SUPREME COURT OF YUKON

Citation: *Sidhu v. Canada (Attorney General)*, 2019 YKSC 36

Date: 20190705
S.C. No. 14-A0118
Registry: Whitehorse

BETWEEN

MANDEEP SINGH SIDHU

PLAINTIFF

AND

THE ATTORNEY GENERAL (CANADA), CONSTABLES ANDREW WEST, MIKE SEIDEMANN, MATTHEW LEGGETT AND SCOTT CARR AND CORPORALS NATASHA DUNMALL AND JASON B. WALDNER MEMBERS OF THE ROYAL CANADIAN MOUNTED POLICE

DEFENDANTS

Before Mr. Justice J.Z. Vertes

Appearances:
André W.L. Roothman — Counsel for the plaintiff
Jonathan S. Gorton and Sylvie McCallum Rougerie — Counsel for the defendants

REASONS FOR JUDGMENT

INTRODUCTION

[1] This is an application by the defendants for (a) summary judgment with respect to some of the claims brought by the plaintiff on the basis that those claims are statute-barred pursuant to the *Limitation of Actions Act*, R.S.Y. 2002, c. 139 (the "*Act*"); and (b) an order striking out certain portions of the claim for failure to plead material facts and therefore prejudicial to a fair trial.

[2] The claim advanced by the plaintiff, broadly put, is one of discriminatory racial profiling by members of the Royal Canadian Mounted Police over a number of years as reflected by numerous incidents where he has been stopped while driving his car, detained, questioned and, in some instances, arrested. Alleged in relation to these incidents are torts of unlawful detention, unlawful arrest, malicious prosecution and assault. But the primary claim being advanced is that of racial discrimination, that being a breach of his equality rights under s. 15 of the *Canadian Charter of Rights and Freedoms* (the "*Charter*"). He seeks damages for physical and psychological injuries, financial loss and damages pursuant to s. 24(1) of the *Charter*.

[3] This is not the first time that issues relating to the pleadings and cause of action have been raised in this case. Therefore, I need to outline some of the background to the current applications.

BACKGROUND

[4] This action was commenced by filing the Statement of Claim on November 20, 2014. An Amended Statement of Claim was filed on May 21, 2015. That document contained 12 paragraphs, under the heading "Background", which alleged numerous detentions of the plaintiff by the RCMP between 2006 and 2011. The defendants brought a motion to strike these paragraphs for failure to plead material facts in support of the claims. The motion was granted by a judge of this court on November 17, 2015 (referenced as 2015 YKSC 53), and an order issued striking out the paragraphs labelled as "Background" as well as portions of several other paragraphs.

[5] That decision was appealed to the Court of Appeal which dismissed the appeal on June 10, 2016 (referenced as 2016 YKCA 6). In doing so the Court said:

> [9] It appears that the judge's conclusion is based on each of the component elements of Rule 20(26). What is important to emphasize is that the ruling is not premised on a conclusion that Mr. Sidhu could not properly plead a cause of action based on s. 15 arising from the history of his interactions with the police. The judge's order is based on his conclusion that Mr. Sidhu had not done so properly.

[6] Subsequently, the plaintiff filed an Amended Amended Statement of Claim. In it, under the heading "Roadside Stops", the plaintiff again makes general claims of discriminatory treatment and racial profiling by the RCMP:

> 9. Sidhu says that there is a long history of roadside stops experienced by him at the hand of RCMP officers, starting during the summer of 2006 and continuing since then. Sidhu says that these historical roadside stops were arbitrary, not based on reasonable and probably grounds and that he was racially profiled by the RCMP officers. Sidhu says that the sole reason for the various roadside stops is the fact that he is brown skinned and of East Indian de[s]cent.
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> 10. Sidhu says that he does not receive equal treatment by RCMP officers on traffic duty acting under their powers pursuant to the *Motor Vehicles Act*. Sidhu says that he was racially profiled on August 23, 2011, May 16, 2012, December 2, 2012 and June 4, 2016 during unwarranted, unreasonable, groundless and arbitrary roadside stops.

[7] The pleading then goes on to give details about specific encounters with the police on August 23, 2011, May 16, 2012, December 2, 2012, December 5, 2012, and June 4, 2016. These claims allege in particular conduct that the plaintiff labels as unlawful detention, unlawful arrest, malicious prosecution, assault and battery, and breach of his *Charter* rights, all based on racial discrimination by the police.

