition," property "*plainly and publicly*" in Eulalie's possession, "belonged undoubtedly to Eugene Macarty, the deceased, and ought to be decreed to be part of the estate; that and that alone is the gist of the case." Canon dismissed the case as a nonsuit and ordered the plaintiffs to pay the costs.[101]

The plaintiffs disagreed and appealed, and in their appeal they made every effort to discredit Eulalie and present Eugene as her victim. They disputed her version of events and either ignored the evidence she submitted or challenged it as forged. In a remarkable twenty-nine-page brief to the Supreme Court of Louisiana, they relied on rhetorical questions, inferences, conjecture, and disparagement. In particular, they attempted

to undercut Eulalie as Eugene's legitimate partner and a viable economic actor in her own right by painting her as a small-time peddler and, worse, a bloodsucking temptress.

They began by doubling down on their fraud claims. Eugene's financial situation as represented in his estate, they insisted, was anathema to the man they knew. How could a "man, so active, so careful, so hard in business, which, since 1792 has not taken a single step back, and who in 1807, possessed a certain fortune of at least $20,000 die in 1847 almost insolvent," they asked? "What happened to Eugene Macarty's fortune? Where did it go? In what hands is it now?" It was in Eulalie's hands, they insisted, passed to her fraudulently "to the detriment of his legitimate heirs." Why did her name appear on so many documents after 1825 and few beforehand, they continued? Because, they argued, the law had changed: "It therefore became urgent for Macarty as long as he was prohibited from giving property to his concubine and his natural children, . . . to present Eulalie Mandeville as making great business and possessing large capital in order to divert those of his heirs who would claim to his fortune." (And here, I might add, they surely were not completely wrong: Eugene and Eulalie certainly diverted capital from the collateral heirs by building her wealth publicly in New Orleans and transferring much, *but not all*, of his wealth to a coffee plantation in Cuba. Shrewd, yes, but not fraud). "Such are the causes, sirs," they concluded, "of the disappearance of Macarty's fortune from 1825 until his death, and such are the causes of the great prosperity of Eulalie Mandeville."[102]

Next, the plaintiffs attempted to undermine Eulalie as a businesswoman. They presented her as a woman of little means who, in fifty years, only managed to set aside a "little asset." (About this, however, they were wrong). They "in no way pretend to deny that Eulalie Mandeville was an extremely hardworking and economical woman," but she began with little and made little of her own. She was a small timer who employed "a few negresses" to peddle a mere trinkets. That she did not keep a storefront in the city or apply for a license to sell on the streets proved that her business was trivial and unprofitable. Therefore, it was impossible that the money belonged to her.[103]

Finally, the plaintiffs—in their determination to frame the issue at hand as one involving the problem of race and intergenerational wealth transfer—raised the specter of *métissage*. Specifically, they addressed mixed-race partnerships and procreation and the transmission of property out of white hands. Eugene and Eulalie had lived in an "anti-social state," the plaintiffs complained. Their relationship violated the "good morals" of "civilized countries." Only marriage had the "protection of the laws and of

religion, and cohabitation prohibited." While they did not specifically refer to relationships between white men and Black women, their disapproval was implied. They used terms like *cohabitation* and *concubinage* as shorthand for partnerships like that of Eugene and Eulalie. For it was those relationships that many white Louisianans found problematic and sought to prohibit. And it was those relationships that the courts regulated and punished.[104] Indeed, as the plaintiffs pointed out, the longstanding custom of white men setting up households with Black consorts was so widespread that only law could stamp it out. Only law could end the practice of passing property to Black women and their mixed-race children. "To the shame of the country," they railed, "cohabitation had spread over such a considerable scale, and . . . in all classes of society, that . . . the Legislature [had] to put a brake" on these relationships by forbidding the transmission of property to "those who lived together in concubinage."[105]

They presented Eulalie and her mixed-race children as vultures, gleefully stealing white property and celebrating Eugene's death as a final triumph. Eulalie, they claimed, sent her son Eugene Jr. to withdraw $112,000 from her bank account just before Eugene's death, perhaps anticipating Theodore's intentions. Once there, Eugene Jr. "laughed" when asked about his father's illness. He was not grieving, the plaintiffs concluded, for this moment "was indeed about joy." Eugene should have known better, and others should take heed: "What a lesson does this scene not offer to these men, who, trampling underfoot all social conveniences, to satisfy their wild passions, do not have their bed of agony." A sad tableau, indeed: an old man on his death bed besieged by carrion birds. This was the terrible price he paid for his indiscretions: "Instead of a legitimate family to assist and console them, only birds of prey, who take advantage of this solemn moment to strip them!" Was this a "natural act," the plaintiffs asked? Why withdraw the sum if it was truly hers? "Nothing in the testimonies she offers justifies this strange act," they concluded. This fact alone proves Eulalie committed fraud, and "it would be in vain . . . to try to establish it by direct evidence."[106] And devoid of any such "direct evidence," they relied on tropes about the treacheries of women of color.

