

If these 6 plaintiffs can unite in one action, then I do not see why 60 or 100 or any number of dissatisfied policy-holders might not unite in one omnibus action.

It would seem reasonably clear that the evidence as to each of the 8 contracts must be separate and distinct. There may, perhaps, be some evidence common to each. But every good purpose will be attained by seeing that the cases are tried at the same time. It might prove a serious disadvantage to plaintiffs if, with so many on the record, there should be delay to all from transmission of interest through death or otherwise at different stages of the action.

An order will go as asked; costs to defendants in any event.

MEREDITH, J.

MARCH 31st, 1905.

WEEKLY COURT.

GORING v. HAWKINS.

*Building Contract—Findings of Referee—Appeal—Amendment—Reformation of Contract—Costs.*

Appeal by defendants from report of local Judge at Welling upon a reference to him for trial of an action upon a building contract.

A. B. Aylesworth, K.C., for defendants.

D. L. McCarthy, for plaintiff.

MEREDITH, J.:—The question of liability in respect of the one item now in contest between the parties depends upon a true answer to the question, did plaintiff really agree to do the painting and glazing provided for in the specifications? If he did, there is no good ground for relieving him from the obligation; if he did not, there is no contention that he is liable, nor any evidence upon which a liability could be supported. If he did, then the evidence of defendant and his wife is so likely to be true that effect should be given to it, and indeed without it there might be enough to determine this question against plaintiff. The learned referee found that plaintiff did so agree, and yet is not liable. That cannot be. His finding as to the agreement was based solely upon a construction of the writing, and so dealing with it that finding is right. The question whether the writing truly evidenced the actual agreement between the parties was not fully gone into. Had plaintiff desired it and sought to have