SAMPLE CASE BRIEF

Kennedy v. Goffstein, 62 Mass.App.Ct. 230 (2004)

Parties: Plaintiffs: A. William Kennedy and Helen P. Kennedy
Defendant: Scott Goffstein

Issue: Did the trial court err when it ruled that the statute of limitations had expired On plaintiffs' claim against Goffstein and dismissed the suit.

Holding: Yes, the trial court erred

Facts: In 1993, Goffstein's employee prepared the Kennedys' 1992 tax return.
In 1995, the IRS audited that return.
In 1997, the IRS issued a letter of adjustments and requested further documentation.
In 1997, the IRS issued a notice of deficiency.
In 2000, Kennedys filed suit against Goffstein for malpractice

Reasoning: The statute of limitations for malpractice is three years. Massachusetts is a discovery state which means that a claim for malpractice starts to run when the plaintiff knows or should have known that she was harmed as a result of the malpractice. While other states have adopted bright line tests to determine when the statute of limitations starts to run, such as when a formal assessment is made, we will not adopt that test since there are many different factual situations which may start the statute to run. It is therefore a fact question for the jury to decide when the statute of limitations started to run on the Kennedys' claim against Goffstein.