

forfeiture, and will do so where the parties can be placed in the same position they would have occupied had the agreement been carried out within the time limited.

I will permit defendant to pay the \$4,078.45 within one week from this date, together with interest on that sum from the 26th March, 1903, until paid, and the costs of this application, and extend the time under the judgment until that time. In default of such payment, the final order of sale to issue.

WINCHESTER, MASTER.

APRIL 14TH, 1903.

CHAMBERS.

QUANTZ v. QUANTZ.

Solicitor—Authority to Bring Action—Retainer—Instructions to “Collect”—Subsequent Instructions—Assignment of Annuity and Judgment—Setting aside Proceedings—Costs.

Motion by plaintiff to set aside the writ of summons and all subsequent proceedings with costs to be paid by the solicitor instituting such proceedings, on the ground that the same were taken without instructions from plaintiff.

The plaintiff, a woman of 87 years, being entitled under her husband's will to an annuity of \$100 a year payable by her son, the defendant, and not having been paid it, sent for the solicitor, who went to see her at her daughter's house, when the plaintiff explained to him the position of affairs, and requested him to arrange them for her. She then signed a written memorandum authorizing the solicitor to collect all arrears of dower and annuity, etc., and promising to pay the solicitor his lawful costs, charges, and expenses.

The solicitor at once began this action, and served the defendant with the writ of summons. Shortly afterwards he was told by plaintiff's son-in-law that the whole matter had been settled between plaintiff and defendant. The solicitor then called upon plaintiff and obtained from her written instructions to proceed with the action, and a power of attorney to act for her. He then again wrote to defendant, and proceeded to file a statement of claim, which he served by posting in the office of the clerk of records and writs, there being no appearance, and, no defence being delivered, he signed judgment against defendant for \$1,464.77 and interest and \$36.82 costs, and issued writs of fi. fa. and placed them in the sheriff's hands. The solicitor afterwards made plaintiff an