

to plead, and the plaintiffs, if they desire it, leave to amend; costs in the cause throughout.

CLUTE and SUTHERLAND, JJ., agreed with MAGEE, J.A.

RIDDELL, J., in a written judgment, said that he agreed with MIDDLETON, J., except as to the alternative claim for damages. The appeal should be allowed, but only as to the claim for damages, and there should be no costs of the motion or of the appeal.

MASTEN, J., also read a judgment; he reached the same result as RIDDELL, J.

*Order as stated by MAGEE, J.A. (RIDDELL and MASTEN, JJ., dissenting in part).*

SECOND DIVISIONAL COURT.

MARCH 26TH, 1920.

CARSON v. MIDDLESEX MILLS LIMITED.

*Appeal—Strangers to Action Appealing from Order of Judge of High Court Division—Status of Appellants—No Leave to Intervene Obtained—Application to Appellate Court for Leave—Lack of Material to Found Application—Proper Forum for Application—Expiry of Time for Appealing—Judicature Act, sec. 16 (f).*

Appeal by the Neil Drug and Chemical Company of Canada Limited and the Fort William Coal Dock Company Limited from an order made by FALCONBRIDGE, C.J.K.B., in the Weekly Court, on the 22nd November, 1919, dissolving an injunction and vacating the registry of a certificate of *lis pendens* and approving and directing the carrying out of an agreement by which Oliver Masters acquired the assets of the defendants the Middlesex Mills Limited.

The appeal was heard by MAGEE, J.A., CLUTE, RIDDELL, SUTHERLAND, and MASTEN, JJ.

J. A. E. Braden, for the appellants.

P. H. Bartlett, for the plaintiff, respondent.

A. C. McMaster and J. B. McKillop, for the defendants the Fidelity Trust Company and the Dominion Savings Company.

F. P. Betts, K.C., for the Canada Trust Company.