

ning Company as manager or solicitor, and asked me if the claim as between himself and the Canadian Canning Company could not be arranged. I asked him then how he stood in the east, and he told me that he had arranged everything. I was particular to ask him how he stood with his own solicitors, and he told me he had paid them some \$490. . . I then suggested that he should see Mr. Fleming, the manager of the Canadian Canning Company, and they came together and made the settlement, dated the 24th January, 1911. I was asked to draw this settlement up merely for the reason that I was more or less conversant with the facts of the case. It is for this same reason that, when this present petition was presented, I was asked to instruct agents in Ontario."

"16. I say that, from the time the plaintiffs discontinued their action against the Canadian Canning Company, and the defendant (Bostock) elected to proceed with his third party notice against the Canadian Canning Company, the petitioners have not acted as solicitors for the Canadian Canning Company, nor as agents of my firm, but have been acting under direct instructions from the defendant (Bostock) and his Vancouver solicitor.

"20. . . . I say positively that there was no collusion in any sense, direct or indirect, between Bostock and the Canadian Canning Company, or our firm or any member of the firm, having in view depriving the petitioners' firm of their proper charges for services rendered, or any part thereof."

It is said that at the time Bostock made the settlement for \$1,100 with the Canadian Canning Company, he was in insolvent circumstances and in ill-health, and had left the country, and that the canning company compromised with him, under these circumstances, their indebtedness in connection with the remedy over which he had against them, at a much smaller sum than Bostock was reasonably entitled to claim.

While the circumstances may and do look somewhat suspicious, I am unable to find, particularly in the face of the affidavit of the solicitor in Vancouver, that there was any collusion or improper conduct on the part of the canning company to deprive the petitioners of their costs. See *Reynolds v. Reynolds*, 26 Times L.R. 104.

The prayer of petition will, therefore, be refused. I do not think, however, on the whole, that it is a case for costs, and I make no order as to the same.