

before action give express notice in writing to defendants so as to give himself the right to sue without joining Hurdle as a party. To enable the assignee to sue alone, the notice must be express notice, and it must be in writing; there should be nothing equivocal about it, nothing to leave the debtor in doubt as to whether the whole or only a part of it had been absolutely assigned. Therefore, this part of the action must also be dismissed, but without prejudice to the right of plaintiff to bring another action to recover the amount.

Two actions were brought upon the different causes of action which were considered at the trial and in the present judgment. These actions were both begun in the District Court of Manitoulin. After issue joined they were consolidated by order and removed into the High Court and directed to be tried at Sault Ste. Marie, defendants agreeing to pay the additional witness fees incurred by change of venue from Gore Bay. One of the actions related only to the Hurdle debt. Defendants should recover their costs of defence as if the only action had been one upon the Hurdle claim, and these costs should be taxed on the District Court scale. The costs of the motion to consolidate, etc., should be taxed to them on the High Court scale. Their witness fees should be no greater than if the action had been tried at Gore Bay, and plaintiff may set off the amount of the increased expense of taking his witnesses to Sault St. Marie. No order as to the costs of the other causes of action or the counterclaim.

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