

and \$50, was proceeding on the erroneous belief that the "Silver Lake" claim was the only one the defendant had acquired after the agreement of January, 1908.

The learned Judge held, therefore, that the defendant "knowingly assisted in inducing the plaintiff to enter into the contract" of releasing the defendant "by leading the plaintiff to believe that which was known to be false." *Lee v. Jones*, 17 C. B. N. S. at p. 507.

The defendant between the 3rd January, 1908, and the 1st February, 1909, had obtained an interest in other mining claims in the Montreal River district . . . On discovery by the plaintiff of this concealment . . . he acted promptly. . . . As soon as he reasonably could, and before action, the plaintiff tendered the coat and money to the defendant.

It cannot be said that the plaintiff, by such use of the coat as was made by him, intended to keep it; and he did not injure it. . . .

Judgment setting aside the release or settlement of the 1st February, 1909, and that the partnership under the first agreement be determined as of the 1st February, 1909, save as to following the property and taking the accounts between the parties. Reference to the local Master at Ottawa to take the accounts and make inquiries and report. The defendant to pay the plaintiff's costs of the action down to judgment. Further directions and subsequent costs reserved.

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MASTER IN CHAMBERS.

FEBRUARY 28TH, 1910.

JACKSON v. HUGHES.

*Foreign Commission—Time for Return—Practice—Application to Suppress Commission Evidence—Solicitor a Partner of Commissioner—Con. Rules 512, 522.*

Motion by the defendants the Hughes Company to set aside an ex parte order extending for two days the time for the return of the commission sent to take evidence at Dundee, Scotland, and to suppress the same.

J. T. White, for the applicants.

Williams (Montgomery & Co.), for the defendant Percy Hughes, supported the motion.

H. S. White, for the other defendants, stood neutral.

F. Arnoldi, K.C., for the plaintiff, shewed cause.