



**New Evidence for Colonia Aelia Capitolina
(P.Mich. VII 445 + inv. 3888c + inv. 3944k)**

Andrea Bernini

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New Evidence for *Colonia Aelia Capitolina*
(P.Mich. VII 445 + inv. 3888c + inv. 3944k)*

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P.Mich. VII 445, edited by H.A. Sanders in 1947, preserves the beginnings of sixteen lines of a text belonging to the military milieu, written on the recto across the fibres; the *verso* is blank. The left margin is complete, the upper and lower ones are partially damaged, whereas a remarkable portion has been lost on the right side. The papyrus was substantially supplemented by Arangio-Ruiz (1948) 261-263, who recognised it as an acknowledgment of debt written in the form of a *chirographum* in a paper published just one year after the *editio princeps*. Then, it was reprinted as CPL 194 by R. Cavenaile and reedited as ChLA V 284 by R. Marichal. The papyrus is relevant from the juridical point of view, since it contains one of the few Latin *chirographa* on papyrus, as well as from the historical viewpoint. The text (l. 3) mentions the *Legio X Fretensis*, which was stationed in Jerusalem by Titus in 70 CE just after the end of the first Jewish war (see e.g. Dąbrowa [1993] 9), along with the toponym in which the contract was signed (l. 2), supplemented as *Colonia[m] Caesaream* by Arangio-Ruiz (1948) 262. In fact, P.Mich. VII 445 is the only Latin papyrus to have been certainly written in Jerusalem. The provenance is unknown, for the papyrus was purchased in London in 1925, 2nd May, but it is likely to have been brought from Jerusalem to Egypt by a veteran.¹ It was dated to 188 CE on the basis of the consular date in l. 1 (partially supplemented), which would point to the second consulships of both Seius Fuscianus and Marcus Servilius Silanus.²

An analysis on two unpublished Latin papyri, which I recently carried out, proves that they join P.Mich. VII 445, thus providing us with the opportunity to restore almost completely the original document. The hypothesis of the realignment, suggested by palaeographical and material affinities (the three papyri are written across the fibres, they contain more than one hand, their back sides are blank), is corroborated by the text continuity of the reconstructed lines. The joining fragments are P.Mich. inv. no. 3888c, which preserves scanty remains of sixteen lines, and P.Mich. inv. no. 3944k, consisting of two fragments preserving parts of fifteen lines on the whole. They both belong to a lot of texts that was sent by E. R. Boak in March 1925 and reached Ann Arbor University in October 1926.³ The realignment of the

* The research leading to these results has received funding from the European Research Council (ERC) under the European Union's Horizon 2020 research and innovation programme (Grant agreement no. 636983); ERC-PLATINUM project, University of Naples Federico II. I thank Brendan Haug for allowing me to study the two unedited papyri and for the digital images he sent me. The text was discussed on a first time during the workshop "Un nuovo riconoscimento di debito del II sec. d.C.: per un'edizione di due frammenti latini inediti dell'università del Michigan", Università degli Studi di Napoli Federico II, Naples, 28/04/2016; during the workshop, the members of PLATINUM (P.I. Maria Chiara Scappaticcio, Dario Internullo, Giulio Iovine, Valeria Piano and Ornella Salati), whom I thank, offered me various suggestions. I thank the anonymous reviewer for bringing to my attention the epigraph coming from Hierapolis (AE 2004 1424 = SEG 2005 1416). The present paper focuses on some points that I discussed during the congress; for a full edition of the reconstructed papyrus see Bernini (2018).

¹ See ChLA V 284, 18 and <http://quod.lib.umich.edu/a/apis/x-1914/3258r.tif>.

² As for Fuscianus, see PIR² S 317 and NP XI 352 s.v. *Seius* 1; as for Silanus, see PIR² S 599.

³ See <http://quod.lib.umich.edu/a/apis/x-10521/3888cr.tif> and <http://quod.lib.umich.edu/a/apis/x-12453/3944kr.tif>.

three fragments restores a text containing sixteen lines on the whole that can be almost entirely supplemented. The papyrus completely preserves the left margin, whereas the other three margins are more or less damaged. Five hands wrote the text: the scribe (M1) and four witnesses (M2-M5).

