

erty and the disorganisation of his plans, has sustained actual damage to this amount or more. I therefore direct that the money paid be forfeited to the defendant as damages.

The agreement in question will be set aside and delivered up to be cancelled, and the registration thereof vacated. *Beckman v. Wallace*, App. Div., 29 O. L. R. 96, may be referred to.

The action will be dismissed with costs.

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MR. HOLMESTED, SENIOR REGISTRAR.      OCTOBER 7TH, 1913.

DUNN v. DOMINION BANK.

5 O. W. N. 103.

*Process—Writ of Summons — Special Endorsement—Statement of Claim Delivered as Well—Irregularity—Setting aside—Form 5 Rules 56, 111, 112, 127—Amendment—Affidavit Filed with Appearance—Statement of Defence—Practice.*

MASTER-IN-CHAMBERS struck out a second statement of claim filed, under Rule 111, holding that plaintiff must obtain leave before he can file a second statement of claim.

W. B. Milliken, for defendant.

G. Grant, for plaintiff.

MR. HOLMESTED:—The plaintiff issued a writ indorsed with a claim for several sums of money which he claimed the defendants "held and received" to his use, but which they had wrongfully withdrawn from his account and improperly charged to the plaintiff, purporting to be the amounts of cheques which the plaintiff claims were forgeries. There is a specific statement in the indorsement as to each amount. The writ purports on its face to be "specially indorsed." The claim indorsed is, notwithstanding the allegations regarding the alleged forgeries, in substance a claim for "money had and received" which is a claim which may properly be specially indorsed (see form 5.)

The defendants have accepted the writ as a specially indorsed writ and filed an affidavit with their appearance as required by Rule 56.

Rule 111 provides that "when the writ is specially indorsed such indorsement shall be treated as a statement of claim and no other statement of claim shall be necessary."