The plaintiffs' reference to the "wild passions" of "birds of prey" invoked familiar stereotypes about the amorous and predatory *mûlatresse*—a seductress with an infinite passion for opulence whose sexual charms incited white men into immoral and injurious relationships. The mûlatresse (usually cast as a light-skinned free woman of color) entered such partnerships not out of love or genuine feeling but out of greed. As one observer wrote, "money will always buy their caresses. They are not without personal charms; good shapes, polished and elastic skins. They live

in open concubinage with the whites; but to this they are incited more by money than any attachment."[107] The "sexually precocious" mûlatresse sought economically advantageous relationships, thereby stripping white men of their property and cheating white women out of the economic security marriage should provide.[108] Men like Eugene lavished their mistresses with every luxury, leaving their legitimate family in destitution. The mûlatresse was a danger—to the stability of white property and by extension the stability of white society more generally. This depiction of Eulalie came from the plaintiffs and their attorneys entirely, however, and not from the witnesses themselves, either for the plaintiffs or the defense, whose collective portrayal of Eulalie betrayed not a hint of such racialized and sexualized stereotypes.

Yet interracial procreation posed the gravest societal threat, the plaintiffs insinuated. The Macarty-Mandeville children "laughed" when Eugene took seriously ill and conspired with their mother to "take advantage of this solemn moment to strip" the property from Eugene's "legitimate family." That it remained in Eulalie's hands to pass to her illegitimate children was an insult to Eugene's white collateral heirs. The high court must do what the lower court would not: protect the sanctity of property by returning it to the plaintiffs—and reinsert it within the matrix of a respectable and legitimate white family, who would, presumably, pass it on accordingly.

■ The plaintiffs did not succeed. They had pinned their hopes on the rights of property and assumed that the lower court judge and later the state supreme court justices would equate the right of property transmission with normative lineages—those sanctioned by traditional forms of marriage rather than concubinage and protected from the threat of miscegenation. They expected that the courts would protect the interests of the white heirs and agree that Eulalie's race and gender disqualified her as a legitimate partner and property holder. Yet race and gender did not much figure into either court's opinion. The morality of Eulalie and Eugene's relationship only garnered a few comments from both the Second District Court of New Orleans and the Supreme Court of Louisiana. While their partnership "offers to the moralist a sad instance of the grossest violation of every social law, of every lawful tie," Judge Canon of the Second District Court conceded, Eulalie and Eugene's "parental love, the strongest tie on earth," dictated that the children were "better entitled to inherit the proceeds of their labor, than collateral heirs from whom they felt little or no regard."[109] "We are not insensible to the appeal made to us in this case, in the interest of morals, religion and social order," the Louisiana Supreme Court justices agreed. Recently in another case, they wrote, the state supreme court had

restored the rights of white heirs to a large estate.[110] But "at the same time that we are bound to give effect to our laws made in the interest of families, it would be an abuse to bring them in conflict with the right of property, under which the defendant claims the subject of the present suit."[111]

Both the lower court and the high court did indeed pursue an argument about the sanctity of property and the intergenerational transfer of wealth—just not in the way the plaintiffs had hoped. "The stability of fortunes is one of the great bases of Society," Judge Canon insisted.[112] And in this instance, the fortune belonged to Eulalie.

The Supreme Court of Louisiana concurred. Eulalie was "intelligent, industrious, and skillful. Her business was extensive and lucrative, and her credit undoubted." This "fully authorizes us in believing" that she "realized large profits from her business." Macarty helped her invest her money, and "she derived great benefit from his aptitude and skill in usury." He had every right to do so. The court found that the "weight of the evidence" supported Eulalie's claim: this property was a product of her "economical and orderly habits" and "good judgment and thrift." It did not belong to Eugene, and they "can perceive no disguise nor indirection in these transactions." What is more, "it is not so large as to authorize us in assuming that any portion did not honestly and legally belong to her." They found no evidence of fraud. One can raise "doubts" and "conjectures," but "the defendant has not been placed by the plaintiff's evidence in a situation in which she is called upon to explain every transaction of her long life." Eugene clearly cared for his children, supported them, and invested in their futures. He also invested, to his detriment, in a Cuban coffee plantation. The plaintiffs "attach great importance to the declarations of the deceased as to the extent of his fortune." But "the declarations made at different times, as proved by the witnesses, are contradictory and inconsistent, and we attached consequently no weight to them." Thus, they agreed with the lower court judge. Based on the evidence presented, they reported, "[We] do not feel ourselves at liberty to declare that the last twenty years of [Eugene's] long life has been a continued cheat, and that he closed it with a falsehood on his lips." They were sensitive to the appeals to "morals, religion, and social order" and had made decisions "in the interest of families." But, in a move that was not unusual when confronted with cases involving competing tensions between race and property in the antebellum South, the court decided that "it would be an abuse to bring them in conflict with the right of property."[113] Eulalie based "her defense on that right, and we find no warrant in the law or evidence for disturbing her in the enjoyment of the fruits of the labor and thrift of a long life." She was, after all, "*une femme extrêmement laborieuse et econome*."[114]

