

SEPTEMBER 28TH, 1904.

C.A.

BILLING v. SEMMENS.

Master and Servant—Injury to Servant—Negligence—Dangerous Machinery—Defect—Want of Guard—Absence of Direct Evidence of Cause of Injury—Factories Act—New Trial—Appeal.

Appeal by defendants from order of a Divisional Court (3 O. W. R. 17, 7 O. L. R. 340) setting aside nonsuit and directing a new trial.

W. R. Riddell, K.C., and G. L. Smith, for defendants.

J. W. Nesbitt, K.C., and J. G. Gauld, Hamilton, for plaintiff.

THE COURT (MOSS, C.J.O., OSLER, MACLENNAN, GARROW, MACLAREN, JJ.A.) dismissed the appeal with costs.

CARTWRIGHT, MASTER.

SEPTEMBER 29TH, 1904.

CHAMBERS.

DUNSTON v. NIAGARA FALLS CONCENTRATING CO.

Particulars—Statement of Defence—Application before Examination for Discovery—Particulars for Pleading—Particulars for Trial—Affidavit in Support of Application.

Motion by plaintiff for particulars of paragraphs 3, 4, and 5 of the statement of defence.

A. R. Clute, for plaintiff.

A. B. Armstrong, for defendants.

THE MASTER.—The statement of claim alleges that plaintiff and defendants on 10th October last agreed that plaintiff should make certain labels for defendants for \$392.79; that plaintiff duly in accordance with said agreement made and tendered said labels, but defendants refused to accept or pay for same.