

THE
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CARTWRIGHT, MASTER.
MEREDITH, C.J.

DECEMBER 10TH, 1906.
DECEMBER 11TH, 1906.

CHAMBERS.

CROWFORTH v. GUMMERSON.

*Discovery — Order for Examination of Party — Ex Parte
Order—Irregularity as to Place of Examination and
Person of Examiner—Setting aside Order—Practice.*

Motion by defendants to set aside an order obtained by plaintiff ex parte, under Rule 444, for the examination for discovery of the defendants at a place other than the county town, and before a person other than those mentioned in Rule 443.

Gideon Grant, for defendants.

B. F. Justin, Brampton, for plaintiff.

THE MASTER:—It was contended that there is no provision in Rule 444 requiring notice, as is the case under Rule 477. It is not necessary to decide this point. . . .

The practice here has always been to make such orders only on notice just as in a case of a commission, which it very closely resembles.

In both cases it is necessary, in the interests of justice and fairness, that where the regular course is to be departed from, the opposite party should have the fullest opportunity of seeing that what is proposed is necessary, or at least convenient, and of safe-guarding himself against any possible injury.

It is not necessary to enumerate the serious consequences that might result from such an order being made