CARTWRIGHT, MASTER. SEPTEMBER 17TH, 1906.

CHAMBERS.

WOODRUFF CO. v. COLWELL.

Company—Parties to Action—Authority to Use Name—Solicitor—Meeting of Shareholders.

Action by the company and the Messrs. Woodruff personally to restrain defendant from acting as manager of the company and dealing with its assets, etc.

Defendant moved to strike out the name of the company as plaintiffs and to require the other two plaintiffs to give security for costs.

C. A. Moss, for defendant.

W. N. Ferguson, for plaintiffs.

THE MASTER:—The defendant has filed an affidavit on which he has been cross-examined. He admits that the Messrs. Woodruff and himself are the only directors of the company, and that a majority of the stock is held by them.

He contends, however, that under the provisions of an agreement made in April last the Woodruffs have ceased to have any interest in the company.

This, however, is denied by the other side; and it seems clear that this is a question in dispute between the parties. In these circumstances, I think the motion should be dismissed with costs in the cause.

This seems to be the course indicated as proper in such cases by Jessel, M.R., in Pender v. Lushington, 6 Ch. D. 70, 79, 80.

Plaintiffs' solicitors seem to have authority to bring the action, so far as the Woodruffs are concerned, by the telegram sent by them from San Francisco. And by another telegram they have assumed to dismiss the defendant from the office of manager.

No doubt, there will be given all proper directions as to calling a meeting of the company if defendant still disputes the rights of the Woodruffs in the company, if the injunction is granted. . . .

A somewhat similar question came up and was dealt with in Saskatchewan Land and Homestead Co. v. Leadley, 2 O. W. R. 944, 1075, 1112; S.C., 3 O. W. R. 133, 191.