

§1452. Actions on covenant; encumbrance as dower; assignment and measure of damages

In an action for breach of covenant against encumbrances contained in a deed of real estate, when the encumbrance is a right of dower, if such dower has been assigned and not released, the value thereof shall be the measure of damages; but if it has been demanded and not assigned, the court, on application of the plaintiff, shall cite the claimant of dower to appear and become a party by personal service made 14 days before the date set for such appearance. If she does not appear or if she appears and refuses to release such right, the court shall appoint 3 commissioners to assign the same, who shall proceed in the manner provided for commissioners appointed under chapter 719 to make partition. When their report is made and accepted by the court, it is a legal assignment of dower and the value thereof is the measure of damages in said action.

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