

This claim is based on the fact that the action asks (1), to have the previous consent judgment set aside, and (2) for further and increased alimony. No application has at any time been made for interim alimony and disbursements by the solicitors who acted at first on plaintiff's behalf; although the action was begun in October, 1911, and statement of defence delivered nearly 15 months ago.

Assuming that the plaintiff could now be treated as making such a motion, it could not be granted. In this case there are no allegations such as were made in *Lafrance v. Lafrance*, 18 P. R. 62, at p. 64, line 13. Without them no doubt the decision in *Atwood v. Atwood*, 15 P. R. 425, would have been applicable. There is therefore no ground for acceding to the plaintiff's application and an order must issue as asked—costs of the motion will be in the cause.

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MASTER IN CHAMBERS.

MAY 12TH, 1913.

KREHM v. BASTEDO.

4 O. W. N. 1307.

*Discovery—Examination of Alleged Assignor of Chose in Action—Con. Rules 440, 441 and 454—Jurisdiction of Master-in-Chambers—Penalty for Refusal to be Examined—Right to Punish Party to Action therefor—Costs.*

MASTER-IN-CHAMBERS held, that the penalty for contumacy on the part of anyone examinable under Con. Rule 441 was provided for by Can. Rule 454, and that a party to the action could not be penalized for such contumacy, nor was the same cognizable by the Master-in-Chambers.

*McWilliams v. Dickson Co.*, 10 O. L. R. 639, followed.

Motion by defendants for an order dismissing the action with costs, or requiring the attendance for examination of discovery of David Krehm a former partner of the plaintiff.

Gideon Grant, for the defendants.

A. J. Russell Snow, K.C., for the plaintiff.

CARTWRIGHT, K.C., MASTER:—The facts are not in dispute so far as this motion is concerned. The action is brought admittedly in respect of a transaction between the defendant and the then firm of Krehm Bros. at a time when David Krehm was a member of the firm. He has since retired and all his interest in the assets of the partnership