

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Parsons v. S. Cunard & Company Ltd., 2011 NSSC 191

**Date:** 20110405

**Docket:** Hfx No. 281593

**Registry:** Halifax

**Between:**

Mary Lou Parsons, Kenneth Parsons and Nicole Parsons

Plaintiffs

v.

S. Cunard & Company Limited, a body corporate, and Julie Lyons

Defendants

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**Judge:** The Honourable Justice C. Richard Coughlan

**Heard:** March 29, 2011 (in Chambers), in Halifax, Nova Scotia

**Decision:** April 5, 2011 (Orally)

**Written Release  
of Decision:** May 19, 2011

**Subject:** Practice - Amendment of Pleadings - After expiry of Limitation Period  
Practice - Setting aside Order issued by Deputy Prothonotary

**Summary:** The plaintiffs commenced action against the defendants. Defences were filed. The plaintiffs and one defendant settled the plaintiffs' claim against that defendant, and obtained an order issued by a deputy prothonotary dismissing the plaintiffs' claim against that defendant without notice to the second defendant. The plaintiffs moved to amend the statement of claim. The second defendant, upon receiving notice of the dismissal order, moved to set aside the dismissal order and amend her defence to include a cross-claim against the first defendant.

**Issue:** 1) Should the plaintiffs be allowed to amend their statement of claim?  
2) Should the dismissal order be set aside and the second defendant allowed to amend her defence?

**Result:** The amendment of the statement of claim was allowed as the factors in Civil Procedure Rule 83.11 were present, that is, the material facts supporting the cause were pleaded and the amendment merely identifies or better describes the cause.

The dismissal order was set aside as the deputy prothonotary did not have authority to issue the order - not all persons entitled to notice had notice of the order. The second defendant was granted leave to amend her defence to include a counter-claim against the first defendant.