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Doctrine of Laches means you are "Out of Time"

January 24, 2012 by Deirdre Wheatley-Liss



In a continuation of our "rosetta stone" of "legalese" to English, Stacey C. Maiden, Esq. of our Estate Planning and Elder Law Department, talks about a recent case that gives life to the dusty doctrine of "laches". Aren't latches what you use to close a door? Not if you are a lawyer - to us "laches" means "too bad, you are out of time", as in, "that door is now locked".

Defendants often raise the "doctrine of laches" as an affirmative defense in answers, but it is seldom applied by the Court. What exactly is laches? **The doctrine of laches is based on the maxim that "equity aids the vigilant and not those who slumber on their rights."** (Black's Law Dictionary). The outcome is that a legal right or claim will not be enforced or allowed if a long delay in asserting the right or claim has prejudiced the adverse party. **Elements of laches include knowledge of a claim, unreasonable delay, neglect, which taken together hurt the opponent.**

A New Jersey Court recently put the doctrine of laches to use in dismissing claims made by a surviving spouse in an estate matter. In the unpublished case *Buie v. Estate of Buie*, Chancery Div., Probate Part (Essex Cty.) (Koprowski, J.S.C.), the decedent died testate, leaving his property in Newark to be divided among his six children equally. One week after his death, the plaintiff, his wife, who received non-probate assets of \$95,000, left the house in question and returned to South Carolina with co-plaintiff, her son with the decedent.

14 years later [*and yes, that is a long time later*], the plaintiff/surviving spouse filed an action demanding her intestate share under N.J.S.A. 3B:5-3 as an omitted spouse under 3B:5-15 or an elective share of her husband's estate under 3B:8-1. **The court held that the omitted spouse claim was barred by the doctrine of laches since there has been a substantial delay in bringing the action, the plaintiff was the cause of the delay, and defendants have been prejudiced as a result of the delay.**

The court also held that plaintiff's claim under the Elective Share statute was time-barred and that no good cause existed to extend the time to file. Under New Jersey statute, plaintiffs must file claims for elective share within 6 months of the appointment of a personal representative. (N.J.S.A. §3B:8-12):

What is the take-away from this? **If you have a legal claim, you have to act on it in a timely manner.** While some claims may have to be brought in a specific period because of a statute-of-limitations (like the Elective Share in the example above), all claims must be made in a reasonable time frame from when you knew about the claim. It is very difficult to have to tell a client while they may have the best case in the world, they aren't able to get relief because they didn't act quickly



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enough. **Luckily, the Doctrine of Laches is entirely avoidable if you get legal advice from an attorney at the time that you have a legal question.**

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