As already stated by Arangio-Ruiz (1948), the text is written in the form of a *chirographum*, which is typical of private documents.⁴ Beside the present document, we have just seven Latin *chirographa* coming from a military milieu.⁵ The main characteristics of Latin *chirographa* are listed by Amelotti and Migliardi Zingale.⁶ They are:

1. the date written at the beginning;
2. the personal drafting;
3. the non-epistolary format,⁷ introduced by the verb *scripsi*;
4. attention to the will of the issuer rather than to autography;
5. the presence of marks written by the declarant and the subscribers;
6. the potential presence of the ‘Doppelbeurkundung’.

The first three occur in the present text, which instead lack both the signature by the declarant (who claimed to be illiterate, see ll. 5–6), and the ‘Doppelbeurkundung’.

The relevance of the realigned text is not limited to the juridical aspects, since it contains new historical evidence, in fact:

1. it disproves the previous dating and leads to new chronological remarks;
2. it increases the number of occurrences for the toponym *Colonia Aelia Capitolina*;
3. it is a new evidence concerning the formular of the acknowledgments of debt, and shed light upon the knowledge of the juridical vocabulary within the *Legio X Fretensis*;
4. it is an important evidence of the Latin language in Jerusalem.

The content can be largely understood. The contract was written on the fifth day before the Ides of May (that is 11th May) in the winter-quarters of *Colonia Aelia Capitolina*, where the *Legio X Fretensis* stationed. The borrower claims to have received an amount of money by a comrade, and commits himself to give it back *sine controversia* to him, as well as to his *procurator* or his heirs, as soon as he would be requested. This part was written by Iulius Serenus, who was asked by the borrower to write the text instead of him, being he illiterate. The document ends with four subscriptions written by four different hands.

⁴ For an overview, see Amelotti / Migliardi Zingale (1996), and Yiftach-Firanko’s remarks in Démare-Lafont / Faraguna / Yiftach-Firanko (2013) 22-27. As pointed out by Jakab (2013) 230, «die Chirographa immer Verpflichtungen zwischen zwei Parteien (Schuldner und Gläubiger) erzeugten, wobei die Anwesenheit der Kontrahierenden meistens vorausgesetzt werden kann. In Ausnahmefällen war jedoch eine Stellvertretung bei der Beurkundung denkbar». Among Latin authors, see for instance Gaius, Inst. 3.134: *praeterea litterarum obligatio fieri videtur chirografis et syngrafis, id est, si quis debere se aut daturum se scribat, ita scilicet, si eo nomine stipulatio non fiat. quod genus obligationis proprium peregrinorum est*, and Mod. Dig. 22.1.41.2: *ab Aulo Agerio Gaius Seius mutuam quandam quantitatem accepit hoc chirographo: «ille scripsi me accepisse et accepi ab illo mutuos et numeratos decem, quos ei reddam kalendis illis proximis cum suis usuris placitis inter nos»: quaero, an ex eo instrumento usurae peti possint et quae.*

⁵ They are listed by Platschek (2013) 250-252: P.Vindob. inv. no. L 135 (25/08/27 CE); AE 1992. 1139 (83 CE); T.Vindon. 3 (25/02/90 CE); P.Mich. VII 438 (140 CE); P.Fouad 45 (153 CE); P.Mich. III 161 (2nd CE); and P.Mich. VII 440 (162 CE). A *chirographum* written in Greek shows partial similarities with the Latin form, see T.Sulpicii 78p2 ll. 5-12 (11/04/38 CE) Μενέλαος Εἰρηναίου Κεραμῆτης ἔγραψα ἀπέχιν μαι (l. ἀπέχιν με) | παρὰ Πρίμου Ποπλίου Ἀττίου Σεβήρου δούλου {λου} δηνάρια χίλια | ἐκ ναυλωτικῆς ἐκσφραγισμένης | ἃ καὶ ἀποδώσω ἀκούλουθως | τῇ ναυλωτικῇ ἥ(ν) πεποίημαι πρὸς | αὐτόν.

⁶ Amelotti / Migliardi Zingale (1996) 135-136.

