

but no statement of claim was delivered until the 22nd January, 1913. This the defendants moved to set aside, as irregular. The motion was supported on the ground that the plaintiff had been apparently able to go about and visit his friends, and should, therefore, be considered competent to give any necessary facts to his solicitors. It was further said that, at the time of the accident, the defendants had a note of a number of witnesses of the accident, which occurred at 6.40 p.m., on the corner of Grace and Harbord streets, in the city of Toronto; but that, owing to the long delay in proceeding with the action, "some of the said witnesses who are necessary and material for the proper conduct of the defence to this action have been lost track of." The delay was explained by the affidavit of a member of the firm of the plaintiff's solicitors, who said that the plaintiff was in such "a highly nervous condition that it is still improper to discuss the action with him to any extent." The Master said that the principle of Con. Rule 312, in conjunction with Con. Rule 353, made it proper to validate the statement of claim, even at this stage, giving the costs of the motion to the defendants in any event. If the defendants were unable to find the witnesses referred to, and if (as was stated) the conductor and motorman of the car which struck the plaintiff were no longer in the defendants' service or could not be found, the plaintiff might have to consent to a postponement of the trial until the September sittings. D. L. McCarthy, K.C., for the defendants. A. J. Thomson, for the plaintiff.

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HAY v. COSTE—MASTER IN CHAMBERS—FEB. 13.

*Discovery—Production of Documents—Motion for Better Affidavit—Grounds for.*]—Motion by the plaintiff for a further affidavit on production from the defendant, who had filed an affidavit sufficient according to the Rules. The defendant had not been examined for discovery; and the motion was supported only by an affidavit of the plaintiff's solicitor, which, the Master said, was clearly insufficient in its contents, even if allowable at all. It gave no grounds for supposing that the affidavit of documents was defective, nor did any ground appear in the pleadings or in the documents produced. The Master referred to Ramsay v. Toronto R.W. Co., ante 420. He suggested that the motion might perhaps be successful at a later stage, e.g.,