

should make the affidavit himself if it were a proper case in which to make one. The defendants are entitled to the fullest discovery from plaintiff; that has been so far withheld from them. The plaintiff must attend at his own expense and submit to be examined upon the issues raised in the pleadings, and also file a further and better affidavit on production. His agents have statements which he should produce. As to his obtaining all information necessary to give the fullest discovery, see *Bolckow v. Foster*, 10 Q. B. D. 161; *Leitch v. G. T. R. Co.*, 13 P. R. 369, 373. Costs of this part of the application to defendants in any event.

Application against the J. B. Kleinert Rubber Company adjourned until after examination of plaintiff concluded.

MACMAHON, J.

NOVEMBER 5TH, 1902.

TRIAL.

CROMPTON AND KNOWLES LOOM WORKS v.  
HOFFMAN.

*Sale of Goods—Entire Contract—Property not Passing—Action for Price—Deduction for Defects—Damages.*

Action by a company carrying on the business of manufacturing looms and attachments at Worcester, Mass., against J. D. Hoffman, of Stratford, and W. J. Shaver, of Toronto, carrying on business as the Maple Leaf Elastic Webbing Company, to recover \$564.65, balance of the price of a loom and attachments sold and delivered to defendants as alleged. The defendants set up that the goods were shipped to them in sections, and that portions had not yet been delivered; that the goods delivered were worthless; and they counterclaimed for damages.

E. Sydney Smith, K.C., and J. Steele, for plaintiffs.

G. G. McPherson, K.C., for defendants.

MACMAHON, J.—The offer of plaintiffs to furnish a loom and the necessary fittings for running the same was contained in a letter which mentioned the various articles and their prices. The defendants accepted the offer by letter, with a variation, not ordering some of the articles mentioned in plaintiffs' letter. Plaintiffs contended that the order for the loom was one contract, and the other items in the offer of plaintiffs, which was accepted by the defendants' order, formed a separate contract or contracts. It is clear, however, that the order formed one entire contract: *Baldy v. Parker*, 2 B. & C. 37; *Elliott v. Thomas*, 3 M. & W. 170; *Bigg v. Whisking*, 14 C. P. 195. The items of the sale were: "One-half