

in amending it so as to make it conform to the judgment pronounced. If this is accepted and the parties settle, no formal order need be made on this motion. A. O'Heir, for the plaintiff. R. McKay, K.C., for the defendant.

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FERRIS v. McMURRICH—MASTER IN CHAMBERS—FEB. 15.

*Discovery—Examination of Plaintiff—Place for—Residence—Indorsement on Writ of Summons—Joint Plaintiffs—Remedy for Default of one—Attachment.*—The action was brought by two plaintiffs, Ferris and Gauthier, to recover the amount of a promissory note payable to them jointly. In the indorsement of the writ of summons it was stated that the plaintiffs resided at the city of Windsor, in the county of Essex, and at the town of Gowganda, in the district of Nipissing, respectively. The action being at issue, the defendant took out and served an appointment for the examination for discovery of the plaintiff Gauthier at Windsor; Gauthier did not attend; and the defendant moved for an order dismissing the action for such default. Held, that, according to the indorsement, the place for examining Gauthier was North Bay, the seat of the District Court for the district of Nipissing; and it appeared that he still lived at Gowganda. Even if his residence had been at Windsor when the action began, there would be nothing to prevent his leaving and going to live elsewhere, in which event the place for his examination would be in the county to which he had moved, if within Ontario: *Jeune v. Mersman*, ante 418. Where there are joint plaintiffs, the action cannot be dismissed for the default of one; in such case the defendant must proceed by motion for attachment: *Badgerow v. Grand Trunk R.W. Co.*, 13 P.R. 132; *Central Press Association v. American Press Association*, ib. 353. A plaintiff should not be obliged to have his action stayed indefinitely for the default or contumacy of his co-plaintiff; he could get leave to amend by making his co-plaintiff a defendant. Motion dismissed with costs to the plaintiffs in any event. F. Arnoldi, K.C., for the defendant. Featherston Aylesworth, for the plaintiffs.

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GRANT v. KERR—MASTER IN CHAMBERS—FEB. 11.

*Writ of Summons—Service out of Jurisdiction without Order under Con. Rule 162—Nullity.*—This action was brought