

BRITTON, J.

JULY 6TH, 1906.

## TRIAL.

## GREEN v. GEORGE.

*Judgment—Issue as to Validity of Default Judgment—Motion to Set aside Judgment after 15 Years—Personal Service of Writ of Summons—Misrepresentation as to Service—Agreement to Give Time for Payment of Claim Sued for—Form of Judgment — Special Indorsement of Writ — Price of Goods Sold — Interest — Judgment Set aside — Terms — Merits—Costs.*

On 30th July, 1809, William George began an action by the issue of a writ of summons against P. J. Green. On 6th October, 1890, judgment was signed against Green for default of appearance for \$2,411.84 debt and \$23.63 taxed costs.

No execution issued at the time of signing judgment, nor were there any further proceedings then taken against the judgment debtor.

William George died on 29th September, 1904, and Mary George, his widow, obtained letters of administration to his estate. On 20th January, 1906, Mary George as administratrix obtained an order directing that the action be continued in her name as plaintiff against P. J. Green as defendant.

On 25th January, 1906, an order was obtained for the issue of an execution on the judgment, notwithstanding that six years had elapsed since the judgment. Execution was issued, and a seizure was made thereunder. The sheriff of the district of Nipissing was appointed receiver to get in and receive any money coming to Green from or in respect of his interest in the south-east quarter of the north half of lot 14 in the 1st concession of Bucke, in the district of Nipissing, to the extent of plaintiff's judgment and costs.

Green applied to the Master in Chambers to set aside the writ of execution, the receiving order, the order of revivor, and the judgment, upon the following, among other, grounds, viz. :—

1. That he was never served with the writ of summons.
2. That judgment was never signed and entered.