Five months after the Supreme Court of Louisiana affirmed her right to "the fruits of [her] labor," Eulalie Mandeville died. And when she died, the entirety of her fortune passed to her children—as she and presumably Eugene had intended. Because of her careful work, her succession was swift and without contention.[115] This fortune, moreover, only grew in the hands of her heirs. When her last living child, Pierre Villarceaux Macarty, died in 1878, he left behind an estate worth $181,486—which he bequeathed to Eulalie's grandchildren and great grandchildren.[116]

Eulalie's documentary strategy—long-term, public, and forward thinking—involved harnessing or controlling the events of the past, conditioning the realities of the present through a careful and selective curation, in order to shape the future. Documentation was therefore *meaning* generating.[117] And if, as some have suggested, we should think of the archive as an actor itself, then it is significant to recognize that this is an actor that Eulalie called into being.[118] In light of this, we might think of her strategy as an *archival* one, because, after all, archives are meaning makers. Her final step involved depositing her documents into and placing them under the stewardship of a state-sanctioned repository.[119] By submitting her oral and written evidence to the court, she authenticated it—for herself, but especially for the future use of her children and their children. For it was her version of family and property that received the backing of the state. Eulalie had succeeded in getting the local and appellate courts to concede that the "stability of fortunes" included the right to secure the future of families like her own. They too could lay claim to intergenerational wealth and the birthrights of a respectable and legitimate family. And securing that future was her lifetime's work.

But what, finally, might this case teach us about legal archives and about writing the history of African Americans through legal sources? There are many thousands of records of legal transactions involving African Americans scattered throughout the civil courts of the American South and beyond; a huge number of these are, frankly, banal—they document transactions that are, on their face, quite regular and predictable, such as simple debt recovery. But Eulalie's case is salutary for thinking through even these quotidian transactions: behind each of these there too was a strategy, or a set of strategies: an attempt to fix in writing, and have validated by state authority, a particular understanding of one's past, present, and future, within or in opposition to the challenges posed by a society marked by a specific racial caste hierarchy.

To think about African Americans and the archive, therefore, also means thinking about how they too used, and in some cases *produced*, the archive. Of course, a central imperative of the historical scholarship of the

last fifty or more years, mine included, has been to search for marginalized or lost voices—or even traces of lost voices—within our archives. But it is also important to pay attention to how African Americans collected, collated, preserved, and interacted with documents in their own worlds and for their own purposes. Moreover, people created documentary records—and attempted to harness their power—not just in anticipation of high-stakes litigation. And not only the wealthy or well-connected made and used such records: these practices reached to the level of more precarious members of society.[120] By recognizing court records as multiauthored and reading them as archives, that is, for the competing intentionalities of their curators, we add to our methodological toolbox the means to unpack these strategies and their attendant systems of hope and desire—and a framework for understanding the horizons in which they operated.

NOTES

1. A *collateral heir* is someone who is not a direct descendant of the deceased, such as a brother, cousin, niece, or aunt. [Nicolas] Theodore Macarty served as the lead plaintiff in the lawsuit, joined by several of Eugene's nieces, nephews, cousins, and other distant relatives. Because this is a family history and the major characters share surnames, in most cases I use first names.

