

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Chapin Estate v. Drum Head Estates Ltd., 2010 NSSC 447

**Date:** 20101201

**Docket:** Hfx No. 262472

**Registry:** Halifax

**Between:**

George E. Mills, Jr., Trustee of the Estate of Stephen Beal  
Chapin, a bankrupt

Plaintiff

and

Drum Head Estates Limited, Celia McClure,  
and Angela Chapin

Defendants

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

**Heard:** December 1, 2010 (in Chambers), in Halifax, Nova  
Scotia

**Decision:** December 1, 2010 (Orally)

**Written Release  
of Decision:** January 25, 2011

**Subject:** Limitation of Actions - Disallowance of Defence

**Summary:** Mr. Chapin and his wife entered into a separation agreement. Mr. Chapin defaulted and his wife entered judgment against him in New York. On August 14, 1996 a document purporting to be a promissory note in which Drum Head Estates acknowledged an indebtedness to Mr. Chapin was signed. On August 27, 1999 Mr. and Ms. Chapin entered into an agreement settling matters between them. Ms. Chapin was subsequently informed Mr. Chapin had assets in Nova Scotia, and she commenced action against Mr. Chapin in Nova Scotia. The Nova Scotia action was stayed pending the outcome of an action between Mr. and Ms. Chapin in New York. In March, 2003 the New York action was concluded. Mr. Chapin made a voluntary petition in bankruptcy in Florida on February 12, 2004, which listed the promissory note as personal property of Mr. Chapin. The trustee in bankruptcy commenced an action in this Court on February 14, 2006, claiming payment of the promissory note. A defence was filed and an amended defence filed in September, 2010 pleading the *Limitation of Actions Act*.

**Issue:** Should the limitation of actions defence be disallowed?

**Result:** Motion allowed. Considering the facts of the case, the factors set out in s. 3(4) of the *Limitation of Actions Act* and the degree to which the plaintiff and defendants are prejudiced by disallowing the time limitation, this is a proper case to disallow the defence based on the time limitation.

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