

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

**GEORGE LAFFERTY, ADMINISTRATOR OF THE ESTATE OF
HONORINE NORN, deceased, MARCEL NORN, CECIL LAFFERTY,
GEORGE LAFFERTY, MARCELLA NORN, RAYMOND NORN,
DWIGHT NORN and TRINA NORN**

Plaintiffs

- and -

**STANTON REGIONAL HOSPITAL, STANTON REGIONAL HEALTH
BOARD, THE COMMISSIONER OF THE NORTHWEST
TERRITORIES, DR. DONALD HADLEY, YVONNE McNEIL and JOHN
DOE**

Defendants

MEMORANDUM ON COSTS

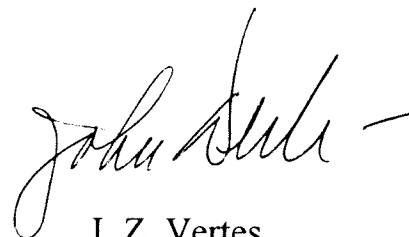
[1] The plaintiffs were successful on two motions: (a) a summary judgment motion brought by the defendant hospital; and, (b) a motion to amend the Statement of Claim. While the two applications were separate, they raised common issues. Those dealt with the applicability of limitations periods to fatal accident actions, and, in particular, the applicability of the discoverability rule and the addition of claims and parties after the expiry of the statutory period. Hence I prefer to consider these motions as one (especially since they were argued at one hearing on common materials).

[2] Ordinarily, if a party brings a summary judgment application and that application fails, that party will face some costs consequences. I think this is clearly the underlying intention behind such rules as Rule 180(1) and 180(3). Here the application was brought on the basis of some very strong case law. It was not a speculative or frivolous application. The arguments advanced by the defendant may well succeed ultimately at trial.

[3] Taking all factors into account, I think this is the situation contemplated by Rule 180(2): "the Court may decline to fix and order costs...where it is satisfied that the making of an application, although unsuccessful, was nevertheless reasonable".

[4] For these reasons, I direct that costs of both applications be costs in the cause.

[5] Dated this 20th day of August, 1998.

A handwritten signature in cursive script, appearing to read "John Vertes", with a horizontal line extending to the right.

J. Z. Vertes
J.S.C.

To: Austin Marshall
Counsel for the Plaintiffs

Charles Thompson
Counsel for the Defendant Stanton Regional Hospital

Jack Williams
Counsel for the Defendant Hadley

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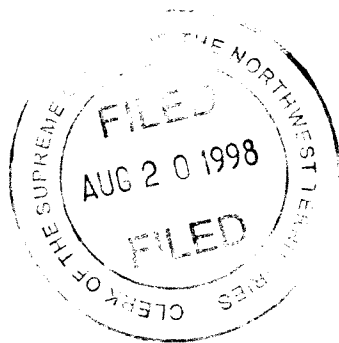
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MEMORANDUM OF JUDGMENT OF
THE HONOURABLE J. Z. VERTES