2. *Louisiana Civil Code,* 1825, art. 1468. In Louisiana and elsewhere throughout the antebellum US South, women of color and their children faced numerous legal challenges from their deceased partners' white collateral heirs and family members. Often such disputes involved will contests and bequests made to consorts and offspring. Other challenges concerned the freedom of enslaved partners and children (if they were manumitted in the deceased's will). On interracial inheritance in Louisiana, see Emily Clark, *The Strange History of the American Quadroon: Free Women of Color in the Revolutionary Atlantic World* (Chapel Hill: University of North Carolina Press, 2013) , chap. 4; and Jennifer Spear, *Race, Sex, and Social Order in Early New Orleans* (Baltimore: Johns Hopkins University Press, 2009). On the manumission of mistresses and children by will and challenges to those manumissions by white family members and heirs, see Judith K. Schafer, "'Open and Notorious Concubinage': The Emancipation of Slave Mistresses by Will and the Supreme Court in Antebellum Louisiana," *Louisiana History: The Journal of the Louisiana Historical Association* 28 (April 1987): 165–82. See also Jessica Marie Johnson, *Wicked Flesh: Black Women, Intimacy, and Freedom in the Atlantic World* (Philadelphia: University of Pennsylvania Press, 2020), chap. 6; Adrienne D. Davis, "The Private Law of Race and Sex: An Antebellum Perspective," *Stanford Law Review* 51 (January 1999): 221–88; and Bernie D. Jones, *Fathers of Conscience: Mixed-Race Inheritance in the Antebellum South* (Athens: University of Georgia Press, 2009).

3. Plaintiffs' Petition, *Macarty et al. v. Mandeville*, 3 La. Ann. 239 (March 1848), Historical Records of the Supreme Court of Louisiana, Earl K. Long Library, University of New Orleans. The manuscript case file includes the complete transcript of the lower

court record and evidence. Unless otherwise specified, all court records cited in this essay are part of *Macarty et al. v. Mandeville*.

4. Defendant's Answer.

5. On Black businesswomen, see Juliet K. Walker, *The History of Black Business: Capitalism, Race, and Entrepreneurship*: vol 1, *To 1865*, 2nd ed. (Chapel Hill: University of North Carolina Press, 2009), chap. 5.

6. Until 1880, when the New Orleans district courts were consolidated into a single court, Orleans Parish had several district courts operating within its boundaries, each overseeing different legal issues. The Second District Court provided the judicial supervision of estates and successions for deceased property holders in the parish.

7. For instance, some years ago, in Iberville Parish, Louisiana, I was taken by an employee of the county clerk's office to a storage shed where they kept old records. There, I found wet cardboard boxes full of eighteenth- and early-nineteenth-century trial records and minute books rotting (alongside bugs and a dead rodent or two) on a dirt floor. They had been mislabeled as employee records from the 1950s and stashed away. Many involved the criminal trials of the enslaved and the estate records of free people of color. I filled six trash bags with the records, brought them back to the clerk's office, dried them out, and cleaned them as best as I could, and then organized them into file folders (unfortunately, not acid free folders, as would have been my preference). It is unclear to me what happened to the records in the ensuing years. Clerk's offices in general are cramped and often do not have the space for even the modern records. In my years of legal research since this trip, I have found that this experience and these conditions are not unusual.

8. For the printed report, see 3. La. Ann. 239 (1848).

9. On trial court records as a window into Black life, the challenges of accessing and interpreting them, and the role of Black people in local legal proceedings, see Kimberly M. Welch, *Black Litigants in the Antebellum American South* (Chapel Hill: University of North Carolina Press, 2018), especially the introduction.

10. In Louisiana, enslaved people only had legal standing to sue in one circumstance: for their freedom if they were held illegally (for example, if they had been manumitted in a will and the heirs had not granted them freedom). See the Louisiana *Civil Code* (1825), art. 177, p. 28. Married women in Louisiana were bound by the doctrine of marital unity and did not have legal personalities separate from their husbands. However, unlike common law jurisdictions, Louisiana's civil law heritage allowed married women to sue their husbands for a separation of property, and if granted, they could act as single women before the law when protecting it (and thus could contract and sue and be sued). See Wheelock S. Upton and Needler R. Jennings, *The Civil Code of the State of Louisiana, with Annotations* (1838), arts. 125–32, pp. 19–22.

11. In recent years, scholars have shown that Black Americans in the pre–Civil War US South—free and enslaved—were not legal outsiders or mere objects of law and instead participated in legal processes in a number of informal and formal ways. For a few examples of this scholarship, see Welch, *Black Litigants in the Antebellum American South*; Martha Jones, *Birthright Citizens: A History of Race and Rights in Antebellum American* (Cambridge: Cambridge University Press, 2018); Laura F.

Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill: University of North Carolina Press, 2009); and Ariela J. Gross, *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom* (Princeton, NJ: Princeton University Press, 2000).

