

Nichols, Shepard and Co. Vs. Marsh

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Court : US Supreme Court

Decided On : 1889

Appeal No. : 131 U.S. 401

Appellant : Nichols, Shepard and Co.

Respondent : Marsh

Judgement :

Nichols, Shepard & Co. v. Marsh - 131 U.S. 401 (1889)

U.S. Supreme Court Nichols, Shepard & Co. v. Marsh, 131 U.S. 401 (1889)

Nichols, Shepard and Company v. Marsh

No. 95

Submitted March 18, 1889

Decided April 1, 1889

131 U.S. 401

ORIGINAL MOTION IN A CASE BROUGHT UP BY APPEAL

SYLLABUS

M. filed a bill in equity against S. for the infringement of letters patent. S. answered and filed a cross-bill. The decree dismissed the original bill

Page 131 U. S. 402

from which M. appealed. Thereupon S. took an appeal in the cross-suit from rulings excluding evidence. In this Court, the clerk required S. to pay one-half the cost of printing the record. This Court, after argument, affirmed the decree dismissing the original bill and dismissed the cross-appeal. [128 U. S. 128](#) U.S. 605. *Held* that S. was entitled to recover of M. the amount so paid.

After the entry of the decrees in *Marsh v. Nichols* and *Nichols v. Marsh*, [128 U. S. 605](#) , the following motion was made, entitled in the two causes:

"And now comes the said defendant, Nichols, Shepard & Co., by Charles F. Burton, their solicitor, and moves the court now here that they, the said Nichols, Shepard & Co., do recover against the said Elon A. Marsh, Minard Lefever, and James Scott, as costs to be taxed in their favor, one-half of the amount required for printing the record and supervising the printing of the record in said causes, in addition to the amount, taxable and to be taxed, in their favor in the first above entitled cause."

"This motion is based on the records in said causes and on the affidavit of Charles F. Burton, hereto attached, and will be brought on for hearing on Monday, the 25th day of February at the opening of said court."

"To R. A. Parker, Esq., *Solicitor for Marsh, Lefever, and Scott.* "

"CHARLES F. BURTON"

" *Solicitor for Nichols, Shepard & Co.* "

"State and Eastern District of Michigan"

"County of Wayne ss.:"

"Charles F. Burton, duly sworn, deposes and says that he is the solicitor for Nichols, Shepard & Co., in the above-entitled appeal and cross-appeal, and that, in response to a request from the clerk of this Court, he sent to said clerk, on the 16th day of November, 1887, the sum of two hundred and seventy-five dollars, which the said clerk notified him was the amount of money required to defray the portion of the expense properly

Page 131 U. S. 403

to be borne in the first instance by said Nichols, Shepard & Co. as one-half the cost of printing the record in said cases."

"CHARLES F. BURTON"

"Subscribed and sworn to before me, this 21st day of January, 1889."

"CHARLES H. FISK"

" *Notary Public* "

"Wayne County, Michigan"

PER CURIAM.

On consideration of the motion for a retaxation of costs in this causes, and of the argument of counsel thereupon, had as well in support of as against the same,

"It is now here ordered by the Court that the amount advanced by the appellants in this cause toward printing the record be recoverable by them from the appellees herein."

[This order is entitled only in the cross-suit of *Nichols v. Marsh.*]