

CARTWRIGHT, MASTER.

NOVEMBER 20TH, 1906.

CHAMBERS.

GERMAN AMERICAN BANK v. KEYSTONE SUGAR
CO.*Summary Judgment—Rule 603—Delay in Applying — De-
fences—Dismissal of Motion.*

Motion by plaintiffs for summary judgment under Rule 603.

W. D. Gwynne, for plaintiffs.

George Bell, for defendants.

THE MASTER:—The action is on a promissory note, and was commenced on 20th June. The defendant appeared on 10th July. The present motion was not launched until 12th November instant.

The delay is not explained. This seems to bring the case within the principle of *McLardy v. Slateum*, 24 Q. B. D. 504, cited and approved in *Ontario Bank v. Farlinger*, 7 O. W. R. 315.

In the former case it was said: "The view taken by other Judges and by the Masters is that the intention of the Order was that the plaintiff should apply within a reasonable time after the appearance of the defendant." Had the statement of claim been delivered in September, the action would have been disposed of before this motion was launched; so that the plaintiffs would not seem to have been very anxious to obtain what they are now seeking. The venue is at Toronto.

The defendants . . . have set up three defences. Some of these (if not all) do not seem very substantial. But, in view of the whole circumstances, I think defendants should be allowed at least to deliver a statement of defence. Then perhaps plaintiffs will be able to get judgment on the pleadings without a trial. If a trial is necessary, defendants must facilitate this in every way so that the case can be heard at the present non-jury sittings.

Costs will be in the cause. . . .