

Case No. 6,753. HOWARD v. AMERICAN DAIRY, ETC., CO.
[10 Chi. Leg. News, 22; 6 Am. Law Rec. 193.]

Circuit Court, N. D. Ohio.

1877.

RIGHT TO COSTS—STATE AND FEDERAL STATUTES—REMOVED CASES.

[This was an action by Julius F. Howard against the American Dairy & Commercial Company of New York City. Heard on motion of defendant to set aside the verdict of the jury and to grant a new trial.]

Before WELKER, District Judge.

As to costs of the case (the verdict of the jury being for five dollars damages in favor of the plaintiff) it was held:

1. That, where suit was originally commenced by the plaintiff in a state court and removed by the defendant under the statutes to this court, the state statute in reference to the recovery of costs by the plaintiff is followed in this court. The state statute provides that, in actions of this character, if the plaintiff recovers the sum of five dollars, he shall recover costs.

2. That the statutes of the United States (Rev. St. § 968) limiting the right to recover costs where the damages are less than five hundred dollars only applies to actions originally brought in the circuit court.

Motion overruled, and judgment against defendant for the damages and costs.