Laches: Elements Of The Defense And Practical Considerations

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A. Elements of the Defense

1. Laches is an equitable defense to delayed claims.
   a. California. See generally In re Marriage of Fogarty & Rasbeary, 93 Cal.Rptr.2d 653, 657 (Cal.App. 2000). “Laches is an equitable defense to the enforcement of stale claims.”
   d. Florida. Baskin v. Griffith, 127 So.2d 467, 471 (Fla.Dist.App. 1961). Courts of equity apply the doctrine of laches (hereafter “laches”) and not statutes of limitation. “Laches is principally a question of the inequity of permitting a claim to be enforced by equitable remedies in the face of a change in the conditions or relations of the parties occasioned by a delay that works a disadvantage to him against whom equitable relief is sought.”

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e. Georgia
   i. Cagle v. Cagle, 586 S.E.2d 665, 666 (Ga. 2003). The trial court granted summary judgment, and the Georgia Supreme Court affirmed on grounds that the claim was barred by the equitable doctrine of laches.
   iii. See generally Boyd v. Robinson, 683 S.E.2d 862, 865 (Ga. Ct. App. 2009). Defendants in a lawsuit stemming from a car accident could not avail themselves of laches because “the equitable doctrine of laches does not apply to legal actions.”

f. Illinois. Carlson v. Carlson, 98 N.E.2d 779, 782 (Ill. 1951). Laches is an equitable doctrine created by the courts to promote justice.

g. Indiana. Bender v. Bender, 844 N.E.2d 170, 184 (Ind.App. 2006). In a case involving a personal representative of an estate engaged in self-dealing, the appellate court concluded that the probate court did not abuse its discretion when determining there was no unreasonable delay. The court indicated that the doctrine of laches is equitable.


i. North Carolina. Stratton v. Royal Bank of Canada, No. 07 CVS 15079, 2010 WL 445605, at *4 (N.C.Super. Feb. 5, 2010) (quoting Order of R.R. Telegraphers v. Railway Express Agency, Inc., 321 U.S. 342, 348-349 (1944)). “Laches is an equitable doctrine ‘designed to promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared.’”

j. Ohio
   i. Smith v. Smith, 156 N.E.2d 113, 447, 456 (Ohio 1959). The court notes “that laches is exclusively an equitable doctrine, and that most of the law relating to that subject has been made in separate ‘courts of equity,’ or, under our modern system wherein no distinction is made between ‘equity’ and ‘law’ courts, such law has been made by the consideration in such courts of traditional ‘equity’ cases.”

k. Pennsylvania
   i. In re Estate of Aiello, 993 A.2d 283, 287-88 (Pa. 2010). “[L]aches is an equitable doctrine which bars relief when the complaining party is guilty of want of due diligence in failing to promptly institute the action to the prejudice of another.” Because the executor engaged in continuous breaches of his fiduciary duty, however, the court refused to apply laches, indicating that “[a] party seeking equitable relief must come before the court with clean hands.”

1. *Texas. Wayne v. A.I.A. Vending, Inc.*, 52 S.W.3d 412, 415 (Tex.App. 2001). Laches is an equitable remedy, however, the application of laches “is usually limited to cases arising out of equity or actions at law that are essentially equitable in character.” Laches was not applicable in this case because it involved a breach of contract claim, which asserts legal rights.


   (1) See generally *Klackner v. Willis*, 1987 WL 488775, at *3 (Va.Cir. Jan. 20, 1988). “Laches is an equitable principle defined as inexcusable delay in the enforcement of one’s rights, to the prejudice of the other party[.]” and “[i]t prevents the prosecution of stale claims in courts of equity, in much the same fashion as statutes of limitation apply to legal claims and demands.”

n. *Wisconsin. In re Estate of Sfasciotti*, No. 2009AP1201, 2010 WL 2086338, at *16 (Wis.App. May 26, 2010). “Laches is an equitable doctrine, distinct from a statute of limitations, whereby a party may lose its right to assert a claim by not making it promptly.” A claim asserted by an estate seeking to recover estate assets from past promissory notes is an action at law regarding which laches does not bar recovery.

