

Hicken v. Etobicoke (1999) CarswellOnt 3226 (Ont. S.C.J.).

**Proposition of Law:**

Occupier's liability – *Limitations Act* – Motion by defendants in action for negligence to strike Statement of Claim and dismiss action for failure to disclose reasonable cause of action – Motion by plaintiffs to amend Statement of Claim – Slip and fall – Surveyor providing report to plaintiffs that slip and fall occurred on property owned by property owner and not by City – Defendants not advised within limitation period to amend – Amendment to Statement of Claim sought after almost three years of receiving written report of Surveyor which disclosed relevant facts – Amendment to Statement of Claim permitted – Only new fact alleged in the amended pleading is that defendants are the owners and occupiers of part of the sidewalk where accident occurred – Fact not easy for plaintiffs to ascertain – Special circumstances being that new fact is a matter that one would expect defendants to know “or quickly discover” – Defendants not prejudiced by amendment.