12. For some examples of scholars mining freedom suits for the stories they reveal about liberty, law, family, the legal culture of the enslaved, regional and national politics, and a wealth of other issues, see Kelly M. Kennington, *In the Shadow of Dred Scott: St. Louis Freedom Suits and the Legal Culture of Slavery in Antebellum America* (Athens: University of Georgia Press, 2017); Anne Twitty, *Before Dred Scott: Slavery and Legal Culture in the American Confluence, 1787–1857* (New York: Cambridge University Press, 2016); Honor Sachs, *Freedom by a Judgment: The Legal History of an Afro-Indian Family*, in progress; and William Thomas, *A Question of Freedom: The Families Who Challenged Slavery from the Nation's Founding to the Civil War* (New Haven: Yale University Press, 2020). For an example of the power legal documents offered for a family of color (for freedom and security, especially), see Rebecca Scott and Jean Hébrard, *Freedom Papers: An Atlantic Odyssey in the Age of Emancipation* (Cambridge, MA: Harvard University Press, 2014). See also Kimberly Welch, "William Johnson's Hypothesis: A Free Black Man and the Problem with Legal Knowledge in the Antebellum United States South," *Law and History Review* 37 (February 2019): 89–124. In recent years, moreover, we have seen a biographical turn of sorts in African American history, with scholars using legal and other sources to perform a deep dive into the lives of the famous, yes, but also those whose lives were previously little-known. See, for instance, Erica Armstrong Dunbar, *Never Caught: The Washingtons' Relentless Pursuit of Their Runaway Slave, Ona Judge* (New York: Simon & Schuster, 2017); W. Caleb McDaniel, *Sweet Taste of Liberty: A True Story of Slavery and Restitution in America* (New York: Oxford Press, 2019); and Alexandra J. Finley, *An Intimate Economy: Enslaved Women, Work, and America's Domestic Slave Trade* (Chapel Hill: University of North Carolina Press, 2020).

13. As we have seen with the interdisciplinary archival turn, however, there are many ways to read or see historical presence beyond documents or the lack thereof. As Jenny Sharpe has recently shown, through a study of "intangible phenomena" and "exchanges" and "conversations" between "history writing and the creative arts," we see "silences not to be absences, and the invisible as not the same as what cannot be seen, where words sit on top of large holes leading to a parallel world of spirits, and the gossamer of dreams paradoxically returns us to the repositories of material archives." Jenny Sharpe, *Immaterial Archives: An African Diaspora Poetics of Loss* (Chicago: Northwestern University Press, 2020), 3–4. See also Saidiya Hartman, "Venus in Two Acts," *Small Axe* 12, no. 2 (2008): 1–14; and Brian Connolly and Marisa Fuentes, "Introduction: From Archives of Slavery to Liberated Futures," *History of the Present* 6, no. 2 (2016): 105–16; and the essays in that special issue on the archives of slavery.

14. On the coproduction of legal records, see Welch, *Black Litigants in the Antebellum American South*, 34–36.

15. On some methodologies for reading trial court records, see Welch, *Black Litigants in the Antebellum American South*, 19–22. On African Americans and storytelling in court, see chap. 1.

16. Scholars have tended to examine Eulalie Mandeville through the phenomenon of *plaçage* (domestic partnerships between white men and women of color) and to assess whether or not the romanticized figure of the tragic quadroon represented women's experiences on the ground. See, for instance, Penny Johnson-Wood, "Eulalie de Mandeville: An Ethnohistorical Investigation Challenging Notions of *Plaçage* in New Orleans as Revealed through the Lived Experiences of a Free Woman of Color" (MS thesis, University of New Orleans, 2010); and Carol Wilson, "*Plaçage* and the Performance of Whiteness: The Trial of Eulalie Mandeville, Free Colored Woman, of Antebellum New Orleans," *American Nineteenth Century History* 15 (2014): 187–209.

17. Plaintiffs' Petition; and Plaintiffs' Brief. The plaintiffs repeatedly referred to Eulalie as Eugene's "concubine." As I will discuss below, this was a deliberate move.

18. Plaintiffs' Brief.

19. Judgment of the Second District Court.

20. When he died in 1800, Pierre Marigny was one of the richest and most prominent men in Louisiana. The duke of Orléans (future King Louis-Philipe of France) was a guest of the family in 1798. The city of Mandeville, Louisiana, once the site of his large plantation, is named after his family. The *faubourg* Marigny is named for his son and Eulalie's brother, Bernard Marigny.

21. Upon her manumission, Eulalie's mother used the surname Duteuil. Little is known of her, however, and the court record is silent on her. Artist, researcher, and writer Carolyn Long found reference to her surname in the St. Augustine's Church marriage register. Long provides Eulalie's mother's given name as Marie-Jeanne. See Carolyn Morrow Long, "The Macarty Family in Orleans Parish, Part 1," *New Orleans Genesis* (April 2013): 106. I am grateful to Carolyn Long for sharing her research on Eulalie and Eugene's family and for providing me with insight into the convoluted research processes at the New Orleans Civil Court.