⁷ According to Jakab (2013) 219, the *chirographum* is instead characterised by an epistolary form: «[i]m juristischen Kontext werden zwei technischen Wörter verwendet, die Schriftstücke in Briefform, mit persönlicher Formulierung, bezeichnen: *chirographum* und *epistula*». See also Jakab (2013) 220.

The first two lines and the beginning of the third one are the most important under the historical viewpoint, preserving the dating formula and the place where the papyrus was written. According to ChLA V 284, they run as follows:

*P(ublio) [Fu]sciano ! [I M(arco) Silano II co(n)s(ulibus) ±14]
aput Colon[iam Caesaream in castris in hiber-]*

3 *nis ...*

1. The dating formula: Seius Fuscianus

Not much is known about Seius Fuscianus' life; the most important source only tells us that he was *condiscipulus* of Marcus Aurelius: *frequentavit et declamatorum scholas publicas amavitque e condiscipulis praecipuos senatorii ordinis Seium Fuscianum et Aufidium Victorinum, ex equestri Baebium Longum et Calenum* (HA Aur. 3.8). According to Alföldy (1977) 159-160, he would have been about two years older than the emperor, though a date of birth prior to 118 CE should not be excluded. He was elected *consul ordinarius* along with M. Servilius Silanus in 188 CE (it was the second consulship for both), the year to which P.Mich. VII 445 was dated: in fact, the spot of ink at the end of l. 1 was read as the lower part of an *i*, and interpreted as the first numeral of the number *II*. The present evidence would be the only one in which the *praenomen Publius* would be mentioned (see PIR² 317); however, the realignment of the three fragments does not confirm the dating formula.⁸

2. The place: Colonia Aelia Capitolina

The current occurrence is the only one within the papyrological evidence, being partial that of SB XXVI 16607, a papyrus that probably dates back to the 5th CE and may have been found in Panopolis: in l. 18 we read Ηλια[.] .ειρο[σαλ]ημ (l. Αιλία [.] 'Ιεροσαλήμ).⁹ The toponym is occasionally mentioned in both epigraphical¹⁰ and literary¹¹ texts:

Inscriptions:

1. AE 1976 494.1-6 (135-199 CE; found near Mogontiacum): *D(is) M(anibus) | Octaviae Capitolinae | dom(o) Ael(ia) Capitolina | castissimae ac pudicissimae coniugi et | incomparabili*
2. Tituli Aquincenses II 499.1-4 (151-200 CE; found in Aquincum): *D(is) M(anibus) | Ael(io) Silvano | (centurioni) leg(ionis) II adi(utricis) | domo Syria Palaestina | colon(ia) Ael(ia) Capitolina*
3. CIIP 1.2 719.3-6 (202-205 CE; found in Hierosolyma): *et Iuliae Aug(ustae) | [matri Aug(usti) et Caes(aris) et (?)Fulviae Plautillae Aug(ustae) col(onia) Ael]ia Kap(itolina) Commo[diana]*
4. CIIP 1.2 728.3 (post 180-192 CE; found in Hierosolyma): *Co[l(onia)] Ael(ia) Cap(itolina) d(ecurionum) d(ecreto)*
5. CIL III.1 117.13-15 (s.d.; found in Rama): *Col(onia) Ael(ia) Capit(olina) | m(ilia) p(assuum) V | Κολ(ωνία-) Αιλίας Καπιτωλ(ίνης)*

⁸ On this point see Bernini (2018).

⁹ Formerly 'Privatsammlung E. von Scherling, Inv. Nr. 110'. It was edited by Noordegraaf (1938); see the commentary *ad loc.* (Noordegraaf [1938] 284). See also the recent reedition by Perale (2016).

¹⁰ According to the database TM GEO (http://www.trismegistos.org/geo/georef_list.php?tm=853; accessed 04/11/2017).

¹¹ The form Αιλία Καπιτωλιάς occurs in Ptol. Geogr. 5.16.8 and 8.20.18.

