

## Don't be trapped by old habits of thought – The limitation period for equitable claims is now two years

It is difficult to let go of fundamental principles. Many generations of Ontario lawyers were taught that equitable claims are not subject to any limitation period.

These lawyers were correct, until the *Limitations Act, 2002* came into force.

Limitation periods are creatures of statute. The *Limitations Act*, R.S.O 1990, c.L.15 and its predecessors had no provisions governing equitable claims. Therefore, equitable claims were subject solely to equitable principles such as laches and acquiescence. No statutory limitation period applied to them.

The *Limitations Act, 2002* changed all of this. In *Boyce v. Toronto Police Services Board*<sup>1</sup>, the Ontario Court of Appeal expressed itself with absolute clarity on this point:

“The appellant alleges that the fiduciary claims can survive the *Limitations Act* as no time limit applies to such claims. While that was the case under the previous regime, under the present *Act*, fiduciary claims are caught by the phrase “claims pursued in court” in s. 2(1). The fiduciary claims do not fall within any of the exceptions in that section.”

Do not be trapped by old habits of thought!

For additional discussion of this and other limitations topics, see “The *Limitations Act, 2002* is a ‘catch all’ statute”<sup>2</sup>, which provides

a general overview of the legislation; and “Lessons learned: The *Limitations Act, 2002*”<sup>3</sup> which summarizes key case decisions under the new statute. Both articles are available in the *LAWPRO Magazine* archives at [www.lawpro.ca](http://www.lawpro.ca), and in practicePRO’s topical article listing at [practicePRO.ca](http://practicePRO.ca). ■

<sup>1</sup> 2012 ONCA 230

<sup>2</sup> *LAWPRO Magazine* “Risky Business”, September 2010 (Vol 9.2).

<sup>3</sup> *LAWPRO Magazine* “Take the time to get it right: the checklist issue”, August 2012 (Vol 11.3).

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#### Correction and Apology

The case book column at page 41 of the August 2012 edition of *LAWPRO Magazine*, “Lessons learned: The Limitations Act 2002,” contained a summary of the case of *Isailovic v. Vojvodic* (2011 ONSC 5854 (CanLII)). Due to the placement of names in the style of cause, one could have concluded that Vojvodic represented the plaintiff when the alleged improvident settlement was signed. In fact, the plaintiff was represented by another lawyer at the time of settlement. We apologize for any negative implication on the reputation of lawyer Vojvodic which this article may have caused.