[8] The Amended Amended Statement of Claim also contains the following pleading under the hearing "Further Arbitrary Roadside Stops":

> 12. Sidhu says that he was further stopped another eight times by various RCMP officers during the time period after the roadside stop of August 23, 2011, and leading up to the roadside stop of May 16, 2012. Sidhu says that none of these eight stops resulted in any tickets or charges against him.
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> 13. Sidhu says that he was arbitrarily stopped on all eight occasions and that there were no reasonable and probable grounds for any of the stops. Sidhu says that the sole reason for the stops was that the officers observed that he is brown skinned and that he was racially profiled by the RCMP officers involved. Sidhu says that when he asked for the reason of one of the stops he was advised by the officer that he looked "suspicious". Sidhu says he was further subjected to secondary screening in addition to being asked to produce his license and registration. Sidhu says that on some occasions of roadside stops the officer involved would say: "Oh it is you Mandeep", and let him go. Sidhu says that the sole reason for the stops is the fact that he is brown skinned and of East Indian de[s]cent.
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> 14. Sidhu says the eight stops form part of a pattern of racial profiling by RCMP officers enforcing the *Motor Vehicles Act* when on traffic duty or using the *Motor Vehicle Act* as a pretext to stop him.

[9] The defendants demanded particulars of the pleadings in paragraphs 9 and 12 (quoted above). The response was, in essence, that the pleadings speak for themselves, specific dates are unknown, and that this is a matter of evidence.

[10] An examination for discovery of the plaintiff was conducted on March 13, 2019. When specifically asked about the allegations in paragraph 12, concerning further stops, the plaintiff said that he had records, or at least documents, that related to these incidents that he gave to his lawyer.

[11] On May 21, 2019, the defendants filed these applications for summary judgment and to strike portions of the Amended Amended Statement of Claim.

[12] Since these applications over-lap to some degree, I will address the summary judgment application first. After all, if I decide that a pleading cannot stand because of a limitation period, then there is no point in deciding if that same pleading should be struck for a failure to plead material facts. Also, summary judgment pursuant to a limitation period is tantamount to striking a claim, for disclosing no cause of action, pursuant to Rule 20(26)(a) of the Yukon *Rules of Court* (the *"Rules"*).

SUMMARY JUDGMENT APPLICATION

[13] Summary judgment dismissing a claim may be granted to a defendant, pursuant to Rule 18(6), where it is established that there is no merit in the whole or part of the claim. The question is whether the claim is bound to fail. No issues of fact or law can be determined and, if there is a doubt, the application must be dismissed: *Skybridge Investments Ltd. v. Metro Motors Ltd.*, 2006 BCCA 500.

[14] A claim which is clearly statute-barred due to the passage of time can be dismissed pursuant to Rule 18(6): *Sime v. Jupp*, 2009 BCSC 1154 (at para. 17); *Surakka v. Canada*, 2018 B.CSC 236 (at para. 11).

[15] The defendants seek to strike paragraphs 11 to 15 (inclusive) of the Amended Amended Statement of Claim on the basis that these paragraphs assert claims that are beyond the six-year limitation period set out in s. 2(1)(d) of the *Act*:

> (d) actions for trespass to the person, assault, battery, wounding, or other injury to the person, whether arising from an unlawful act or from negligence, or for false imprisonment, or for malicious prosecution or for seduction within two years after the cause of action arose …

[16] The defendants assert that all allegations or claims asserted in the Amended Amended Statement of Claim relating to incidents that occurred before November 20,

2012 – that being two years prior to the filing of the original Statement of Claim – are statute-barred.

[17] Paragraph 11 of the Claim alleges a stop on or about August 23, 2011. The allegations are that the plaintiff was detained, arrested and subsequently institutionalized in a hospital under the *Mental Health Act*. He also alleges that he was assaulted by the police. Paragraphs 12 to 14 relate to a series of further police stops, eight times allegedly, in between August 23, 2011, and May 16, 2012. Paragraph 15 relates to a roadside stop on May 16, 2012.

[18] All of these paragraphs were added to the Claim by way of amendments on November 8, 2016, after the Court of Appeal judgment referred to earlier. The *Judicature Act*, R.S.Y. 2002, c. 128, s. 17, stipulates that the court may permit the amendment of any pleading even though, between the time of the issue of the Statement of Claim and the application for amendment, the right of action would have been statute-barred. Thus, an application to amend would be required even though Rule 24 allows amendments to pleadings at any time up to 90 days before trial without leave of the court. The *Act* obviously supersedes the *Rules*.

