

from making the present motion. No doubt, there would have been no difficulty in having the time for appearance enlarged pending a motion to set aside the proceedings. What had been done gave the defendant all that could be obtained even if the present motion was successful. The conditional appearance would enable him to defeat the action (as to any part, at least, that did not come under clause (e) of Con. Rule 162, if such there were), on the plaintiff failing to shew assets as alleged. Any irregularity was waived by the appearance. Motion dismissed with costs to the plaintiff in the cause. Grayson Smith, for the defendant. W. H. McFadden, K.C., for the plaintiff.

SAUERMANN v. E.M.F. CO.—MIDDLETON, J.—APRIL 14.

Settlement of Action—Interpretation of Written Memorandum—Enforcement—Repair of Vehicle Sold in Unsatisfactory Condition—Time for Making Repairs—Return of Moneys Paid.]
—The plaintiff bought an automobile from the defendants; it was not satisfactory; and on the 11th October, 1911, she began an action for damages, alleging that the vehicle was worthless. That action came on for trial; and, after evidence had been given, the parties made a settlement, embodied in a written memorandum, signed by counsel. The present action—to enforce the settlement—was brought on the 27th January, 1913. By the settlement, the car was to be put in order by the defendants, to the satisfaction of one Russell. If Russell pronounced the car in a satisfactory condition, it was to be delivered to the plaintiff in settlement. If Russell pronounced the car unsatisfactory, the defendants were to repay to the plaintiff the sum originally paid by her. The defendants were to have the car ready for inspection by Russell within one month after delivery to them by the plaintiff. The defendants repaired the car, and Russell inspected it on the 17th August, 1912. He reported that the car was in a satisfactory condition with the exception of certain items; and in regard to these he requested the defendants to put the car into shape for a later inspection. On the 30th October, 1912, Russell again inspected the car, and found that, while the specific defects had been remedied, the engine was not in a satisfactory condition. He suggested that a new engine be substituted; this was done, and on the 1st November he again inspected and reported that the car was in complete repair to his satisfaction. MIDDLETON, J., said that the plaintiff must recover. When the settlement was made, the