2. While laches is related to other equitable defenses, such as waiver and estoppel, its critical element requires a showing of prejudice. See generally *Danjaq LLC v. Sony Corp.*, 263 F.3d 942, 955 (9th Cir. 2001). “Courts have recognized two chief forms of prejudice in the laches context—evidentiary and expectations-based. Evidentiary prejudice includes such things as lost, stale, or degraded evidence, or witnesses whose memories have faded or who have died. A defendant may also demonstrate prejudice by showing that it took actions or suffered consequences that it would not have, had the plaintiff brought suit properly.” (Citations omitted.)

a. Prejudice may result from a party’s change of position.

   i. *California. Welch v. St. George*, No. B189271, 2007 WL 1559823, at *10-11 (Cal.App. May 31, 2007). Seventeen years after the court interpreted a section of a partnership agreement, one of the partners challenged the way profits were distributed. The trial court granted defendants’ motion to dismiss, in part by applying laches. The 17-year delay was determined to be an unreasonable delay. The change in business partners, through death and selling of shares, altered the defendants’ position, placing them in a prejudiced position.


   iii. *Florida. Baskin v. Griffith*, 127 So.2d 467, 472-73 (FlaDist.App. 1961). A doctor created a trust for the heirs of a fellow doctor that contained a one-sixth share in specified property. Seventeen years after the property was sold, the trust beneficiaries brought suit seeking their share of the sale proceeds. The appellate court held that the Chancery Court inappropriately granted a summary
decree for the plaintiff because there was a genuine question of material fact as to whether the defendant’s position was sufficiently altered by disbursement of funds that had occurred during the delay.

iv. Massachusetts. March v. March, No. 03-P-1428, 2004 WL 2452705, at *3 (Mass.App. Nov. 2, 2004). A father held property in trust for his sons but made multiple conveyances over the years. In a suit by one son, the appellate court held that the date plaintiff became aware of the breach of trust was an unresolved material question of fact, precluding judgment as to both the statute of limitations and laches. The defendant’s elderly status and failing health did not demonstrate a material change in his position required to raise laches.

(1) Porotto v. Fiduciary Trust Co., 321 Mass. 638, 644 (1947). The court held that despite there being a 94-year delay in bringing suit, the application of laches requires more than mere delay.

v. Michigan. Tray v. Whitney, 192 N.W.2d 628, 631 (Mich.App. 1971). Plaintiff challenged a conveyance of his share of property that took place when he was a minor. The appellate court stated that “[l]aches is not the mere passage of time, but is rather the passage of time combined with a change in condition which would make it inequitable to enforce a claim against the defendant.” The defendant only set out the defense without specifying any change in position.

vi. North Carolina. See generally Williams v. Blue Cross Blue Shield, 581 S.E.2d 415, 424 (N.C. 2003). The court held that laches applies “[i]n equity, where lapse of time has resulted in some change in the condition of the property or in the relations of the parties which would make it unjust to permit the prosecution of the claim.”

vii. New York. See generally Skrodelis v. Norbergs, 707 N.Y.S.2d 197, 198 (N.Y.App.Div. 2000). The court held that laches “bars the enforcement of a right where there has been an unreasonable and inexcusable delay that results in prejudice to a party[.]” and “[p]rejudice may be established by a showing of injury, change of position, loss of evidence, or some other disadvantage resulting from the delay.”

(1) See generally Saratoga County Chamber of Commerce, Inc. v. Pataki, 100 N.Y.2d 801, 816 (2003), cert. denied, 540 U.S. 1017. “[A] mere lapse of time, without a showing of prejudice, will not sustain a defense of laches.”

viii. Ohio. Bank One Trust Co., N.A. v. LaCour, 721 N.E.2d 491, 496 (Ohio App. 1999). A trustee sought recovery of erroneously distributed funds. The court denied defendant’s assertion of laches, concluding that the four-year delay did “not appear to have materially affected appellant’s position with respect to the overpayment, other than extending the period...of his interest-free use of the money mistakenly paid to him.” In other words, the delay did not harm the defendant but financially benefited him.

ix. Pennsylvania. In re Estate of Aiello, 993 A.2d 283 (Pa. 2010). Because a widow was uneducated, her brother-in-law was named executor of her husband’s will. Twenty-three years after her husband’s death, the widow sued the executor. The appellate court held that to raise the defense of laches, the respondent must prove that he or she was prejudiced by the petitioner’s delay in asserting his or her claim. Faded memories did not result in a detrimental change in position.