[19] Here there was no application to amend because the plaintiff says that the applicable limitation period for *Charter* claims is one of six years as per s. 2(1)(j) of the *Act*: “any other action not in this Act or any other Act specially provided for, within six years after the cause of action arose.”

[20] In this case, there is no suggestion that the discoverability or disability exceptions in ss. 3 and 5 of the *Act* apply.

[21] To resolve the question of which limitation period applies, one must identify the nature of the claims being advanced in the targeted paragraphs of the Amended Amended Statement of Claim. They all allege discriminatory racial profiling by the police. Thus they all relate to the plaintiff's s. 15 *Charter* claim. But the incidents alleged also reveal the torts of unlawful detention, arbitrary searches, assault and malicious prosecution. The fact that the plaintiff is stopped at a checkpoint or otherwise amounts to a detention. The stops may have been lawful or unlawful but the fact of being stopped and prevented from going about his business, whether for a short time or longer, means that the plaintiff was detained: see *Brown v. Durham Regional Police Force*, [1998] 43 O.R. (3d) 223 (C.A.).

[22] Paragraph 11 alleges that the plaintiff was not just detained but that he was arrested, assaulted ("severely manhandled" was how it is phrased in paragraph 11), eventually sedated and transported to a hospital (which could amount to false imprisonment) and charged with various offences that were ultimately stayed (which could amount to malicious prosecution). Paragraphs 12 through 14 allege arbitrary and discriminatory roadside stops. Paragraph 15 alleges an arbitrary stop and a charge.

[23] The fact that the plaintiff was stopped and detained amounts to an interference with his person, or as s. 2(1)(d) phrases it, a "trespass to the person". The torts of assault, battery or other injury are also included in s. 2(1)(d). The Amended Amended Statement of Claim seeks damages for physical and psychological injuries. Section 2(1)(d) refers to "injury to the person". And it speaks of false imprisonment and malicious prosecution.

[24] Defendants' counsel submitted that *Charter* claims based on physical and psychological injury are subject to the same limitation period that would apply to a tort claim arising out of the same facts. There is good authority to support that submission.

[25] The Supreme Court of Canada has confirmed that a court may award damages, as a remedy under s. 24(1) of the *Charter*, for breach of an individual's *Charter* rights: *Ward v. Vancouver*, 2010 SCC 27 ("*Ward*"). However, personal claims for breaches of *Charter* rights are still subject to limitation periods: *Ravndahl v. Saskatchewan*, 2009 SCC 7 ("*Ravndahl*"). The determining factor is: What is the basis for the Charter breach?

[26] This was explained in *R. v. Newman*, 2016 FCA 213 ("*Newman*"), and the cases referred to therein.

[27] In *Newman*, the plaintiff, who was a prison inmate, was assaulted by other inmates when the prison guards put him in an area of the prison where he was in danger from other prisoners. He claimed that his right to security of the person was breached and claimed *Charter* damages. The action was commenced beyond the two-year limitation period provided for actions seeking damages for personal injury. But for the limitation period, Newman's claim could have been advanced as a tort claim. The Federal Court of Appeal held that the action was governed by the same limitation period as actions seeking private law remedies for bodily injury. The action was dismissed.

[28] In *Nagy v. Phillips*, 1996 ABCA 280, referred to in *Newman*, the Alberta Court of Appeal held that a claim for damages alleging that the plaintiff's rights under s. 8 of the *Charter* were violated by a strip search conducted by the defendants was subject to the section of the Alberta limitation statute which dealt with injury to the person. The Alberta

court rejected the argument that *Charter* claims were *sui generis* and therefore fell within the limitation with respect to claims for which no other provision was made, i.e., the longer limitation period.

[29] In British Columbia, in *Bush v. City of Vancouver*, 2006 BCSC 1207, the court held that the plaintiff's claim for damages arising from the violation of his *Charter* rights when he was arrested and detained was subject to the limitation period applicable to injury to the person.

