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MASTER IN CHAMBERS.

MAY 1ST, 1913.

ANTISEPTIC BEDDING CO. v. GUROFSKY.

4 O. W. N. 1221.

Discovery—Further Affidavit on Production—Books of Incorporated Company—Alleged Identity of Company with Defendant—Discovery not Warranted by Pleadings—Leave Given to Set up Contention—Conditional Order.

MASTER-IN-CHAMBERS refused a motion for a further and better affidavit on production in which the books of an incorporated company should be scheduled, plaintiffs claiming that defendant and the company in question were substantially identical, upon the ground that no such contention was set up in the pleadings, but made an order that if plaintiff should set up such a contention in his reply, defendant should file a further affidavit setting out the documents desired by plaintiff.

Playfair v. Cormack, 24 O. W. R. 56, referred to.

Motion by plaintiff for further and better affidavit on production.

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

C. A. Moss, for the defendant.

CARTWRIGHT, K.C., MASTER:—The statement of claim alleges that the defendant agreed to obtain insurance for the plaintiff company and delivered to them policies aggregating \$3,600—that the necessary premiums were given to defendant, who did not pay them; that in consequence the policies were cancelled, and two days thereafter the plaintiff company suffered loss by fire of nearly \$3,000, which the defendant is, therefore, called on to pay.

The statement of defence is briefly that the policies in question were placed through the Insurance Brokerage & Contracting Co. Ltd., as he had told the plaintiff company, and that the defendant paid them the premiums received