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Caveat Appellant

Dicta Editorial Board

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Caveat Appellant

CAVEAT APPELLANT

A CASE of particular interest to members of the Denver Bar is the recent case of *Halter vs. Wade*, 273 *Pacific* 1042, because a failure to observe the rule therein set forth may not only prevent you from getting the review of your case in the Supreme Court, but from even being able to get it started on its way out of the District Court.

Rule Twenty-one of the Denver District Court relates to the Bill of Exceptions and requires that immediately after tendering to the Judge, it shall be lodged with the Clerk, and the party tendering same shall forthwith notify the opposite party thereof. The rule further requires that unless the opposite party shall, within fourteen days after date of service of notice of lodgment, file objections, that the Judge shall upon request sign, allow and seal said Bill of Exceptions.

In the above case, the Supreme Court has interpreted this rule and said :

“Plaintiffs in Error fail to comply with Rule Twenty-one. It was made by the Court, consisting of seven Judges sitting en banc. No single Judge has the power to ignore it or waive its enforcement. It was made to be enforced just as much so as if the Legislature by Statute enacted it, and, in that case, no Court or Judge could properly disobey it.”

The words “immediately” and “forthwith” mean exactly what they say according to the Supreme Court. It has been the practice among a good many attorneys here in times past to take the Bill of Exceptions and work out their Abstract of Record, and then when they got around to it, tender it to the Judge and pay little attention to lodging it with the Clerk of the Court until they are ready to get their case into the Supreme Court.

Judge Frank McDonough of the District Court has called our attention to this matter, the importance of it and the fact that the Bar is apparently not familiar with this recent decision, since already some of the Judges of the District Court in obedience to this decision have been compelled to decline to sign a Bill of Exceptions where Rule Twenty-one was violated.