22. Defendant's Brief. For other examples of elite white men gifting or bequeathing property to their mixed-race daughters, see Nik Ribianszky, *Generations of Freedom: Gender, Movement, and Violence in Natchez, 1779–1865* (Athens: University of Georgia Press, 2021), 118; and Kent Anderson Leslie, *Woman of Color, Daughter of Privilege: Amanda America Dickson, 1849–1893* (Athens: University of Georgia Press, 1996). In these instances, however, the white fathers involved passed most or all of their estates to their free Black daughters. Eulalie's father, by contrast, bequeathed his millions to his children with his white wife. While her father certainly helped launch her, Eulalie's fortune was mostly self-made.

23. See, for instance, Documents A–G.

24. Plaintiffs' Brief.

25. On Eugene's family, see Long, "Macarty Family of Orleans Parish"; and Spear, *Race, Sex, and Social Order in Early New Orleans*, 129–30.

26. Defendant's Brief; and Plaintiffs' Brief.

27. On the range of intimate encounters across the color line in the antebellum US South, see Joshua Rothman, *Notorious in the Neighborhood: Sex and Families across the Color Line in Virginia, 1787–1861* (Chapel Hill: University of North Carolina Press, 2003); and Martha Hodes, *White Women, Black Men: Illicit Sex in the Nineteenth-Century South* (New Haven: Yale University Press, 1999). On New Orleans, see especially Johnson, *Wicked Flesh*; and Spear, *Race, Sex, and Social Order in Early New Orleans*.

28. As Emily Clark argues, "the ways that white men and black women negotiated their relations . . . shared that origin [slavery] and never shed the imbalance of power inherent in it." Clark, *Strange History of the American Quadroon*, 100.

29. See Clark, *Strange History of the American Quadroon*, chap. 4.

30. Spear, *Race, Sex, and Social Order in Early New Orleans,* chap. 3.

31. Clark, *Strange History of the American Quadroon*, 101. See also the Louisiana *Civil Code*, 1825, art. 95, p. 77.

32. Defendant's Brief.

33. Long, "Macarty Family of Orleans Parish, Part 1."

34. Emelitte (born 1794); Théophile (born 1795); Isodore Barthélémy (born 1797), Eulalie (born 1799), Bernard Theodule (born 1804); Pierre Villarceaux (born 1808), and Eugene (born 1815). Long, "Macarty Family of Orleans Parish, Part 1"; Defendant's Brief.

35. Judgment of the Second District Court.

36. *Natural child* and *bastard* were legal statuses. While both indicated someone born outside of wedlock and thus designated "illegitimate," natural children were officially recognized by their fathers (perhaps before a notary or in baptismal records) and as such gained rights to property and inheritance that bastards did not have. Louisiana *Civil Code*, 1825, arts. 220–30, pp. 100–102.

37. Eugene recognized his children with Eulalie at their baptisms. See Long, "Macarty Family of Orleans Parish, Part 1," 105–6.

38. Louisiana *Civil Code*, 1825, arts. 254–62, p. 105.

39. Louisiana *Civil Code*, 1825, arts. 1470–74, p. 205; and Clark, *Strange History of the American Quadroon*, 110. Mothers without legitimate children could give their natural children their entire estates, either before or after their deaths. Thus, Eulalie's estate could pass to her children.

40. Louisiana *Civil Code*, 1825, art. 1468. On mixed-race inheritance and the 1808 and 1825 laws in Louisiana, see Clark, *Strange History of the American Quadroon*, chap. 4.

41. Plaintiffs' Petition.

42. They did so throughout the trial record, but most explicitly in their initial petition and final brief.

43. Concubines could receive no more than 1/10th of the value of the estate of *moveable* (or personal) property only. They could not receive gifts of land, buildings, or other immovable property.

44. Finley, *Intimate Economy*, 81.

45. Plaintiffs' Brief.

46. Testimony of J. Bermudez. This is the Honorable Joachim Bermudez, probate court judge.

47. On information, see Edwards, *People and Their* Peace, 112.

48. On the importance of personal reputation and character to early American legal processes and the role reputation played in trials, see Welch, *Black Litigants in the Antebellum American South*, chap. 2; and Edwards, *People and Their Peace*, chap. 4.

49. Testimony of St. Avit. In the state supreme court record, his name is spelled St. Avid, and it is likely that this is Jean Martin de la Selve de Saint-Avid, the Baron of Saint-Avid. In 1837, the United States experienced a financial crisis that rendered many destitute and had long-lasting economic, social, and political consequences. See Jessica M. Lepler, *The Many Panics of 1837: People, Politics, and the Creation of a Transatlantic Financial Crisis* (New York: Cambridge University Press, 2013).

