

MORGAN v. VOSS.

{1 Cranch, C. C. 109.}¹

Circuit Court, District of Columbia. Dec. Term, 1802.

CONTINUANCE—ISSUE NOT MADE—REQUEST OF DEFENDANT.

If at the last calling of a cause for trial, the issue be not made up, and no rule to plead has been laid, the court will continue the cause at the request of the defendant, although it be the fifth term after the appearance term.

This was the fifth term after the appearance term. A rule to declare had been laid on the plaintiff at the last term. The declaration was filed at this term. No rule to plead had been laid. The cause was now called for trial, it being the last time of calling the cause, according to the rule of the court. The plaintiff insisted upon plea and issue instant. The defendant contended for a continuance.

THE COURT continued it. CRANCH, Circuit Judge, doubting; thinking the plaintiff ought to be nonsuit under the act of assembly of Maryland.

{See Case No. 9,812.}

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

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