

(3) That the bank being in possession should not be required to give security as ordered.

The execution creditor is unquestionably entitled to have her claim tried. It does not appear that there are any facts which should be in dispute, and yet there was no formal admission by counsel for execution creditors of the allegations of claimants.

Con. Rule 1111 would, if the facts are not in dispute, permit me to dispose of the question of law without directing an issue, but I cannot do so upon the material before me. If the parties would consent a special case might be stated for an appellate division. That would be a satisfactory way of determining the matter.

There is practically no difference as to who is plaintiff in the issue. If any difference it is in claimants' favour as having the conduct of the case, the trial need not be delayed.

Upon the argument I had some doubt about the reasonableness of compelling the bank to pay \$8,000 into Court or to give security as ordered, but further consideration satisfies me that the Master has followed the usual and settled practice and I should not interfere.

Appeal will be dismissed, costs in the cause in the interpleader proceedings.

MASTER IN CHAMBERS.

JANUARY 22ND, 1913.

PHILLIPS v. LAWSON.

4 O. W. N. 679.

*Discovery — Further Affidavit on Production — Materiality —
Order made.*

MASTER-IN-CHAMBERS, upon the facts as disclosed in defendant's examination as to the existence of certain documents not produced, ordered a further and better affidavit on production to be filed.

"The case of the party seeking discovery must be assumed to be true if the materiality of the discovery sought for is questioned."

Motion by plaintiff for further affidavits on production by one or more of defendants.

J. P. McGregor, for plaintiff.

C. A. Moss, for defendants.