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GUIDE TO ONTARIO AND FEDERAL LIMITATION PERIODS

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This is a comprehensive manual provides an authoritative, one-stop reference to legislated limitation periods in both Ontario and federal legislation. It identifies excerpts and organizes those sections in each statute which contain notice requirements, time for appeals, limitation of actions, time for judicial review and other time requirements in a convenient and easy-to-use table format. Case annotations are included for every limitation section that has been interpreted by the courts. This looseleaf also has an **Issues in Focus** section related to Ontario limitation periods which features memoranda on points of law relevant to Ontario limitation periods.

What's New in this Update:

This release features nineteen new case summaries. Case updates have been added to the following subject area: Class Proceedings, Contracts, Debtor and Creditor, Defamation, Employment, Family Law, Insurance, Limitation of Actions, Real Property, and Torts.

Highlights

The following is a highlight of new content added to this publication:

Debtor and Creditor — Real Estate Commission — Whether Tolling Agreement — Vendor's Partner Allegedly Promising to Take Care of Commission — Undertaking Not Amounting to Tolling Agreement — On May 3, 2021, the plaintiff commenced an action, suing for a real estate commission on the defendants' purchase of a property alleged to have been owed to him. The deal closed on December 22, 2011. The plaintiff claimed that, as a business broker, in October 2011 he had entered into an agreement with MP, a real estate developer and the principal of the defendant, LD, to receive a commission on any real estate opportunity he introduced to LD. The plaintiff made his first demand for payment and in early 2012. After delivering a statement of defence denying that a commission was owed, and asserting that the action was barred by the Limitations Act, 2002, S.O. 2002, c. 24, Sched. B, the defendants brought a summary judgment motion. The motion judge granted the motion, and dismissed the plaintiff's action concluding it was out of time and there was no genuine issue requiring a trial. The motion judge concluded that the plaintiff knew of his claim by February 23, 2012, when he retained a lawyer to demand payment of the commission, and there was no tolling agreement that suspended the running of the limitation period. Moreover, the motion judge noted the plaintiff did not adduced evidence that he was incapable of commencing the proceeding because of his psychological condition. The plaintiff was not afforded the opportunity to obtain further evidence about his psychological incapacity. The plaintiff appealed, and his appeal was dismissed: *Lewis v. Lifetime Developments*, 2023 ONCA 388, 2023 CarswellOnt 8231 (Ont. C.A.)

Defamation — Police Incident Report — Plaintiff Referred for Mental Health Assessment — Report Constituting Publication — Libel and Slander Act Applying — Plaintiff Not Providing Statutory Notice — Purported Republication Not Curing Failure to Provide Earlier Notice — On May 25, 2019, the plaintiff was arrested by police officers for whom the

defendant Niagara Regional Police Services (NRPS) was vicariously liable. The plaintiff was charged with mischief under \$5,000, per s. 430(4) of the Criminal Code, R.S.C., 1985, c. C-46, and taken to the local hospital for a mental health assessment. The details of the incident were reported in a police incident report GO#2019-46930 (“GO-2019”). The plaintiff commenced a proceeding against the defendant NRPS by a statement of claim issued on November 28, 2022. The plaintiff’s claim related to an incident that occurred involving the plaintiff and police officers from NRPS on May 25, 2019, resulting in criminal charges against the plaintiff. The court considered whether the plaintiff’s defamation claim was statute barred, taking into consideration the alleged republication in 2021. The plaintiff asserted that the defamation in this matter was neither a broadcast nor a newspaper publication as contemplated by s. 6 of the Libel and Slander Act. Therefore, the plaintiff submitted, the two-year general limitation period contained in s. 4 of the Limitations Act applied. The court disagreed. There was an abundance of case law that recognized that the element of publication could take many forms, and did not require communication via newspaper or broadcast: *Crookes v. Wikimedia Foundation Inc.*, 2011 CSC 47, 2011 SCC 47, 2011 CarswellBC 2627, 2011 CarswellBC 2628, 22 B.C.L.R. (5th) 1, 87 C.C.L.T. (3d) 1, 96 C.P.R. (4th) 115, 337 D.L.R. (4th) 1, [2011] 11 W.W.R. 633, (sub nom. *Crookes v. Newton*) 310 B.C.A.C. 76, (sub nom. *Crookes v. Newton*) 248 C.R.R. (2d) 310, (sub nom. *Crookes v. Newton*) 421 N.R. 205, (sub nom. *Crookes v. Newton*) [2011] 3 S.C.R. 269, (sub nom. *Crookes v. Newton*) 526 W.A.C. 76, [2011] S.C.J. No. 47 (S.C.C.) at paras. 18-19; *Wilson v. Wilson*, 2019 ONSC 5726, 2019 CarswellOnt 15654 (Ont. S.C.J.). Furthermore, s. 19 of the Limitations Act recognized that the applicable limitation period in a case such as this was statutorily prescribed by the Libel and Slander Act. On the evidence before the court, the judge was satisfied that the plaintiff would have discovered the libel at the earliest on May 26, 2019, and no later than July 17, 2019 when the plaintiff consented to the peace bond and restitution order. The plaintiff’s failure to satisfy the preconditions of s. 5 justified summary judgment in favour of the defendant: *Bagci v. Niagara Regional Police Services Board*, 2023 ONSC 6296, 2023 CarswellOnt 17663 (Ont. S.C.J.), additional reasons 2023 ONSC 7109, 2023 CarswellOnt 19616 (Ont. S.C.J.).

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