

Case No. 5,161.

FURLONG v. COLEMAN.

{3 Cranch, C. C. 178.}¹

Circuit Court, District of Columbia.

Nov. Term, 1827.

COSTS—RULE ON PLAINTIFF TO GIVE SECURITY.

If the defendant has obtained a rule on the plaintiff to give security for costs, the court, at a subsequent term will presume that the fact of non-residence of the plaintiff was sufficiently proved, or admitted; and the burden of proof of residence is then on the plaintiff.

A rule, on the plaintiff, to give security for costs was laid on the 2d day of the last term.

Mr. Hewitt, for defendant, now objected that the rule was laid without any evidence being produced of the non-residence of the plaintiff; and that the defendant must now produce such evidence before he can obtain judgment against the plaintiff upon the rule.

THE COURT (THRUSTON, Circuit Judge, absent) said, that the rule being laid at the last term in open court, and” not objected to, at that time, the burden of proof was now on the plaintiff to show that he was a resident of the county at that time. That the plaintiff, and his counsel were bound to take notice of all the orders made by the court in the cause.

¹ [Reported by Hon. William Cranch, Chief Judge.]