

12FED.CAS.—64

Case No. 6,918.

HURD V. WILLIAMS ET AL.

{4 McLean, 239.}¹

Circuit Court, D. Michigan.

June Term, 1847.

PRACTICE AT LAW—CONTINUANCE—MOTION.

A motion made at one term but not decided at that term, nor continued to the next one, the court will order a continuance nunc pro tunc, but will not require the other party to take up the motion at the term. He had a right to suppose, that as the motion was not continued, it had been abandoned.

[This was an action at law by E. Hurd against Williams and Hunt.]

Mr. Emmons, for plaintiff.

Mr. Davidson, for defendants.

OPINION OF THE COURT. A motion was made at the last term in this case, to set aside a sale on execution. The motion was not continued, and the defendants' counsel objects to taking it up, on that ground. The court directed a continuance to be entered nunc pro tunc, but held that the defendants' counsel was not bound to take up the cause at the present term, as the motion was not continued regularly from the last term. The defendants' counsel had a right to suppose, as the motion was not continued, it had been abandoned.

¹ Reported by Hon. John McLean, Circuit Justice.]