

the agreement between the parties, dated the 8th day of April, 1908, and set forth in the statement of claim herein, before this action could be tried, and it further appearing that the defendant could under the terms of the said agreement at any time prior to the 8th day of April, 1912, relieve himself from any and all liability thereunder, exclusive of interest charged by the payment of \$34,750, counsel for the plaintiffs and defendant consenting thereto.

1. It is ordered that the trial of this action be and the same is hereby postponed until the next sittings of this Honourable Court, to be held at the town of Sudbury.

2. And it is further ordered that the application of the defendant for an order changing the place of trial herein from the town of Sudbury to the city of Toronto, be, and the same is hereby dismissed.

3. And it is further ordered that upon the defendant on or before the 8th day of April, 1912, depositing in Court the sum of \$34,750, with interest at 5% on \$9,750, from April 8th, 1911, to date of payment into Court, or filing a bond to the satisfaction of the Registrar of this Court at Toronto in the penal sum of \$50,000, securing the payment of the said sum of \$34,750 with interest as aforesaid, to said date, and further interest equal to what would accrue if the money were paid into Court, the limit of the liability of the defendant under the terms of the said agreement of the 8th day of April, 1908, if any there be, is hereby fixed, exclusive of interest charged, at \$34,750.

4. And this Court doth further order that if the said sum of \$34,750 with interest as aforesaid, has been paid into Court under the terms of this order it shall upon the termination of this litigation be paid out, with accrued interest thereon, to the successful party or parties, and thereupon all parties shall be discharged and released from all the terms and conditions of the said agreement of the 8th day of April, 1908.

5. And this Court doth further order that if a bond has been filed under the terms of this order the same shall upon the termination of this litigation be delivered to the successful party or parties.

6. And this Court doth further order that the costs of these applications be costs in the cause."

Under the terms of the said order the defendant paid into Court the said sum of \$34,750 and interest.