

ination shall be subject to the same rules as apply to, the examination of a party for discovery" (Con. Rule 492.) The examination may, therefore, take place when the witness is "served with a copy of the appointment and a subpoena, and upon payment of the proper fee" (Con. Rule 443.) The proper fee is indicated by the disbursements tariff item 119: "Barristers and solicitors . . . other than parties to the cause, when called upon to give evidence, in consequence of any professional service rendered by them . . . , per diem \$4."

The affidavit upon which cross-examination is sought is an affidavit made by a solicitor as solicitor, relating entirely to the proceedings in this cause and another cause in which the plaintiff herein was plaintiff and the defendants were "Taxicabs Verrals Limited." All the solicitor's knowledge was acquired by him in the course of the rendering of professional services; and, manifestly, his evidence is given by reason of professional service rendered by him.

Before the examiner, the position taken was that when a solicitor makes an affidavit "he is entitled only to the ordinary fee of \$1." This is clearly untenable.

The motion must be dismissed with costs, which I fix at \$15. If the applicant desires, she may have an order directing that, upon payment of the costs and the proper witness-fee, \$4, Mr. Phelan do attend and submit to examination at a time to be appointed.

KELLY, J.

OCTOBER 29TH, 1912.

TOWN OF STURGEON FALLS v. IMPERIAL LAND CO.

Assessment and Taxes—Lien on Land for Unpaid Taxes—Action for Declaration of Lien and Enforcement by Sale—Assessment Act, sec. 89—Effect of—Declaratory Judgment—Consequential Relief—Acceptance of Promissory Notes for Taxes—Abandonment of Other Remedies—Validity of Assessments—Non-compliance with sec. 22 of Act—Description of Properties—Registered Plans—Subdivisions—Evidence.

Motion for a declaration that taxes to the amount of \$9,531.30, for the years 1906 to 1910, both inclusive, on a very large number of parcels of land, were charged by special lien on those parcels in priority to every other claim, privilege, or incum-