

FUSSELL v. COLTMAN—SUTHERLAND, J., IN CHAMBERS—OCT. 19.

*Judgment—Default Judgment—Motion to Set aside—Laches.*]—Motion by the defendant to set aside a judgment entered against him in this action, which was brought to recover the amount of a promissory note made by the defendant. The writ of summons was issued on the 29th June, 1914, and served on the defendant the next day. An appearance was entered and an affidavit of the defendant setting up a defence was filed. Subsequently pleadings were delivered. On the 10th October, 1914, the defendant was served with a subpoena and appointment to attend on the 16th October for examination for discovery. He did not attend; and the plaintiff served his (the defendant's) solicitors with a notice of motion for an order striking out his defence and permitting the plaintiff to enter judgment. The defendant was not represented upon the motion and did not answer it, and an order was made as asked by the plaintiff, upon which judgment was signed and execution issued, and a return of nulla bona was made on the 19th January, 1915. In the same month, an action upon the judgment was brought by the plaintiff in the Province of Saskatchewan; in that action the defendant had delivered a defence. The affidavit of the defendant on which this motion was based was sworn on the 4th June, 1915; but the notice of motion was not served until the 30th September. No grounds of irregularity were stated in the notice of motion; on the argument it was intimated that Rules 56, 327, and 336, had not been complied with. SUTHERLAND, J., said that it was clear that since January, 1915, the defendant had been aware of the existence of the judgment; and, in view of the great laches and delay on his part, it would not be right to set aside the judgment. Motion dismissed with costs. E. Gillis, for the defendant. F. J. Foley, for the plaintiff.

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SEGUIN v. SANDWICH WINDSOR AND AMHERSTBURG RAILWAY—MIDDLETON, J.—OCT. 20.

*Negligence—Collision between Street Railway Car and Automobile—Which Party at Fault—Findings of Jury—Dangerous Crossing—High Rate of Speed—Evidence—Damages—Costs.*]—The plaintiff was injured in a collision between an automobile, in which he was a passenger, and a street car of the defendants, at a place where and on a day when there was much traffic. The