6. CIL III Suppl. 2 12087.9-11 (s.d.; found in Beit Djemal): *Col(onia) Ael(ia) Capit(olina) | m(ilia) p(assuum) XVIII*] | Κολ(ωνία-) Αιλίας Καπιτωλ(ίνης)

Literature:

1. Afric. Cesti 5.1: τήνδε τὴν σύμπασαν ὑπόθεσιν ἀνακειμένην εὐρέσεις ἔν τε τοῖς ἀρχαίοις τῆς ἀρχαίας πατρίδος κολωνίας Αἰλίας Καπιτωλίνης τῆς Παλαιστίνης κἀν Νύση τῆς Καρίας
2. D.C. 69.12.1: ἐς δὲ τὰ Ἱεροσόλυμα πόλιν αὐτοῦ ἀντὶ τῆς κατασκαφείσης οἰκίσαντος, ἦν καὶ Αἰλίαν Καπιτωλῖναν ὠνόμασε
3. Ulp. Dig. 50.15.1.6-7: *in Palaestina duae fuerunt coloniae, Caesariensis et Aelia Capitolina, sed neutra ius Italicum habet*

The reestablishment of Jerusalem as *Colonia Aelia Capitolina*¹² is referred to only by two authors: Cassius Dio and Epiphanius.

The witness by Cassius Dio has been construed as the most reliable evidence, and would suggest that Bar Kochba Revolt (132-136 CE) exploded because of this refoundation, which would have taken place in 128-131 CE:

D.C. 69.12.1-2: ἐς δὲ τὰ Ἱεροσόλυμα πόλιν αὐτοῦ ἀντὶ τῆς κατασκαφείσης οἰκίσαντος, ἦν καὶ Αἰλίαν Καπιτωλῖναν ὠνόμασε, καὶ ἐς τὸν τοῦ ναοῦ τοῦ θεοῦ τόπον ναὸν τῷ Διὶ ἕτερον ἀντεγείραντος πόλεμος οὔτε μικρὸς οὔτ' ὀλιγοχρόνιος ἐκινήθη. Ἰουδαῖοι γὰρ δεινὸν τι ποιούμενοι τὸ ἀλλοφύλους τινὰς ἐς τὴν πόλιν σφῶν οἰκισθῆναι καὶ τὸ ἱερὰ ἀλλότρια ἐν αὐτῇ ἰδρυθῆναι, παρόντος μὲν ἔν τε τῇ Αἰγύπτῳ καὶ αὐθις ἐν τῇ Συρίᾳ τοῦ Ἀδριανοῦ ἡσύχαζον, πλὴν καθ' ὅσον τὰ ὄπλα τὰ ἐπιταχθέντα σφίσις ἦττον ἐπιτήδεια ἐξεπίτηδες κατεσκεύασαν ὡς ἀποδοκιμασθεῖσιν αὐτοῖς ὑπ' ἐκείνων χρῆσασθαι, ἐπεὶ δὲ πόρρω ἐγένετο, φανερώς ἀπέστησαν.

A different date can be inferred from a passage by Epiphanius, whom has been almost disregarded in favor of Cassius Dio.¹³ He tells us that Hadrian, while travelling to Egypt in 117 CE, stopped in a completely destroyed Jerusalem: this event would have led him to the decision of refoundation the city with the name of *Aelia*:

