

TEETZEL, J.

APRIL 26TH, 1909.

CHAMBERS.

## EVANS v. DOMINION BANK.

*Security for Costs—Plaintiff out of Jurisdiction—Property in Jurisdiction—Sum of Money Claimed in Action—Defence on Merits—Practice.*

Appeal by plaintiff from order of Master in Chambers requiring plaintiff to give security for costs.

F. J. Roche, for plaintiff.

W. B. Milliken, for defendants.

TEETZEL, J.:—Plaintiff resided in Ontario when the action was begun, but, after statement of claim and before defence served, he removed to the city of Baltimore, in the State of Maryland, which is now his permanent residence.

The ground chiefly relied on by Mr. Roche in support of the appeal was that, upon the examinations for discovery filed with the Master, it sufficiently appeared that the defendants had in their possession \$600 belonging to the plaintiff, which would be more than sufficient to satisfy any costs to which defendants might be held entitled.

The action is to recover this \$600, and the defendants are denying liability, alleging that the money in question was, with plaintiff's consent, deposited by his solicitor to the credit of the solicitor's account, and was drawn out by the solicitor in the ordinary course of business, without any notice to the defendants that the solicitor had not plaintiff's authority to do so.

A careful perusal of the examinations for discovery fails to satisfy me that there is no defence to the action upon the merits; therefore, I think the case is not brought within the authorities cited by Mr. Roche.

The plaintiff residing beyond the jurisdiction of the Court, and not having clearly established that he has property in Ontario, in the defendants' hands or elsewhere, which would be available to meet the costs that might be awarded against him, the defendants are entitled to security according to the well-settled practice of the Court.

Appeal dismissed with costs to the defendants in any event.