

<u>CASE NO.</u>	<u>VOLUME</u>	<u>PAGE</u>
Cite as: Layes v. Chisholm, 1997 NSCA 81		
ETHEL MAYE LAYES		DUNCAN J. CHISHOLM and JAMES STEWART
(Appellant)	- and -	(Respondents)
C.A. No. 135212	Halifax, N.S.	HALLETT, J.A.

APPEAL HEARD: April 11, 1997

JUDGMENT DELIVERED: April 30, 1997

SUBJECT: **Limitation of Actions Act**, R.S.N.S. 1989, c. 258, ss. 2(1)(e); 3(2) and (6)

Procedure - Civil Procedure Rules 14.25 and 25

SUMMARY: The appellant brought an application in the Supreme Court pursuant to s. 3(2) of the **Limitation of Actions Act** requesting the Court disallow the limitation defences filed by the respondents.

Justice Anderson dismissed the appellant's application and also dismissed her action.

The Court of Appeal dismissed the appeal from Justice Anderson's dismissal of the appellant's application (cases considered: **Central Trustco v. Rafuse**, [1986] 2 S.C.R. 147; and **MacCulloch v. McInnes Cooper & Robertson** (1995), 140 N.S.R. (2d) 220).

The Court of Appeal allowed the appeal from Justice Anderson's order dismissing her action as this issue was not before him (Considered **Rule 14.25, Rule 25** and the decision of the Court of Appeal in **Binder v. Royal Bank of Canada et al.** (1996), 150 N.S.R. (2d) 234).

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