

RIDDELL, J.

NOVEMBER 23RD, 1907.

TRIAL.

BENOR v. CANADIAN MAIL ORDER CO.

Company—Managing Director—Salary—By-law of Board of Directors—Approval by Shareholders—Money Expended for Company—Action by Assignee—Addition of Assignor as Plaintiff—Set-off—Misrepresentations—Payment for Stock Allotted to Managing Director for Services—Voluntary Winding-up.

Action by the brother and assignee of one J. T. Benor for salary alleged to have been earned by the latter as managing director of the defendant company, and for cash paid by him on account of the company.

R. W. Eyre, for plaintiff.

W. Proudfoot, K.C., and W. H. Grant, for defendants.

RIDDELL, J.:—One J. T. Benor . . . took up the study of the mail order business, examined into it theoretically for some time, and went to Chicago and was allowed to go through the various departments of a large mail order concern in that city. . . . On 11th May, 1905, Benor and one Crawford entered into an agreement with the Industrials Agency Limited, an incorporated company carrying on the business of procuring the incorporation of joint stock companies. The substance of this agreement was that the Industrials Agency were to procure the incorporation of a joint stock company under the Ontario Companies Act, by the name of "Canadian Mail Order Limited," or some similar name; Benor and his associate, at their own expense, to advertise the preference stock of the new company, and devote all their time to selling it. The Industrials Agency were to devote part of their time, and out of the first instalment paid upon all stock sold, except that sold to the directors of the company, the Industrials Agency were to receive $12\frac{1}{2}$ per cent. in cash. This was afterwards somewhat modified. . . .