

given before Rule 185 was amended as it now stands, yet it is not less an authority.

It is at least doubtful if these four plaintiffs could have united in one action. The only thing alleged in common is the fact that a fire or fires were negligently set out by the defendant company. This, though technically in issue, is probably not denied so far as the fact of fire being set out is concerned. But what would be sufficient proof of negligence by one plaintiff might not be so in the case of the others, much would depend upon location, direction of wind, condition of the plaintiffs' own property and other circumstances peculiar to each case. The only direction that can usefully be given now is that the actions be all set down together so that any evidence common to all (if such there be), may not be repeated as the trial Judge would no doubt direct. See *Carter v. Foley O'Brien*, 3 O. W. N. 888, citing the *Raleigh Case*. As to the examinations for discovery, that too was dealt with in *Carter v. Foley O'Brien*, though there it was the converse case of a plaintiff wishing to have one examination for discovery, to be applicable to all the three actions. There is was said: "Even if convenience indicated the propriety of the order sought, I am clear that there is no power to make it."

Neither of the reliefs asked for here could possibly have been granted if the plaintiffs had not all been represented by the same solicitors. See as to this, *Conway v. Guelph & Goderich Rv.*, 9 O. W. R. 369, affirmed on appeal at p. 420—where the matter is considered generally and the difficulties that might arise if consolidation was ordered are pointed out.

For the same reasons it does not seem possible to interfere with the examinations for discovery. As the plaintiffs' solicitors are the same, it is not to be presumed that if one examination gives the necessary information, they will proceed with the others, especially as these depositions cannot be used at the trial. But even if they do, that must be left to the trial Judge or the Taxing Officer to deal with when the question of costs is raised before them or either of them. The only way that occurs to me of avoiding more than one examination is for the defendant company to made admission of such fact or facts as are common to all the cases.

In this way possibly the length of more than one examination might be considerably reduced even if proceeded