

such refusal was oral or in writing, with dates and names of persons. As to the 3rd paragraph, particulars should be delivered of dates on which the intimation was made to plaintiffs, and whether orally or in writing, and by whom made. As to the 4th paragraph, the real intention of the agreement was sufficiently set out in the 3rd paragraph. As to the 5th paragraph, the particulars ordered of the 2nd paragraph would cover what was asked.

Order accordingly. Costs in the cause.

WINCHESTER, MASTER.

FEBRUARY 26TH, 1903.

CHAMBERS.

HAMILTON v. MUTUAL RESERVE FUND LIFE ASSN.

*Writ of Summons—Service out of Jurisdiction—Application for Order for Leave to Issue Writ—Affidavit—Requirements of—Intituling—Service of Writ and Statement of Claim—Time for Appearance and Defence—Christmas Vacation—Irregular Judgment—Setting Aside.*

Application by defendants for an order setting aside a judgment entered against defendants on 19th January, 1901, for default of appearance, and a writ of execution issued thereon, and extending time for entering appearance, and setting aside service of the writ of summons for irregularity. Notice of the writ of summons was served on defendants out of the jurisdiction.

Shirley Denison, for defendants.

D. L. McCarthy, for plaintiffs.

THE MASTER held that the affidavit read in support of plaintiffs' application for the order to permit the issue of the writ and service of notice of it out of the jurisdiction did not comply with the requirements of Rule 163, in that it did not shew that in the belief of the deponent the applicant had a right to the relief claimed. *Perkins v. Mississippi S. S. Co.*, 10 P. R. 198, referred to. Also, that the affidavit should have been intituled "In the matter of an intended action between," etc. The objection to the affidavit was well taken, but the defects could have been remedied upon the present application by plaintiffs supplying the information omitted; but, as the judgment was prematurely signed, there was no object in allowing plaintiffs an opportunity to remedy the defects.