#### Burt *et al. vs.* Scrantom *et al.*

Where suit is brought' against a person in a county other than that in which he resides, he has thirty days within which to answer, exclusive of the day on which the summons is served, and a judgment by default before the expiration of the full time, will be reversed on appeal.

Appeal from the district court of the ninth judicial district. The facts will be found in the opinion of the court.

[\*417](#p417) *By the* Court,

Hastings, Ch. J.

This action was commenced on the 8th day of March A. I). 1851, in Bute county, ninth judicial district, the plaintiffs being residents of this county, and the defendants residents of Sacramento county. The summons was issued on the 10th day of March and was served on the 12th. The answer was filed on the 14th day of April; and the term of the court commenced on the 9th day of April. The defendants had thirty days after the service, within which to answer. The default was taken on the 11th day of April, which was irregular, as thirty days had not elapsed excluding- the day of service. A jury was afterwards called, who found a verdict for plaintiffs, and final judgment was entered accordingly. These proceedings were also irregular, as the trial could not be had under the 23d and 27th Buies adopted by the supreme court for the government of the district courts. The judgment is therefore reversed, and the cause remanded for a new trial.