**SMALL CLAIMS COURT OF NOVA SCOTIA**

**Citation:** *Jacobs v. Nordic Insurance Company of Canada*, 2026 NSSM 7

**Date:** 20260204
**Docket:** SCN 546622
**Registry:** Sydney

**Between:**

Frank Jacobs, operating as Jacob's Taxi

Claimant

v.

The Nordic Insurance Company of Canada

Defendant

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| **Adjudicator:** | Eric K. Slone |
| **Heard:** | January 30, 2026 |
| **Decision:** | February 4, 2026 |
| **Counsel:** | For the Claimant, Danielle Arsenault<br>For the Defendant, Mark Whyte |

**By the Court:**

[1] The Claimant is a taxi owner and driver in Sydney, Nova Scotia. The Defendant has been for some years the insurer for the Claimant's vehicles.

[2] On April 17, 2023 one of the Claimant's two vehicles was hit by another vehicle while parked, doing significant damage to the driver's side door and mirror. The Claimant reported the claim to his broker "Brokerlink," which in turn reported it to the Defendant.

[3] Because there was property damage only, and no personal injury, the insurer for the offending driver is not involved with the claims process; the Claimant had to claim against his own policy.

[4] The vehicle was driveable but not as a taxi, which is subject to more stringent regulation.

[5] In this Claim, Mr. Jacobs contends that not all of his losses were paid to him. He specifically claims that the Defendant did not cover his claim for "down time," which refers to his financial losses for the time that he was without the vehicle to drive himself or put on the road with one of his employed drivers.

[6] The Defendant has raised a number of defences, including limitations. It contends that this Claim, commenced on September 9, 2025, was outside the applicable two-year limitation period. The parties agreed that this issue should be decided on a preliminary basis, since a finding that the claim was out of time would obviate the need for a more extensive consideration on the merits.

[7] On its face the Claim was not brought until almost five months after the two-year anniversary of the accident, but the date of the accident may not be the date the limitation clock began to run. There are other possible dates to consider.

[8] To this end, a hearing was held on January 30, 2026 on Zoom, to hear evidence relevant to the limitation issue. The Claimant himself testified. The Defendant called an adjuster for the purpose of explaining the Defendant's document management system and to authenticate the relevant emails and notes on the file.

[9] Most of the facts are not in great dispute.

[10] The Claimant, who has been driving taxi for almost four decades, testified that he has had accidents over the years and has always made a down-time claim, which the Defendant (or other insurers?) have always paid out. As such, he expected the same this time.

[11] The Defendant explained that down-time is not actually in the policy that it extends to taxi drivers, but that it has a practice of paying down-time claims as a "courtesy" to the policy holder, providing certain conditions are met.

[12] Over the period of about four months after the accident, the Claimant let it be known that he was incurring losses that he was claiming as down-time. For limitation purposes, the question becomes this: when was the cause of action incurred, or discovered, such that the clock starting ticking on the limitation period?

[13] There are two possible limitation regimes to consider, contractual and legislative.

[14] Within the Standard Automobile Policy as mandated by the applicable *Automobile Insurance Contract Mandatory Conditions Regulations*, under the *Insurance Act*, the Defendant argues that the limitation period started at the time of the accident, and not any time thereafter. The language of the policy reads:

> 6 (3) Limitation of actions - every action or proceeding under the contract against the insurer in respect of a claim for indemnification for liability of the insured for loss or damage to property of another person or for personal injury or to death of another person shall be commenced within two years after the liability of the insured is established by a court of competent jurisdiction and not afterwards. Every other action or proceeding against the insurer under the contract in respect of loss or damage to the automobile shall be commenced within two years from the time the loss or damage was sustained and not afterwards.

