

BOYD, C., IN CHAMBERS.

JUNE 21ST, 1916.

FLEXLUME SIGN CO. v. GLOBE SECURITIES CO.

Practice—Consolidation of Actions—Several Actions by Same Plaintiff against Different Defendants—Trial of one Action and Appeal from Judgment at Trial—Stay of other Actions until Determination of Appeal—Costs—Notice of Motion for Stay—One Notice for all Actions or Separate Notice in each.

Appeal by the plaintiff company from an order of the Master in Chambers dismissing the plaintiff company's application to stay the above and eight other actions, brought by the same plaintiff company against nine different defendants, until the appeal in the action of Flexlume Sign Co. v. Macey shall have been heard and disposed of by a Divisional Court of the Appellate Division.

J. H. Fraser, for the plaintiff company.

Frank Arnoldi, K.C., for the defendants.

THE CHANCELLOR, in a written opinion, said that the plaintiff company conceded that its success in all the actions depended on the validity of a patent alleged to have been violated by each of the defendants in various ways; and the plaintiff company undertook that, if the case in appeal should be determined against the plaintiff company on any ground, it would allow judgment to be entered against it, with costs in all the actions. The defendants accepted this undertaking; and, therefore, all the proceedings in all the actions, except that in appeal, should remain in abeyance or be stayed till the result is known. See *Lee v. Arthur* (1908), 100 L.T.R. 61. If the plaintiff company succeeds, the other actions are to go to trial. The costs of the motion and appeal should be costs in the cause.

It was not necessary to determine the question whether the application should have been upon separate notices to each of the defendants, or by one notice to all the defendants. See *Amos v. Chadwick* (1877-8), 4 Ch. D. 869, 9 Ch. D. 459; *Bennett v. Lord Bury* (1880), 5 C.P.D. 339; *Chitty's Forms*, 14th ed. (1912), p. 239, Form 2. The question should be left open on the ultimate taxation in case the defendants succeed.