
Court of Appeal for Saskatchewan
Docket: CACV4486

Citation: 101270777 Saskatchewan Ltd. v
YQZH Management Incorporated,
2026 SKCA 23

Date: 2026-02-05

Between:

101270777 Saskatchewan Ltd. and Kamal Singh Thaira

Appellants
(Defendants)

And

YQZH Management Incorporated

Respondent
(Plaintiff)

Before: Leurer C.J.S., Jackson and McCreary JJ.A.

Disposition: Appeal dismissed (orally)

Written reasons by: The Court

On appeal from: KBG-RG-01010-2023, Regina (SKKB)
Appeal heard: February 5, 2026

Counsel: Danish Shah for the Appellants
Tavengwa Runyowa and Brandon Cain for the Respondent

The Court

[1] This appeal arises in the context of an action by YQZH Management Incorporated against 10270777 Saskatchewan Ltd. and Kamal Singh Thaira [defendants in the Court of King's Bench and appellants in this Court]. The defendants applied, under Rule 7-9(2)(e) of *The King's Bench Rules*, for an order dismissing the action as an abuse of process because (they say) it was commenced outside of the applicable limitation period. Their application was dismissed by a judge of the Court of King's Bench in Chambers: *YQZH Management Incorporated v 101270777 Saskatchewan Ltd.* (3 January 2025), Regina KBG-RG-01010-2023 (SKKB) [*Decision*]. They appealed to this Court.

[2] The appeal from the *Decision* was dismissed orally for reasons given at the conclusion of the appeal hearing, with the promise that the reasons would be reduced to writing. These are the promised written reasons.

[3] Beginning with *Campbell v Cooper*, 2017 SKCA 55, this Court has sanctioned the limited use of Rule 7-9(2)(e) of *The King's Bench Rules* to strike statements of claim because of the expiration of an applicable limitation period. Apart from other restrictions on the use of the abuse of process doctrine, the power to strike an action on this basis has been exercised when the court is able to find that it is plain and obvious that the plaintiff has commenced the action knowing that it was time barred.

[4] In this case, the focus of the parties was on the question of whether it was plain and obvious that the claims advanced in the statement of claim are statute barred at all. The judge dismissed the application because he found that it was not. This Court can interfere with that finding only if it is the product of legal error or, in connection with findings of fact or mixed law and fact, it is the product of palpable and overriding error.

[5] The appellants now allege that the judge erred in his application of certain provisions of *The Limitations Act*, SS 2004, c L-16.1. However, we see no legal error that could have changed the result of this case.

[6] The appellants place most emphasis on the assertion that the judge erred in law by failing to apply s. 18 of *The Limitations Act*. Section 18 states that if a limitation period is raised against a claimant, the claimant has the burden of proving that the limitation period has not expired or there is no limitation period that applies to the claim.

[7] In oral argument, the appellants referred to *Olkowski v Nano-Green Biorefineries Inc.*, 2024 SKCA 11. That case dealt with an application brought pursuant to Rule 7-1 (application to resolve particular questions or issues), Rule 7-2 (application for summary judgment) and Rule 7-9(2)(a) (application to strike based on no reasonable claim). As we read the decision, the Court's reliance on s. 18 was in the context of deciding the application so far as it was made under Rules 7-1 and 7-2.

[8] It is far from clear that s. 18 operates in a case like this one, when the court is called upon to consider an application to strike a statement of claim under Rule 7-9(2)(e). As a matter of first impression, it is arguable whether s. 18 of *The Limitations Act* applies when the full merits of a limitation period defence are to be determined, such as in the context of a summary judgment application or trial, and not in a context like this one where a party seeks to strike a claim because it is an abuse of process. As a general proposition, at least, an applicant seeking to strike a claim because it is an abuse of process carries the burden of showing that it is plain and obvious that the plaintiff knew the action was commenced outside of the limitation period.

[9] However, we need not decide where the burdens rest in this case and therefore the issue of the possible application of s. 18, as the *Decision* did not turn on the question of the burden of proof. Similarly, we see no need to consider if the judge erred in his application of ss. 10 and 17 of *The Limitations Act*.

[10] The appellants' overarching argument is that the judge did not sufficiently analyze the details of when different causes of action arose and erred when he did pay any attention to these details. However, this misunderstands the judge's reasons.

[11] The judge found that it was not plain and obvious that the applicable limitation periods had expired because he saw, in the record before him, evidence of continuing acknowledgements by

the defendants of their liability to YQZH, after the causes of action may have first accrued. In this regard, the judge wrote as follows:

[40] I find that in the YQZH matter, there is a credible argument that the claim did not arise until January 9, 2023, at which time Mr. Thaira is alleged to have acknowledged his obligation for the last time. In the Li matter, there is a credible argument that some or all the claims did not arise until between October 2022 and May 2023, depending on the terms of the contracts, the nature of the obligations in question, and the nature of the communications taking place between the parties at the relevant times.

[12] The judge's reference to the "Li matter" relates to his decision concerning a separate action commenced against some of the same parties. Overall, we interpret the judge's statements that the various claims "did not arise" until the dates mentioned in paragraph 40 to refer to s. 11 of *The Limitations Act*. That provision states that, when there is an acknowledgment of the existence of a claim for payment of a debt, "the act or omission on which the claim is based is deemed to have taken place on the day on which the acknowledgement was made". Thus, in connection with both actions, the judge's conclusion was that there "is a credible argument" that the causes arose when the last of the acknowledgements were made by the defendants.

[13] In the context of the evidence before the judge, this conclusion cannot be found to be palpably incorrect. To say what should be obvious, it may be that YQZH will not be able to prove the existence of acknowledgments made by the defendants to extend the applicable limitation periods when the merits are determined, whether that is at trial or at a summary judgment application. As the judge stated, an application to strike a statement of claim as an abuse of process because of an allegation of an expired limitation period is not an occasion to resolve contentious issues of fact.

[14] In oral argument, the appellants complained about the vagueness of the plaintiffs' evidence and said that the plaintiffs had an obligation to put their best foot forward. However, the obligation to put the best foot forward is a concept that applies in the context of an application for summary judgment – not an application to strike a statement of claim for being an abuse of process, where the onuses and rules are different.

[15] For these reasons, we dismiss this appeal. We award costs in favour of the respondents in the fixed amount of \$3,600.

“Leurer C.J.S.”

Leurer C.J.S.

“Jackson J.A.”

Jackson J.A.

“McCreary J.A.”

McCreary J.A.