

SHULTZ v. MOORE.

[1 McLean, 334.]¹

Circuit Court, D. Ohio.

Dec. Term, 1838.

CONTINUANCE—SICKNESS OF COUNSEL.

A motion was made for a continuance of this cause, founded on the affidavit of one of the defendant's counsel, who was sick and unable to attend the court. The affidavit stated that the affiant was the first counsel engaged by the defendant, had appeared as his counsel in the same case in the state court, and was intimately acquainted with the grounds of defence. That he had possession of the papers, &c., and that he did not believe justice could be done in the cause, under present circumstances, in his absence.

[Cited in *Markson v. Ide*, 29 Kan. 703; *Myers v. Trice*, 11 Haus. (86 Va.) 841.]

[This was an action of ejectment by the lessee of Conrad Shultz against Lewis Moore. Heard on motion for a continuance.]

OPINION OF THE COURT. Where the leading counsel in a case is prevented from attending the court by sickness, and the counsel in attendance is not prepared to go on with the trial, it is a sufficient ground for a continuance. The cause stands continued at the costs of the defendant.

[See Case No. 12,824.]

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

This volume of American Law was transcribed for use
on the Internet

through a contribution from [Google](#). 