

. . . It is proved that plaintiff came to the platform station and signalled the car with the intention of taking passage thereon. There was a response made to this signal by the slowing down of the car as it neared the platform. The plaintiff made up her mind that the speed was yet too great for her to attempt to board the car, but it may be fairly inferred that the conductor thought otherwise, so that he made an effort to help plaintiff by seizing her hand as the car was going past; at the same time he rang the bell, which appears to have accelerated the speed of the car, and the plaintiff was thus dragged along and hurt. . . . It is the duty of the conductor to assist people in getting on and off the car, and it may be within the line of his duty to assist those who are apparently about to get on a car while it is slowing up. It would be for the jury to pass upon the circumstances of this case as to the scope of the conductor's authority. . . . Unless the defendants are content with the present findings, and are willing to pay the damages, the action should go for a new trial; costs to abide the result.

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DECEMBER 2ND, 1902.

DIVISIONAL COURT.

HULL v. ALLEN.

*Trusts and Trustees—Parol Evidence to Establish Trust—Insufficiency of—Costs.*

Appeal by plaintiff from judgment of FERGUSON, J., ante 151, in so far as it was against plaintiff.

The action was brought to have it declared that defendant was a trustee for plaintiff in respect of the proceeds of the sale of a timber limit and a brickyard (alleged by plaintiff to have been transferred by him to defendant as trustee for certain purposes), and of a lot containing 141 acres (alleged to have been bought by defendant for plaintiff), and in respect of other matters.

The trial Judge found in favour of plaintiff as to the timber limit and brickyard, and this appeal was taken by him as to the 141 acres, on the ground that the evidence on this point clearly established the trusteeship.

The appeal was heard by BOYD, C., and MEREDITH, J.

Wallace Nesbitt, K.C., for plaintiff.

J. P. Mabey, K.C., for defendant.