

**The**  
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HIGH COURT DIVISION.

BRITTON, J., IN CHAMBERS.

JULY 24TH, 1916.

FOSTER v. MACLEAN.

*Discovery—Examination of Plaintiff—Time for—Rule 336—Statement of Defence Delivered, but Particulars Ordered and not Delivered.*

Appeal by the plaintiff from an order of the Master in Chambers directing that the plaintiff should attend for re-examination for discovery and answer certain questions put to him by counsel for the defendants, upon his examination, which questions the plaintiff refused to answer, on the ground that they were irrelevant. The order of the Master also extended the time for delivery of particulars of the defence. See ante, pp. 101, 187.

W. E. Raney, K.C., for the plaintiff.

K. F. Mackenzie, for the defendants.

BRITTON, J., in a written judgment, said that it was not intended by Rule 336 that the defendant should be allowed to examine the plaintiff for discovery immediately after delivery of the statement of defence, when particulars thereof had been ordered, but not delivered. When particulars are ordered, they necessarily form part of the defence, and the statement of defence is not complete without them. Upon the particulars depend the issues to be tried: *Bullen v. Templeman* (1896), 5 B.C.R. 43; *Zierenberg v. Labouchere*, [1893] 2 Q.B. 183 (C.A.)

Appeal allowed and order of the Master set aside, with costs of motion and appeal to the plaintiff in any event.

The particulars of defence must be delivered within one week.