[15] Alternatively, there is an argument that the Claim is statute-barred under the *Limitation of Actions Act* ("the LAA"), having been commenced more than two years after the accident occurred and the loss/damage was "discovered". That statute reads:

> **General rules**
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> 8 (1) Unless otherwise provided in this Act, a claim may not be brought after the earlier of
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> (a) two years from the day on which the claim is discovered; and
>
> (b) fifteen years from the day on which the act or omission on which the claim is based occurred.
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> (2) A claim is discovered on the day on which the claimant first knew or ought reasonably to have known
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> (a) that the injury, loss or damage had occurred;
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> (b) that the injury, loss or damage was caused by or contributed to by an act or omission;
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> (c) that the act or omission was that of the defendant; and
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> (d) that the injury, loss or damage is sufficiently serious to warrant a proceeding.
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> (3) For the purpose of clause (1)(b), the day an act or omission on which a claim is based occurred is
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> (a) in the case of a continuous act or omission, the day on which the act or omission ceases; and
>
> (b) in the case of a series of acts or omissions concerning the same obligation, the day on which the last act or omission in the series occurs.

[16] Another way of defining the issue, is whether the limitation clock started ticking at the moment the accident incurred, or whether there is an issue of discoverability?

[17] An uncannily similar set of facts presented itself in the recent Supreme Court of Nova Scotia case of *Hart v. Allstate Insurance Company of Canada*, 2023 NSSC 273 (CanLII).

[18] The following paragraphs defined the issue:

> [6] The real dispute in this matter is when the limitation period began to run. Allstate says that the two-year limitation period started on August 15, 2019, when Mr. Hart knew that his car had been damaged as a result of a motor vehicle accident. Allstate says at the latest, the limitation period began to run by the time Mr. Hart received Allstate's Denial Letter, on September 13, 2019.
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> [7] Mr. Hart says that the two-year limitation period only began to run when Allstate finished its "investigation" of his claim, and clearly denied him property damage coverage. Mr. Hart says that the issue of "discoverability" applies in the circumstances, and that he did not "discover" he had a claim until he received a clear denial of coverage at some point after January 2020.

[19] Justice Ann E. Smith exhaustively reviewed the jurisprudence:

> [48] The LAA provides a standard two-year limitation period for actions which begins to run "from the day on which the claim is discovered" (s. 8(1)(a)).
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> [49] Section 6 of the LAA provides that "where there is a conflict between this Act and any other enactment, the other enactment prevails."
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> [50] In *Barry v. Halifax (Regional Municipality)*, 2018 NSCA 79 ("Barry") the Nova Scotia Court of Appeal confirmed that the limitation period prescribed by the *Uninsured Automobile and Unidentified Automobile Coverage Regulations*, made pursuant to the *Insurance Act*, and incorporated into the Standard Automobile Policy, was a limitation period created by an "enactment" as per the LAA (paras. 59-68). Accordingly, it was the limitation period contained in the Standard Automobile Policy that governed the dispute in *Barry*.
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> [51] The Regulations before this Court are the *Automobile Insurance Contract Mandatory Conditions Regulations*. Those Regulations are also made pursuant to the *Insurance Act* and are incorporated into the Standard Automobile Policy. Accordingly,

the Court of Appeal's reasoning in *Barry* applies and the relevant limitation period outlined in the Standard Automobile Policy applies.

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[54] In *Chiasson v. Century Insurance Co. of Canada*, 1978 CanLII 2116 (NBCA), Bugold, J.A., speaking for the New Brunswick Court of Appeal, stated that when dealing with a certain statutory condition, (…every action…by virtue of this contract shall be absolutely barred unless commenced within one year next after the loss or damage occurs) it is the date of the occurrence of the loss or damage and not the date that such loss or damage comes to the insured's knowledge that determines the time from which the limitation period begins to run.

[55] Accordingly, in *Chiasson*, the date of loss relating to a flood causing damage occurred on the date of the flood, July 17, 1975, rather than the date the plaintiff was made aware of the flood. Mr. Chiasson began an action against his insurer on July 19, 1976, one year and two days after the flood occurred. The defendant insurer brought a motion relying upon the statutory condition of the insurance policy to bar the action because it had not been commenced within one year "after the loss or damage occurred."

[56] The New Brunswick Court of Appeal allowed the motion, finding that Mr. Chiasson's claim was statute-barred.

