

<u>CASE NO.</u>	<u>VOL. NO.</u>	<u>PAGE</u>
Cite as: K.A.S. v. J.S.R., 1999 NSCA 110		
K. A. S.	- and -	J. S. R.
Appellant		Respondent
C.A. No. 135551	Halifax	ROSCOE, J.A.

Editorial Notice

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APPEAL HEARD: May 30, 1997

JUDGMENT DELIVERED: May 30, 1997

WRITTEN RELEASE OF ORAL: June 9, 1997

SUBJECT: **Limitations of Actions, discoverability, Civil Procedure**

SUMMARY: The appellant brought an application in the Supreme Court pursuant to s. 3(2) of the **Limitations of Actions Act** requesting the court to disallow the limitation defence filed by the respondent. The application was dismissed and the Chambers judge dismissed the appellant's action for assault.

ISSUE: Whether the Chambers judge erred in dismissing the application, or alternatively, whether he erred in dismissing the action.

RESULT: The Chambers judge did not err in determining on the evidence when the appellant had a substantial awareness of the harm caused by the sexual assault. Appeal from the decision dismissing the application to disallow the defence was dismissed. However, the Chambers judge should not have dismissed the appellant's action and to that extent the appeal was allowed.

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