Epiph.Const., De mensuris et ponderibus 14: διέρχεται οὖν τὴν Ἀντιόχου πόλιν, ὑπερβαίνει τε τὴν Κοίλιν καὶ τὴν Φοινίκην, καὶ ἔρχεται εἰς τὴν Παλαιστίνην, τὴν καὶ Ἰουδαίαν καλουμένην μετὰ ἔτη μζ' τῆς τῶν Ἱεροσολύμων ἐρημώσεως. καὶ ἄνεις ἐπὶ τὰ Ἱεροσόλυμα, τὴν περίπυστον πόλιν καὶ ὀνομαστήν, ἣν κατέστρεψε Τίτος Οὐεσπασιανοῦ παῖς τῷ δευτέρῳ ἔτει τῆς αὐτοῦ βασιλείας. καὶ εὗρε τὴν πόλιν πᾶσαν ἠδαφισμένην, καὶ τὸ ἱερόν τοῦ Θεοῦ κατεπεπατημένον, παρεκτὸς ὀλίγων οἰκημάτων καὶ τῆς τοῦ Θεοῦ ἐκκλησίας μικρᾶς οὔσης, ἔνθα ὑποστρέψαντες οἱ μαθηταί, ὅτε ὁ Σωτὴρ ἀνελήφθη ἀπὸ τοῦ ἐλαιῶνος ἀνέβησαν εἰς τὸ ὑπερφῶν. ἐκεῖ γὰρ ὠκοδόμητο· τοῦτ' ἐστὶν ἐν τῷ μέρει Σιών, ἣτις ἀπὸ τῆς ἐρημώσεως περιελήφθη· καὶ μέρη οἰκήσεων περὶ αὐτὴν τὴν Σιών καὶ ἑπτὰ συναγωγαί, αἱ ἐν τῇ Σιών μόναι ἐστήκεσαν, ὡς καλύβαι μόνον, ἐξ ὧν μία περιελείφθη ἕως χρόνου Μαξιμωνᾶ τοῦ ἐπισκόπου καὶ Κωνσταντίνου τοῦ βασιλέως «ὡς σκηνὴ ἐν ἀμπελῶνι» κατὰ τὸ γεγραμμένον. διανοεῖται οὖν ὁ Ἀδριανὸς τὴν πόλιν κτίσαι, οὐ μὴν τὸ ἱερόν. καὶ λαβὼν τὸν Ἀκύλαν τοῦτον τὸν προγεγραμμένον, ἐρμηνευτὴν Ἑλληνα ὄντα, ὡς καὶ αὐτὸς ὁ Ἀδριανὸς Ἑλλήν ὑπῆρχεν· ἦν δὲ ὁ Ἀκύλας αὐτοῦ τοῦ βασιλέως πενθερίδης, ἀπὸ Σινώπης δὲ τῆς Πόντου ὀρμώμενος καθίστησιν αὐτὸν ἐκείσε ἐν Ἱεροσολύμοις ἐπιστάτην τοῖς ἔργοις τῶν τῆς πόλεως κτισμάτων, ἐπιτεθεικῶς τῇ οἰκοδομουμένη πόλει τὸ ἴδιον ὄνομα καὶ τοῦ βασιλικῆς ὀνόματος τὸν χρηματισμόν. ὡς γὰρ ὠνόμαστο Αἴλιος Ἀδριανός, οὕτω καὶ τὴν πόλιν ὠνόμασεν Αἰλίαν.

¹² For an overview on the foundation of the city, see also Lifshitz (1977) 483-486.

¹³ Epiphanius' version was recently revalued by Capponi (2010) 496-501.

Cassius Dio's version is more reliable, for a travel to Egypt in 117 CE is unlikely –since Hadrian became emperor in that year– and it is confirmed by an inscription found in Hierapolis (AE 2004 1424 = SEG 2005 1416).¹⁴ It dates back to the period between the end of spring and the beginning of summer 130 CE, and contains a letter sent by the Emperor Hadrian to the Phrygian city –possibly concerning a privilege– that ends (l. 13) with the mention of the place where the letter was written: ἐν Ἱεροσολύμοις.¹⁵

[Αὐτοκράτωρ Καῖσαρ, θεοῦ Τραιανοῦ [Παρθικο]ῦ υἱός, θεοῦ Ν[έρουα]
[υἱώνος, Τραϊανός Ἀδ]ριανός Σεβαστός, ἀ[ρχι]ερ[εὺ]ς μέγιστος, δημαρ-
[χικῆς ἐξουσίας] τεσσαρεσκαίδεκά[της], ὕπατος τὸ τρίτο[ν, πατήρ]
[πατρίδος], Ἱεραπολειτ[ῶν] τοῖς ἄρχουσι καὶ τῇ βουλῇ καὶ τῷ δή-
5 [μῳ χαίρειν·]ΛΛΑ ἐπαινῶν ἐπέστευλα ΤΗΣΠΙ ΠΙΤΩΝΗΣΙ Ι . ΤΙ[- - -]
[- - - - -]Ι ΤΙ ΙΑΟΣ . ΚΑΙΟΝΤΙΠΙΠΙΑΓνοησαι ὑμ[ῶν] (?)¹⁶]ΛΛ[- - -]
[- - - - -]ΛΙΟΣ . ΒΡΟ . Σ ΛΙΕνοησατε καὶ παραπεμψαΠΛ[- - - - -]
[- - - - -]ΝΕΝΤΑΛΛΛΠΠ[- - - - -]ΙΕΙ[- - - - -]
[- - - - -]ΤΑτων ΦΟΙ . Π ΠΟΥ . ΤΟ[- - - - -]
10 [- - - - -]ΤΑ . . . ΚΑΙ . . . ΙΚΛΙΜΕΙ[- - - - -]
[- - - - -]Ο . Π ΛΛΛΟΡ . Ι ΠΙΛΙΖΙ[- - - - -]
[- - - - -] . Λ . Ο . ΟΠ . ΤΚΠ[- - - - -]
[- - - - -] ἐν Ἱεροσολύμοις.]