[30] These are cases where the claim for *Charter* damages is premised on acts that can also be litigated as torts in a strictly private law action. Where the *Charter* breach is unrelated to an underlying tort then the longer limitation provision, such as that found in s. 2(1)(j) of the *Act*, would apply. An example of a distinct *Charter* claim would be the *Ravndahl* case (cited above) where the plaintiff brought an action seeking a declaration that certain sections of a statute were unconstitutional and of no force and effect. But she also sought personal damages allegedly suffered as a result of the unconstitutional statute. The Saskatchewan Court of Appeal (at 324 Sask. R. 318) held that, while the claim for declaratory relief could proceed, since it was relief of a public nature, the claim for personal and monetary relief could not since the claim was filed beyond the six-year limitation period. The six-year limitation applied because the personal damage claim related to damages allegedly suffered as a result of the unconstitutional law, not to some type of injury to the person. The decision was upheld by the Supreme Court of Canada.

[31] The actions of the police in this case may have been, as the plaintiff alleges, discriminatory but that allegation flows from acts that can be characterized as "trespass

to the person" or "injury to the person". These claims are therefore subject to the two-year limitation period in s. 2(1)(d) of the *Act.*

[32] Plaintiff's counsel argued that, since the claim is based on a breach of the plaintiff's s. 15 *Charter* rights, the six-year limitation period applies. And, as he also argued, such a claim requires proof of a pattern of conduct. But that is how the plaintiff chose to frame his case. As defendants' counsel put it, a pattern is made up of individual instances. Here the plaintiff is relying on specific acts that resulted in physical or psychological injures. And the plaintiff claims not just *Charter* damages but also general damages, special damages, punitive damages and aggravated damages.

[33] The Supreme Court of Canada in *Ward* (cited above) recognized that there may be concurrent actions in tort and under the *Charter* (see para. 36). That is what the plaintiff has done in this proceeding. He alleges specific acts that resulted in harm. That is the tort action. He also alleges that those acts, taken together, reveal the pattern of racial profiling. That is the *Charter* action. The Supreme Court of Canada in *Ward* (at para. 55) has said that one does not bar the other, although s. 24(1) damages may be barred if there are damages in tort because that would be double compensation.

[34] The point is that the claims in tort are subject to the applicable limitation period. In this case, that is two years. Therefore, the claims set out in paragraphs 11 to 15 are dismissed as statute-barred and those paragraphs are struck from the Amended Amended Statement of Claim.

[35] I must address two further points raised by plaintiff's counsel before I leave this issue.

[36] The first point is an argument that the defendants conceded before the Court of Appeal that the applicable limitation period was six years. Plaintiff's counsel also referenced the following comment found in the Court of Appeal's judgment in the earlier application to strike out pleadings (at para. 18):

> [18] In the result, I am not persuaded that the judge made any reversible error. In my view, he correctly identified the tests he had to apply under Rule 20(26) and did not commit any error in principle in the application of the tests. I do not think his analysis was influenced by a view on the merits of the claims advanced, any misapprehension about the existence or prevalence of racial discrimination profiling, or an erroneous assumption that the litigation was governed by a two- rather than a six-year limitation period. (emphasis added)

[37] The purported concession is found, according to the plaintiff, in the defendants' factum filed on the appeal. Limitations periods were raised because one of the grounds on which the plaintiff sought to set aside the original motion judge's decision was that the judge applied an incorrect limitation period. But, and this was the point made by the Court of Appeal, the motion judge did not rely on the *Act* in striking the claim.

[38] The factum of the defendants, in my opinion, did not contain the concession as suggested by plaintiff's counsel. The defendants conceded only that the six-year limitation applies to *Charter* claims. This can be found at paragraph 58 of the factum filed by the defendants (then referred to as the "Respondents") in the Court of Appeal:

> 58. The submission of the Respondents on the Application was that even if the impugned background facts were standalone causes of action, they would be subject to statutory limitation periods. It is conceded that the six-year limitation period set out at s. 2(j) of the *Limitation of Actions Act* would be applicable to *Charter* claims brought by the Appellant. However, the two-year limitation period set out at s. 2(d) of the same statute would be applicable to the Appellant's

> claims of wrongful prosecution, excessive use of force, trespass to the person, and assault and battery.

[39] I note as well that the Amended Amended Statement of Defence specifically pleads and relies on s. 2(d) of the *Act* for any claims relating to events that occurred prior to November 20, 2012.

[40] The other point I must consider is an argument that the earlier incidents are part of a continuing *Charter* claim so as to avoid the operation of a limitation period. On this, I agree with defendants' counsel who submitted that the courts have rejected such an approach holding that, when considering a series of alleged *Charter* breaches, each event must be considered separately.

