

*Adoption of B.C., Jr.*

Let's revisit *Civil Code* Section 3527 ["The law helps the vigilant, before those who sleep on their rights."] Or, in more colloquial terms: "You snooze, you lose." A core lesson of *Adoption of B.C.* is that careful attention must be paid to statutes of limitations because lawsuits will be time-barred if they are not filed in a timely manner.

In this case, Mother allowed her parents (her mother and stepfather) to adopt her son when he was two years old. She did so because she was suffering from severe depression after her son was born, and needed her parents to help care for her son. When her son turned five years old, Mother filed a motion to set aside the adoption. Mother always had a loving and continuous relationship with her son; she only filed her motion after her parents filed a temporary restraining order against her (which was denied). It was only then she found out about the adoption. In her motion to set aside the adoption, she alleged extrinsic fraud, based on the fact that when she signed consent forms to let her parents take care of her son, she thought she was consenting to a temporary guardianship, not an adoption. Mother claimed the social worker who presented her with the consent forms did not tell her what they were, did not give her a copy, and failed to advise her of her rights in connection with the adoption. Mother also claimed that when she asked her parents for copies of the guardianship documents, they refused to give them to her.

The trial court denied Mother's motion on the ground it was time-barred under *Family Code* Section 9102. The Court of Appeal affirmed the trial court's ruling. In doing so, the appellate court held that *Family Code* Section 9102(b) specifically provides that an action to set aside an adoption must be commenced within three years of the entry of the adoption order if fraud exists. The Court further held that the Legislature intended the three year statute of limitations to apply even to extrinsic fraud (where the aggrieved party has been deliberately kept in ignorance of the action or is fraudulently prevented from presenting his/her claim or defense). Finally, the Court held that *Family Code* Section 9102 does not violate due process because it gives biological parents sufficient time to file a motion to set aside an adoption. The Court weighed a parent's compelling interest in custody of his/her child against the security and stability of the adoptive placement. In this case, the court found that Mother's due process rights were not violated because she had actual knowledge that there was some kind of legal proceeding concerning custody of her son. She also had a duty to keep herself informed about the supposed guardianship proceedings. The Court opined that it should have been a red flag that her parents refused to give her copies of any guardianship documents. The Court also found that Mother had actual knowledge that her parents had custody of her son for six years. Under those circumstances, the Court determined that the statute of limitations which operated to cut off Mother's right to set aside the adoption did not violate due process.

These delicate cases are both intensely fact-driven and legally ----- technical. Time limitations pervade almost every aspect of family law practice. Attention must be paid!

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