50. See, for instance, testimony of J. Bermudez; testimony of Charles Claiborne; testimony of J. B. Blanchard, and others.

51. Report of the Auditors.

52. *Shaver* was the slang term used to describe a discounter, someone who bought banknotes, promissory notes, and bills of exchange at less than the face value (at a "discount") and resold, exchanged, or redeemed them for a profit. See *Judicial and Statutory Definitions of Words and Phrases* (St. Paul: West Publishing Company, 1905), 7:6481.

53. Edward J. Balleisen, *Navigating Failure: Bankruptcy and Commercial Society in Antebellum America* (Chapel Hill: University of North Carolina Press, 2001), 27.

54. Testimony of St. Avit.

55. Testimony of A. D. Doriocourt. Lenders charged either conventional interest (a percentage rate that the involved parties agreed on) or legal interest when settling a debt in court (a rate prescribed by state statute as the highest rate that could be charged). Louisiana capped these rates at 10 percent and 5 percent, respectively. But despite Louisiana usury laws, lenders frequently charged higher rates.

56. Testimony of Louis Laribeau.

57. Testimony of Charles Claiborne.

58. Testimony of Andre Seixnyder. This clerk probably spelled his name incorrectly; if so, it should have been Schexnayder.

59. Testimony of R. Salaun. See also testimony of John Parker and testimony of J. Bermudez.

60. Testimony of Victor Vizinier.

61. Testimony of Martin Duralde.

62. Testimony of Armand St. Ceran. See also Testimony of J. L. Tissot. Upon hearing this testimony, Eulalie stated that she did not seek a license to keep a store in the city; she kept the goods in her home.

63. Defendant's Brief.

64. Testimony of Marie Louise Panis, FWC.

65. Testimony of Andre Seixnyder and testimony of Terence LeBlanc.

66. For instance, see testimony of Casimir Lacoste.

67. Defendant's Brief.

68. The Widow Chabenet, an intimate friend of Eulalie's and a neighbor, noted that she had five or six enslaved women selling for her and another eight or ten women selling on commission. She helped Eulalie measure her goods and settle with the *marchandes*. Testimony of Widow Chabenet. In their brief to the state supreme court, the plaintiffs spell her name Chavenet.

69. Testimony of Marie Louise Panis, FWC. Panis, according to another witness, made a fortune in the dry goods trade. See testimony of L. Sejour.

70. Testimony of Terence LeBlanc.

71. Testimony of L. Sejour.

72. For some examples, see testimony of E. Forest, testimony of Francois Lafargue, and testimony of Duncan Kennedy. Every witness (for both the plaintiffs and the defendant) who spoke about her line of work agreed that it was lucrative.

73. Witnesses for both the plaintiffs and the defendant testified to her reputation as a wealthy woman. See, for instance, testimony of J. Bermudez, testimony of Francois Lafargue, testimony of William Dubuys, and testimony of E. Forest.

74. Defendant's Brief.

75. Testimony of Duncan Kennedy.

76. Testimony of William Dubuys.

77. Testimony of Edmund J. Forstall. On Forstall, See Scott P. Marler, *The Merchants' Capital: New Orleans and the Political Economy of the Nineteenth-Century South* (New York: Cambridge University Press, 2013), chap. 1.

78. Testimony of J. Bermudez. Almost all of the witnesses were white and included some of the city's most prominent residents. Eulalie did not suffer from a lack of powerful allies, including that of her legal team. Indeed, her attorney, Pierre Soulé, later became a US senator and a foreign minister to Spain.

79. As Dylan Penningroth has shown, enslaved people (and later, newly freed people) also used public display and public association and acknowledgement as a means to claim what belonged to them. In the absence of legal protect, such performances were especially important. See Dylan Penningroth, *The Claims of Kinfolk: African American Property and Community on the Nineteenth-Century South* (Chapel Hill: University of North Carolina Press, 2003).

80. Testimony of Casimir Lacoste.

81. Testimony of R. Salaun. See also testimony of John Parker and testimony of J. Bermudez.

82. Testimony of Widow Chabenet.

83. Document A, no. 29.

84. On free and enslaved Black people suing in the civil courts of the pre–Civil War US South, see Welch, *Black Litigants in the Antebellum American South*. On debt actions, see chap. 4.

85. Mortgages were contracts in which the debtor granted a particular creditor a right to real property (as security for the debt), property that could be sold to satisfy the creditor's claim if the debtor defaulted on the loan. Mortgages provided creditors with the security that helped ensure the repayment of the loan, because it guaranteed that creditors had first dibs.