[41] This was explained in *McHale v. Ontario*, [2014] O.J. No. 4434 (S.C.J.). That case involved claims for wrongful arrest on five separate dates as well as claims for violation of *Charter* rights. The defendants claimed that several events were beyond the two-year limitation period while the plaintiff argued that the events were part of a continuing violation of the plaintiff's *Charter* rights. The court concluded that it was not a continuing tort; each event and claim are separate; and, therefore, the claims relating to events outside the limitation period were statute-barred. The court in *McHale* said (at paras. 21-23):

> 21 A continuing tort has been defined as being still in the course of commitment and not wholly past. See: *Roberts v. Portage la Prairie (City)*, [1971] S.C.R. 481, citing Salmond on Torts, 15th ed., at p. 791, a case involving the escape of polluted water from a sewage lagoon, the claim being founded in nuisance.
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> 22 Section 24 of the *Charter* provides for a remedy, in civil actions such being a damage award regarding a specific *Charter* violation. See *Vancouver (City) v. Ward*, 2010 SCC 27, at paragraph 23, a case involving a breach of section 8.

> 23 Accepting, as required at this stage, the truth of the facts as alleged, there is some merit in suggesting a continuous violation of *Charter* rights given the similarity of the events. However, the claim relates to distinct acts separated in time. The conduct may be the same but a *Charter* violation pertaining to a wrongful arrest in 2011, for example, is not a continuation of one occurring in 2006. Each event gives rise to a separate claim. Such acts are not comparable to those in nuisance claims.

[42] The same reasoning applies in this case. The plaintiff has pleaded a series of incidents, which he says amount to a breach of his *Charter* rights, but they are separate events. This is not a continuing claim.

APPLICATION TO STRIKE PLEADINGS

[43] The defendants seek to strike paragraphs 9, 11 to 15, and parts of paragraphs 10, 55 and 57, of the Amended Amended Statement of Claim. The basis for the application is that the plaintiff has failed to plead material facts to support the cause of action advanced and to enable the defendants to respond.

[44] I have already struck paragraphs 11 to 15 on the summary judgment application as the claims advanced in those paragraphs are statute-barred. If I needed to, I would have also struck paragraphs 12, 13 and 14 for failing to plead sufficient facts.

[45] Paragraph 9 (reproduced previously) alleges a “long history of roadside stops” starting in 2006 and “continuing since then”. The problem here is the same as that identified by the motion judge and the Court of Appeal in the earlier application relating to the pleadings. It is essentially nothing more than a restatement of the “historical” pleadings struck out in that proceeding. The plaintiff even refers to “these historical roadside stops” in the paragraph. This pleading, in particular, does not identify specific

dates or events or who was involved. The paragraph simply makes the bald assertion that the stops were arbitrary and that he was racially profiled.

[46] These allegations, just like the ones that were struck out earlier, are vague and unspecific. They do not permit the defendants to know the case they have to meet. As the Court of Appeal said previously (at para. 17), since discriminatory conduct rooted in racial profiling can arrive in different ways, it is incumbent on the plaintiff to plead material facts.

[47] Paragraph 9 will therefore be struck out.

[48] In addition, those parts of paragraphs 10 and 55 that relate back to the paragraphs that have been struck out herein are also struck. The specific parts are: (1) in paragraph 10, the references to “August 23, 2011” and “May 16, 2012” are struck; and, (2) in paragraph 55, the references to “August 23, 2011” and “May 16, 2012” are struck as well as the phrase “as well as the arbitrary roadside stops which did not result in tickets”.

[49] I decline to strike the second sentence of paragraph 57 (as sought by the defendants). In my opinion, this simply refers back to the allegations where material facts were pleaded.

AMENDMENT TO STYLE OF CAUSE

[50] At the conclusion of the hearing before me, the plaintiff’s counsel asked that the style of cause be amended to drop the individual named RCMP officers as party defendants. He said that, on reflection, no purpose was served by naming them as parties. Counsel for the defendants agreed.

[51] The Supreme Court of Canada in *Ward* (at para. 22) made the comment that an action for *Charter* damages is a distinct public law action directly against the state and not against individual actors. Thus it is appropriate to amend the style of cause as requested.

[52] The style of cause will be amended to delete the individual named defendants.

