

**Core Vs. Vinal**

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**Court :** US Supreme Court

**Decided On :** Mar-22-1886

**Appeal No. :** 117 U.S. 347

**Appellant :** Core

**Respondent :** Vinal

**Judgement :**

Core v. Vinal - 117 U.S. 347 (1886)

U.S. Supreme Court Core v. Vinal, 117 U.S. 347 (1886)

**Core v. Vinal**

**Submitted March 15, 1888**

**Decided March 22, 1886**

**117 U.S. 347**

*ERROR TO THE CIRCUIT COURT OF THE UNITED*

*STATES FOR THE DISTRICT OF WEST VIRGINIA*

**SYLLABUS**

After trial of a cause in a state court, reversal of the judgment by the state appellate court and remand of the same to the trial court for retrial, it is too late to remove it to the circuit court of the United States on the ground of a separable controversy.

A separable controversy under the acts regulating removals from state courts to circuit courts cannot arise when defendants are sued jointly in trespass on the case and plead jointly the general issue.

Trespass on the case. Plaintiffs in error, Core and Compton, were defendants below. The action was commenced July, 1876, in the Circuit Court of Woods County, West Virginia. Defendants pleaded jointly in abatement that Compton was a resident in Michigan and had no estate in Woods County. This being overruled, they filed a joint plea of not guilty, in 1878, on which issue was joined. Trial was had in March, 1879. Verdict and judgment for plaintiff. The judgment was reversed by the Supreme Court of West Virginia, and the case remanded for a new trial in May, 1881. In August, 1881, the defendant Compton applied to the state court for a removal of the cause to the circuit court of the United States, and the application being refused, applied to the circuit court of the United States to docket the cause, alleging as follows:

"Your petitioner further states that in the said suit above mentioned there is a controversy which is wholly between citizens of different states, and which can be fully determined as between

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them, to-wit, a controversy between said petitioner and said John F. Vinal."

The cause being docketed as requested, plaintiff immediately moved to remand it. After hearing the parties, this motion was granted, and thereupon the defendants sued out this writ of error. The cause being docketed here, the defendant in error moved to advance it under Rule 32. This was granted, and the cause was then submitted.

MR. CHIEF JUSTICE WAITE delivered the opinion of the Court.

The order remanding this cause is affirmed. The petition for removal was not filed in time, and the suit was not removable. *Pirie v. Tvedt*, [115 U. S. 41](#) ; *Sloane v. Anderson*, *ante*, [117 U. S. 275](#) , decided at this term.

*Affirmed.*

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