[57] Mr. Hart's defence of this motion largely focuses on the argument that the limitation period in the *Automobile Insurance Contract Mandatory Condition Regulations* starts on the date of "discoverability", and not unassailably on the date of the Collision.

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[61] Allstate also refers to *Barry*, where the motions judge considered whether a claim brought against the Halifax Regional Municipality was started too late. In that case, Ms. Barry was a passenger on municipal transit bus when the bus stopped suddenly to avoid an unidentified vehicle. Ms. Barry commenced an action against HRM in October 2015 for damages in negligence. After discovery examinations in July 2016, Ms. Barry learned that she had a possible claim against HRM's insurer, Royal and SunAlliance Insurance ("RSA"). Ms. Barry brought a motion to add RSA as a defendant.

[62] The motions judge dismissed the motion on the basis that the limitation period outlined in the policy (two years) had passed. The case was successfully appealed on other grounds, with the Court of Appeal finding that s. 12 of the LAA applied (the saving provision).

[63] The parties agree that in the case before this Court, s. 12 of the LAA does not apply.

> [64] The Court of Appeal in *Barry* found that the limitation period barred the action against RSA, even after an assessment of s. 12 of the LAA. The motion judge's conclusion that the limitation period began to run on the day of the incident on the transit bus, pursuant to the statutory requirements of the Standard Automobile Policy, therefore, was not itself overturned by the Court of Appeal.
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> .....
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> [69] The evidence before this Court establishes that the Collision occurred on August 15, 2019. Mr. Hart certainly knew on that date that his truck was damaged. On August 22, 2019 he reported the Collision to Allstate and advised that his truck was damaged – it lit on fire and was towed from the scene.
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> [70] The Notice of Action was filed on December 17, 2021, two years and four months after the Collision.
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> [71] As such, Mr. Hart's Action was filed four months past the expiry of the limitation period as per the Policy and Regulations.
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> [72] Accordingly, the Court finds that Mr. Hart's claim is statute-barred.

[20] Justice Smith went on to perform a discoverability analysis, which was helpful but essentially *obiter* since she had already found the claim to be statute barred.

[21] I am bound by the finding in *Hart*, whether or not I agree with the reasoning, to find similarly. For what it is worth, I agree with Justice Smith's reasoning.

**When did Mr. Jacobs know he had a claim**

[22] If I am wrong about the inapplicability of the LAA, it is worth looking at the facts.

[23] The accident occurred on April 17, 2023. At various times between May and August 2023, Mr. Jacobs inquired about his down-time claim and was given either inconclusive responses or negative responses. On August 8, 2023, he received his cheque for the property damage, with no down-time amounts included.

[24] The evidence is clear that by the end of July 2023 he knew the insurer did not approve his downtime claim. He continued to argue with the adjuster who agreed to elevate the dispute to her manager. At some point in mid to late August, Mr. Jacobs was advised that management stood by the original decision. As a result of his dissatisfaction, Mr. Jacobs made an appointment with his lawyer, a well known Sydney litigation specialist, with whom he met on August 31st 2023. Some of the advice that he received on that day, was to the effect that he could bring an action against the insurer in Small Claims Court.

[25] Therefore, on the most generous (to him) view of the facts, Mr. Jacobs knew that he had a possible claim against the insurer for his down-time, after this August 31st meeting.

[26] As such, the claim would have been statute barred on August 31, 2025, nine days before the Claim was filed. However, this is academic, as I have already found that it was statute-barred in April 2025, by virtue of the policy language.

[27] Unlike the situation under the previous (pre-2015) *Limitations Act*, there is no discretion to extend limitation periods, or more accurately to disallow a limitation defence on equitable grounds. Limitation periods are no longer elastic. From the point of view of claimants, it may seem inflexible or harsh, but the policy of the legislation is very clear. A missed limitation period terminates the cause of action.

[28] Under the circumstances, I am obliged to dismiss the Claim.

Eric K. Slone, Small Claims Court Adjudicator