[53] This amendment will necessitate some additional amendments to the Amended Amended Statement of Claim. Paragraph 2 should be amended to refer only to the Attorney General of Canada. The individual names are to be deleted. Paragraph 3 should be amended to remove the reference to the individuals named as “defendants”. The remainder of that paragraph is unobjectionable since it merely identifies individuals who are referred to in later paragraphs.

FURTHER DIRECTIONS

[54] I indicated at the end of the hearing before me that I would give some further directions in this proceeding.

[55] First, I direct that the plaintiff deliver a “revised” Statement of Claim incorporating the changes ordered by these reasons. That is to say, the plaintiff is to take the Amended Amended Statement of Claim and re-do it with the changes reflected in these reasons. That revised copy is to be delivered to defendants’ counsel within 30 days of the date of these reasons.

[56] Second, I direct that no further amendments to the pleadings herein be made without leave of the court. Considering the history of this matter, I think it only prudent that any further amendment that either party wishes to make should be scrutinized by

way of an application made beforehand. There is no point in continuing with amendments and then having motions to strike.

A FINAL OBSERVATION

[57] A great part of the difficulty in this proceeding, in my opinion, is that the plaintiff is combining tort claims based on specific events and an over-arching s. 15 claim of discrimination based on a continuing pattern of racial profiling as evidenced by these individual events. The Court of Appeal remarked on this as well in its reasons on the previous application in this action (at para. 7):

> [7] That being said, I do not read the amended statement of claim as obviously limited to the December incidents. On a generous reading, Mr. Sidhu alleges that for a number of years he has been subject to discriminatory conduct rooted in racial profiling in breach of his equality rights. On that reading, the various historical incidents might give rise to multiple breaches of his equality rights, with each grounding an individual cause of action. But the pleading is not clear. It may be that the real claim is that Mr. Sidhu has been the victim of a systemic practice of discriminatory conduct specifically targeting him because of his race (or alternatively, generally targeting persons of his race) and the December incidents are merely the latest manifestation of that practice. If this were so, the nature of the action would be much closer to the description found in para. 17 of the reasons. Whatever the true case is, it is not clearly pleaded.

[58] This lack of clarity is still present, albeit to a lesser degree, but it is problematic because, as the Court of Appeal also said (at para. 12), discrimination based on race might occur systematically, result from practices or policies whether intended or not, and can arise in individual interactions with police officers.

[59] On this application, I have struck out claims relating to events that occurred prior to November 20, 2012, as being statute-barred. The effect of that is that no tort damages can be awarded for those events (assuming they can be proven). But since

the plaintiff's *Charter* claim alleges a pattern of conduct, can those earlier events be introduced into evidence as part of that pattern? I posed that question to counsel for the parties at the hearing. Plaintiff's counsel said "Yes". Defendants' counsel said it depends on whether the trial judge considers it relevant.

[60] I do not, in any way, assume to have the answer to that question. I raised it because it is the type of question that can inevitably arise because of the lack of clarity as to the nature of the action. At this point, I will simply make the observation that even if some earlier event is not part of an action it may still be introduced as similar fact evidence if it has probative value, in the context of that particular case, and that probative value outweighs its potential prejudicial effect. As the authors of the text, *The Law of Evidence in Canada*, point out, the general principles that govern the admission of similar fact evidence in criminal cases apply equally to civil cases (4th ed., at p. 759).

[61] I make this final observation because it was a point of discussion at the hearing of this application and because I urge counsel, as much as possible, to clarify the issues so as to avoid these types of conceptual and evidentiary problems. Ultimately it will be up to the trial judge to resolve this issue.

ORDER

[62] As outlined in these reasons, I order as follows:

1. The defendants' motion for summary judgment is granted. Paragraphs 11 to 15 of the Amended Amended Statement of Claim are struck as statute-barred.
2. The defendants' application to strike out pleadings is granted in part:

(a) paragraph 9 is struck from the Amended Amended Statement of Claim;

(b) paragraphs 10 and 55 are amended by striking those portions as detailed in paragraph 48 of these reasons.

3. The style of cause is amended by deleting the individual named defendants.

4. Paragraphs 2 and 3 of the Amended Amended Statement of Claim are amended as detailed in paragraph 53 of these reasons.

5. A “revised” Amended Amended Statement of Claim, as revised in accordance with this Order, shall be filed and delivered by the plaintiff within 30 days of the date of these reasons.

6. The parties are prohibited from making further amendments to pleadings without leave of the court.

7. The defendants shall have their costs in the cause.

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VERTES J.