

missing motion by appellants to compel plaintiff to elect whether he proceed against the appellants or against defendant Eckardt.

F. R. MacKelcan, for appellants.

W. H. Blake, K.C., for defendant Eckardt.

F. Arnoldi, K.C., for plaintiff.

FALCONBRIDGE, C.J., dismissed the appeal with costs against the appellants in any event.

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MABEE, J.

NOVEMBER 6TH, 1906.

CHAMBERS.

RE BADEN MACHINERY CO.

*Costs—Winding-up of Company—Costs of Alleged Contributories Ordered to be Paid out of Assets—Deficiency of Assets—Costs of Petitioning Creditor and Others — Costs and Compensation of Liquidator — Priorities— Abatement.*

Application by Hood and Snow for an order that the liquidator of the Baden Machinery Company pay out of the assets of the company certain costs which the applicants had been adjudged by the Supreme Court of Canada to be entitled to.

W. E. Middleton, for Hood and Snow.

J. E. Jones, for Lewis & Co. and the Staebler estate.

J. C. Haight, for the liquidator.

MABEE, J.:—The winding-up order was made upon the application of Messrs. Lewis & Co., creditors of the company, J. R. Eden being appointed liquidator, and upon his application Hood and Snow were placed upon the list of contributories; they appealed, and Ferguson, J., sustained the order of the local Judge, and he in turn, upon a further appeal, was upheld by the Court of Appeal. The matter was then carried to the Supreme Court of Canada, where Hood and Snow were successful in their contention, and an order