

for the same cause of action is got rid of in some way. RIDDELL, J., said that he did not think the motion could succeed. "The cause of action against the incorporated company no doubt "transivit in rem judicatam:" but that is all. Any cause of action against Verral is still a "cause of action" only—it has not passed into a judgment. It was determined in the former action that the negligence of the chauffeur was the negligence of the company, and that judgment standing it operates as an estoppel as between the parties thereto (and their privies if any) but no further. The plaintiff could not as against the company say that the negligence was the negligence of Verral, but there is no reason why she should not as against Verral." Motion dismissed with costs to the plaintiff in any event. T. N. Phelan, for the defendant. John MacGregor, for the plaintiff.

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NIEMINEN V. DOME MINES—MASTER IN CHAMBERS—NOV. 9.

*Security for Costs—Extension of Time—Insufficient Affidavit—Con. Rules 1203, 518, 524, 312.*]—Motion to extend the time for giving security for costs in an action for damages for death of plaintiff's son who was killed, as admitted, while working in defendants' mine a little over a year ago. The statement of defence was delivered on 12th September. It sets up the usual defences—and also a release given on payment of 1,000 marks in gold to the plaintiff and his wife who reside in Finland—as stated on the writ. The action was begun on 7th June—for some reason no order for security for costs was issued until 17th September, the day on which issue was joined. The order for security was duly served on 18th September but was never complied with. No steps were taken by the defendants to have the action dismissed under Con. Rule 1203—and on 2nd November, this motion was made to have the time for giving security extended for two months, stating that in support of the motion an affidavit would be read. It was not said that such affidavit had been filed and none was filed until the argument. It was argued by the defendants' counsel that as no affidavit had been filed before service of the motion as required by Con. Rule 524 none could afterwards be received, and also that as the affidavit was made on information and belief, without stating the grounds of facts which admittedly were not within the knowledge of the deponent, the affidavit was insufficient and could not be received under Con. Rule 518. The Master in Chambers said that the