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Cecil'S Lessee vs. Lebenstone

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Court : US Supreme Court

Decided On : 1786

Appeal No. : 2 U.S. 95

Appellant : Cecil'S Lessee

Respondent : Lebenstone

Judgement :

CECIL'S LESSEE v. LEBENSTONE - 2 U.S. 95 (1786)
U.S. Supreme Court CECIL'S LESSEE v. LEBENSTONE, 2 U.S. 95 (1786)

2 U.S. 95 (Dall.)

Cecil's Lessee
v.
Lebenstone*

Supreme Court of Pennsylvania

May Session, 1786

The defendant was tenant for years of the premises, for which the ejectment was brought, and one Courtney claimed the fee. The cause was not included in the

general distringas which had issued for trials, at this Court of Nisi Prius; but a special distringas afterwards came up for it. Neither the defendant, nor Courtney, however, had received express or implied

notice of trial, from the sheriff, or any other person: And, therefore, a motion to bring it on was refused.

By the Court: The defendant has not received such notice of trial, as made it reasonable for him to prepare. No laches can be imputed to him; for, he is not obliged to attend at every Court, whether his cause is marked for trial, or not. In England the proof of actual notice is required: But, with us, as the Gentleman of the law are not so numerous, as they live dispersed, and as there are no regular posts, the rigor of that rule is not imposed. Still, however, a reasonable notice of trial must be given to the party, not merely to his attorney; and, after all, the rules for bringing on causes must be influenced by a legal discretion, applicable to the peculiar circumstances of every case. Footnotes

[Footnote *] Ruled at Nisi Prius.

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