

CINNAMON V. WOODMEN OF THE WORLD—MIDDLETON, J., IN CHAMBERS—APRIL 11.

Trial—Motion to Postpone—Affidavit—Con. Rule 518—Absence of Material Witness—Failure to Shew Nature of Expected Testimony—Refusal of Motion—Undertaking—Terms.]—Appeal by the plaintiff from the order of the Master in Chambers, ante 1042, refusing to postpone the trial. MIDDLETON, J., dismissed the appeal; costs in the cause. J. M. Ferguson, for the plaintiff. Featherston Aylesworth, for the defendants.

ROGERS V. NATIONAL PORTLAND CEMENT CO.—MASTER IN CHAMBERS—APRIL 7—MIDDLETON, J., IN CHAMBERS—APRIL 11.

*Pleading—Statement of Claim—Amendment—Addition of Claim for Reformation of Agreement—Conformity of Amendment to Order Giving Leave to Amend—Sufficiency of Allegations.]—*The plaintiff obtained an order for leave "to amend his statement of claim by adding thereto a claim that the agreement in question in this action be reformed." In pursuance of this leave, paragraph 4A was inserted, in the words following: "The defendants allege that they are justified in refusing to continue the plaintiff's agency, upon the ground that the plaintiff was unable to sell their cement at the price of \$1.30 per barrel, as provided by clause 4 of the said agreement; and the plaintiff says that, under the proper construction of the said agreement, the defendants were bound to reduce their price to meet the ruling market-prices, or to hold their cement in stock until the same could be disposed of at not less than \$1.30 per barrel; that, if the agreement does not bear this construction, the same was executed by the parties under a mutual mistake of the true intent and meaning thereof, and that the said agreement should be reformed to express the true intention of the parties." The defendants moved to strike this out as not being a compliance with the order, and also as not being properly pleaded. The Master said that the whole issue between the parties was as to the terms of the written agreement. It had been expressly pleaded by the amended statement of defence that the plaintiff was, under that agreement, obliged to sell at \$1.30 per barrel. The amendment to the statement of claim now made met this