

Opinion of the Court.

NATIONAL ACCIDENT SOCIETY v. SPIRO.

CERTIFICATE FROM THE CIRCUIT COURT OF APPEALS FOR THE  
SIXTH CIRCUIT.

No. 460. Submitted April 27, 1896. — Decided November 30, 1896.

A defendant, by filing a petition in a state court for removal of the cause to the United States court, in general terms, unaccompanied by a plea in abatement, and without specifying or restricting the purpose of his appearance, does not thereby waive objection to the jurisdiction of the court for want of sufficient service of the summons.

THE case is stated in the opinion.

*Mr. H. D. McBurney* for plaintiff in error.

*Mr. Henry H. Ingersoll* for defendant in error.

THE CHIEF JUSTICE: This is a certificate from the Circuit Court of Appeals for the Sixth Circuit, propounding, after a preliminary statement, the following question:

"Does a defendant by filing a petition in a state court for removal of the cause to the United States court, in general terms, unaccompanied by a plea in abatement, and without specifying or restricting the purpose of his appearance, thereby waive objection to the jurisdiction of the court for want of sufficient service of the summons?"

For the reasons given and on the authorities cited in the case of *Wabash Western Railway v. Brow*, ante, 271, the question must be answered in the negative.

*Certificate accordingly.*

MR. JUSTICE BREWER and MR. JUSTICE PECKHAM dissented.