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Quiz

Time Limitations and Abuse of Process Applications

1. **On what basis did the defendant claim that the proceedings brought against it were an abuse of process?**
   a. **The plaintiff was now deceased**
   b. **The plaintiff had not brought the case within the prescribed limitation period**
   c. **The defendant suffered prejudice**
   d. **All of the above**

2. **Which of the following is correct in regard to the *Limitations Act 1969 (NSW)*?**
   a. **A person must bring a case relating to child sexual and physical assaults within the prescribed time limit**
   b. **There is no time limit in relation to bringing cases relating to child sexual and physical assaults**
   c. **The Court retains the power to stay proceedings as an abuse of process**
   d. **Both B & C**

3. **What was Justice Garling's decision in *Estate Judd v McKnight; Gummage v Estate Judd, Channell v Estate Judd; McKnight v Estate Judd (No 4)* [2018] NSWSC 1489?**
   a. **The Estate's abuse of process application was upheld**
   b. **The Estate's abuse of process application was dismissed**

c. The Estate was granted leave to undertake further enquiries

d. The Plaintiff could not bring the application due to the limitation period's expiration

4. Which of the following may be described as the key takeaway from this case?

a. There is an onus on the defendant in bringing such an application to make extensive enquiries and put on evidence in the proceedings of such enquiries

b. A plaintiff alleging historical child sexual or physical abuse must bring their claim within the statutory time limit

c. It is likely that civil proceedings against an estate will be found to be prejudiced if the plaintiff does not make extensive enquiries and put on evidence in the proceedings of such enquiries

d. All of the above

5. Which of the following cases is precedent for a successful stay of proceedings due to abuse of process claim?

a. *Batistatos v Roads and Traffic Authority of NSW* [2006] HCA 27

b. *Connellan v Murphy* [2017] VSCA 116

c. *Both A and B*

d. Neither A or B

Answers:

1. C 2. D 3. B 4. A 5. C