

was such as would probably in any case have been necessary for the defendants to make for the purpose of discovery. The costs of this examination constituted the principal part of the costs of the motion for judgment. Mr. HOLMESTED, sitting for the Master in Chambers, after stating the above facts, said: "The motion for judgment fails, and in disposing of the question of the costs I ought, I think, to arrive at a conclusion whether in the circumstances the motion was properly made. The object of Rule 603 is no doubt to furnish a summary remedy in simple cases, and to save thereby unnecessary costs; but a resort to that Rule ought not to be had, where it is known to the plaintiff that there is a bonâ fide dispute as to his right to recover. In this case a letter from the defendants' solicitors was read to me on the argument of the motion, of which, however, I do not find a copy among the papers, which very clearly intimated to the plaintiffs that the defendants disputed their right to recover on the note in question, and giving also, as I remember, an intimation of the grounds of defence. This defence I will not say is established, but is at all events shewn not to be without some appearance of substance, owing to the apparent discrepancy between the plaintiffs' books and the testimony of Mr. Strickland as to the time when the plaintiffs actually became the holders of the note in question. In these circumstances it does not appear to me that the plaintiffs were right in seeking to obtain judgment under Rule 603, and it would be wholly frustrating the object of that Rule to permit plaintiffs to litigate on a motion under that Rule a case which ought fairly and reasonably to be carried to trial in the usual way. I think, therefore, that the plaintiff should in any event pay to the defendants their costs of the motion, except the costs of the examination of Strickland, which are to be treated as costs of discovery." J. E. Jones, for the defendant Freeland. D. T. Symons, K.C., for the plaintiffs.

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FULLER v. BONIS—MASTER IN CHAMBERS—NOV. 13.

*Pleading—Statement of Claim—Particulars—Acts Antecedent to Writ—Inability to Give Further Particulars—Municipal By-law—Con. Rule 552.]—Action for an injunction to restrain the defendants from so working their quarry as to be a nuisance to the plaintiff. The defendant moved for better particulars of the various specific wrongful acts mentioned in the statement of claim, and to confine the particulars already delivered to acts occurring antecedently to the issue of the writ, and to strike out*