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1. Provincial Limitations Apply to *Charter* Claims: C.A.

In [Zadworny v. Attorney General of Manitoba et al.](#), 2007 MBCA 142 (CanLII) the court dealt with an application to set aside a deemed abandonment of an appeal. In considering the application, the court found that the plaintiff did not have a reasonable argument on the merits of the case. The plaintiff sought to add two defendants to a *Charter* claim but the lower court found that the request was made beyond the applicable limitation period. The Court of Appeal affirmed that "...a cause of action alleging a breach of the *Charter* must, barring the most exceptional of circumstances, be brought within the time limits established by the Legislature."

2. Out of Time for Conspiracy Claim: C.A.

[Corbett v. Ainley, et al.](#), 2007 MBCA 140 (CanLII) is a decision in which the court considered whether the tort of conspiracy is a tort of continuing nature, such that determining when the limitations period begins to run would be a matter of evidence. The court found that the limitations period had, in this case, begun to run and expired. In so finding, the court made a distinction between a continuing cause of action and continuing damages. Because the claim was found to be out of time, the court did not determine the second issue before it, namely, whether "...absolute privilege applies to the complaint made by the defendants to their professional governing body."

3. Avoiding Missed Limitations

Continuing on the theme of missed limitation periods, the Law Society of British Columbia's Lawyers Insurance Fund has developed an excellent loss prevention resource. [Beat the Clock: Timely Lessons from Over 1600 Lawyers](#) is available for free download on the [Law Society of British Columbia's website](#). The guide contains more than 70 risk management tips with a practical focus on how to avoid missed limitation claims. Although the included limitations chart is specific to British Columbia, the general loss prevention advice has application everywhere.

4. Apologizing without Admitting Liability

On November 8, 2007, [The Apology Act](#), S.M. 2007, c.25 received Royal Assent. The Act, which allows for the making of an apology that cannot then be admissible as evidence of the fault or liability of the apologizer in connection with the matter, comes into effect 90 days after Royal Assent. For further details on *The Apology Act*, take a look back at the [May 2007 issue](#) of this Update.

5. Motions Court Reminders

The "basic expectations that a Court has of counsel appearing on motions" are succinctly set out in the recent Ontario Superior Court decision in [*Kaplun v. Kaplun*](#), 2007 CanLII 38396. The court sets out six reminders and then summarizes these as follows: "Motions court lists usually are long. For motions court to work efficiently and fairly, the court depends upon counsel observing the "Three Cs" - Courtesy, Civility and Co-operation." If you spend any time in motions court, you need to read this decision.

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