

DIECKERHOFF AND OTHERS V. ROBERTSON.

*Circuit Court, S. D. New York.*

November 7, 1887.

CUSTOMS DUTIES—EXCESS OF—ACTION TO RECOVER—AMENDMENT OF BILL OF PARTICULARS.

A motion, in an action to recover for excessive duties, to amend the bill of particulars by increasing the amount claimed therein for excess of duty, will be denied, where it appears that the mistake in making up the original statement was entirely that of the plaintiff's agent or broker, and was in no way induced by any misinformation furnished at the custom-house.

Action to Recover Excess of Duties Paid under Protest. On motion to amend bill of particulars.

*A. P. Ketchum*, for complainant.

*Stephen A. Walker*, U. S. Atty., and *Win. Wickham Smith*, Asst. U. S. Atty., for defendant.

LACOMBE, J. In this case plaintiffs ask to amend the bill of particulars by increasing the amount claimed therein for excess of duty. The mistake in making up the original statement, however, appears to have been entirely that of plaintiffs' agent or broker, and in no way induced by any misinformation furnished at the custom-house. The motion is denied. See *memoranda* in *Castner v. Magone*, ante, 578, and *Sherman v. Hedden*, ante, 756, (filed November 7, 1887.)