

## LABOUR AND EMPLOYMENT NEWSLETTER

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### LIMITATION PERIOD REVISED FOR WRONGFUL DISMISSAL CLAIMS

André Nowakowski  
Tel. 416.595.2986  
[anowakowski@millerthomson.ca](mailto:anowakowski@millerthomson.ca)

Effective January 1, 2004, the *Limitations Act, 2002* ("Act") came into force in Ontario. This Act provides that a legal proceeding may not be commenced more than two years after the day that the claim was discovered, unless an exception in the Act applies. A proceeding includes a claim for wrongful dismissal.

What does this mean for employers in Ontario? This means that a former employee may only file a wrongful dismissal lawsuit within **two** years of the date of dismissal. The previous Act permitted such a lawsuit to be filed within **six** years of the date of dismissal.

This is clearly a significant change for employers and drastically reduces the length of time during which employers need to be concerned about potential liability arising from wrongful dismissal claims.

The Act does provide that the two year limitation may run from the day on which a reasonable person ought to have known of the circumstances of the claim. However, it is unlikely that this could be used to lengthen the limitation period given the nature of wrongful dismissal as all parties are aware when a dismissal occurs. In any event, the Act sets out that a person is presumed to have known of the circumstances giving rise to the claim unless he or she can prove the contrary.

#### ABOUT THE AUTHOR:

André Nowakowski is a member of our Labour and Employment Group. He provides legal services and advice to a wide range of clients in the private and public sectors.

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*Miller Thomson LLP  
2500 – 20 Queen Street West  
Toronto, ON M5H 3S1*

*416.595.8500  
416.595.8695 (fax)*

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