86. Legal mechanisms in the nineteenth century involving debt collection favored lenders, and creditors almost always won. See Bruce Mann, *Republic of Debtors: Bankruptcy in the Age of American Independence* (Cambridge, MA: Harvard University Press, 2009); and Welch, *Black Litigants in the Antebellum American South*, chap. 4.

87. *Mandeville v. Prevost*, #7716, Orleans Parish Court, 1834. For other similar cases, see *Mandeville v. Castin et al*, #16028, Orleans Parish Court, 1843, and *Mandeville v. Duhigg*, #16001, Orleans Parish Court, 1841. All records in New Orleans Public Library (hereafter cited as NOPL).

88. *Mandeville v. Forstall et al*, Orleans Parish Court, 1843, NOPL.

89. See, for instance, Documents C, nos. 1 and 9; F; G; and D, nos. 1 and 2.

90. Testimony of Phillip Lacoste.

91. Testimony of B. Bisinier.

92. See Documents D, nos. 5, 6, and 10.

93. See Document D, nos. 3, 4, and 6.

94. Document D, no. 7.

95. Document B. B.

96. Document D, no. 3.

97. Document B. B.

98. Document C. C.

99. Defendant's Brief.

100. See, for instance, Documents H; J; K; L; M; O; P; Q; and S.

101. Judgment of the Second District Court, emphasis on *undoubtedly* in the original; emphasis on *plainly and publicly* is mine.

102. Plaintiffs' Brief.

103. Plaintiffs' Brief.

104. For the scholarship on legal attempts to dissuade interracial partnerships, see note 2.

105. Plaintiffs' Brief.

106. Plaintiffs' Brief.

107. Pierre-Louis Berquin-Duvallon, *Travels in Louisiana and Florida, in the Year 1802 Giving a Correct Picture of those Countries*, ed. John Davis (New York: I. Riley & Co, 1806), 80. Clark, *Strange History of the American Quadroon*, 51.

108. On the dangerous sexual charms of the mûlatresse and the widespread reception of such stereotypes (in New Orleans and beyond), see Clark, *Strange History of the American Quadroon*, 51.

109. Judgment of the Second District Court.

110. They were referring to *Cole v. Lucas*, 2 La. Ann. 946.

111. Opinion of the Court. The manuscript record includes the handwritten version of the opinion, complete with crossed-out sections, rewrites, and scribbles. For a clean copy of the printed report, see 3 La. Ann. 239.

112. Judgment of the Second District Court.

113. Carol Wilson has argued that Eulalie won her lawsuit because of "her successful performance of whiteness" in court ("*Plaçage* and the Performance of Whiteness," 202). As a slaveholder, businesswoman and property holder, and loving mother, she

"transcended . . . what women in her station . . . were normally permitted (202)." My interpretation differs. Eulalie's class position and connections provided her with added clout in her community, certainly. But the plaintiffs made it perfectly clear that they aimed to discredit her because she was a woman of color, and the local and appellate court judges also expressed their distaste for interracial relationships, even if they did not ultimately find for the plaintiffs. She won this lawsuit because the property was, indeed, her own. And while the plaintiffs aimed to equate whiteness with privately held property, the courts understood that to do so (and remove the property from Eulalie's hands—property she had proven was hers) would open Pandora's Box and threaten property rights in a slave society more generally. On the sometimes competing tensions between race and property rights in the antebellum South and Southern courts' rulings on property cases involving these tensions, see Welch, *Black Litigants in the Antebellum American South*. On this tension in interracial inheritance cases specifically, see Davis, "Private Law of Race and Sex."

114. Judgement of the Supreme Court of Louisiana.

115. Succession of Eulalie Mandeville, 1999, Second District Court of New Orleans, March 1, 1848, NOPL.

116. Succession of Pierre Villarceaux Macarty, 40772, Civil District Court of New Orleans, 1878, NOPL.

117. For another example of a free person of color in the antebellum South using documentation to backstop success in and outside court and to create a paper trail as a means to "pre-empt and protect" and "generate meaning," see Welch, "William Johnson's Hypothesis," 115.

118. On archive-as-subject, see especially Ann Laura Stoler, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton, NJ: Princeton University Press, 2008), 43-44.

119. My thinking here is shaped in part by Achille Mbeme, "The Power of the Archives and Its Limits," in *Refiguring the Archive,* ed. Carolyn Hamilton et al. (Cape Town: New Africa Books, 2002), 19–26.

120. For examples, see Welch, "William Johnson's Hypothesis"; and Scott and Hébrard, *Freedom Papers*.