Recent excavations seem to indicate that the city was rebuilt some years earlier: «[t]he construction of the new Roman city of Aelia Capitolina is generally thought to be associated with Hadrian's well-known visit to Judaea around 129/130 [...]. On the basis of the finds from the Eastern Cardo, we now suggest that the Roman city was planned and its main thoroughfares paved in the early years of Hadrian's reign, about a decade before his visit to the East».¹⁷ However, this fact does not contradict Cassius Dio: it witnesses only some construction activity within the city, but does not indicate the refoundation of the city as a Roman settlement.

The reasons leading to this refoundation were not restricted to military needs: it may have been decided also for improving the conditions of the civilian quarters, or for better integrate the region.¹⁸ The key-point is the rebuilding of Jerusalem as a no longer Jewish city, as evident in particularly in the construction of the temple dedicated to Iuppiter Capitolinus in the place where the temple of God was previously located. Recently Brizzi (2015) 322-323 pointed out that anti-Jewish interpretation of the rebuilding seems to be contradicted by the general attitude of the Romans towards Jews, which was not particularly cruel.¹⁹ Other

¹⁴ Mentioned in Ritti (2006) 158-159. I owe the remarks on Hadrian's travel to Werner Eck, whom I thank.

¹⁵ See SEG 2005 comment ad l.: «Hadrian may have sent the letter from the military camp that was situated *in* Jerusalem».

¹⁶ Chaniotis (SEG 2005 1416) tentatively suggests ἀγνοῆσαι ὑμ[ῶν].

¹⁷ Weksler-Bdolah (2014) 56. As for the camp of the legion is concerned, its stationing has not been identified with certainty. The borders are traditionally believed to be (Bar [1998] 8–9): 1. the First Wall (corresponding to the north and west boundaries); 2. a line of wall erected by the soldiers (on the eastern side); 3. a line on which the Ottoman wall was later built (as for the southern boundary). Bar (1998) 15 tentatively places the camp in «the area between the Second Wall and the Third Wall» by resorting to both literary sources and archaeological findings.

¹⁸ Brizzi (2015) 322.

¹⁹ Brizzi (2015) 323: «[p]ur non potendo essere esclusa, l'interpretazione antiggiudaica non si accorda però con il ritegno che l'imperatore mostrò in seguito nel celebrare la vittoria; né con l'evidente sorpresa mostrata dai Romani allo scoppio di un movimento che, pure se lo avessero provocato essi stessi, avrebbero dovuto prevedere (e persino anticipare)».

scholars interpretate this fact within the frame of the so-called clash of civilization, as Golan (1986) and Goodman (2007) do. By relying upon the framework of the ‘Geistesgeschichte’, the former asserts that Hadrian’s decision to found Colonia Aelia Capitolina was influenced by his Graeco-Roman cultural background: it was a way to tackle the clash of civilizations between the ideology of the *Imperium Romanum* and a religious milieu that in some aspects was incompatible with it. However, he did not oppose to Christianity²⁰ so as to overlook the tolerance that characterised the Roman Law: «in spite of the emperor’s wish to root out Christianity, Hadrian had decided not to trespass beyond the self-imposed limits of true Roman justice».²¹

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²⁰ The author refers also to Traian’s *rescriptum* about Christians, see Plin. *Epist.* 10.97.

²¹ Golan (1986) 233.