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HON. MR. JUSTICE MIDDLETON.

MAY 15TH, 1912.

RICKERT v. BRITTON MANUFACTURING CO.

3 O. W. N. 1272.

*Discovery—Examination of Witness Pending Motion for Injunction Fishing Excursion — Information Sought beyond what Allowed by Rules—Refusal to Order Witness to Answer.*

Motion by plaintiffs, officers of the United Garment Workers of America for an order compelling one Burgess, secretary of the United Garment Workers of Canada, to attend and answer certain questions relative to the organization and conduct of the latter association, and to produce its books, upon his examination as a witness in support of a pending motion for an interim injunction. The action was for an injunction restraining the use of an alleged imitation of the plaintiffs' union label.

MIDDLETON, J., *held*, that as there was clearly a complex legal question to be tried in the action the motion for an interim injunction could not succeed, and the action of the plaintiffs in conducting long and detailed examinations in support of such motion was undoubtedly designed to improperly obtain further discovery than that allowed by the Rules.

Motion dismissed, costs to defendants and Burgess, payable forthwith after taxation.

Motion by the plaintiffs for an order directing Cecil A. Burgess to attend and answer certain questions upon his examination as a witness on pending motion for an injunction, and to produce the minute books, cash books, rule books, and all other books and records of the United Garment Workers of Canada, and to submit to examination as to the organization and conduct of such union and all other matters relating thereto, and in default thereof to be committed to the common gaol.

The action was brought by certain members of the United Garment Workers of America on behalf of themselves and other members of that body and by the United Garment Workers of America for an injunction restraining the use of what is said to be an imitation of the plaintiffs' union label; and a motion was made on 30th March, for an order