

STATE OF MICHIGAN
COURT OF APPEALS

GARY R. DETTLOFF, PENSACOLA LIMITED
PARTNERSHIP, and CANTONMENT LIMITED
PARTNERSHIP,

UNPUBLISHED
March 20, 1998

Plaintiffs-Appellants/Cross-Appellees,

v

No. 199426
Wayne Circuit Court
LC No. 96-600595 NM

DOLD, SPATH, & MCKELVIE, P.C.,

Defendant-Appellee/Cross-Appellant.

Before: Gribbs, P.J., and Cavanagh and Saad, JJ.

PER CURIAM.

Plaintiffs appeal as of right from an order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(7). Defendants cross appeal the trial court holding that plaintiffs' claims were not barred by the statute of limitation. We affirm.

Because we find that it is dispositive of this case, we address defendant's claim on cross appeal. Defendant asserts that plaintiff's claim of legal malpractice is barred by the statute of limitation, and we agree.

A legal malpractice action must be brought within one of the following time frames: two years after the date the attorney discontinues serving the plaintiff, or six months after the plaintiff discovers or should have discovered the claim, whichever is later. MCL 600.5805; MSA 27A.5805; MCL 600.5838; MSA 27A.5838; *K73 Corp v Stancati*, 174 Mich App 225, 227-228; 435 NW2d 433 (1988). Both time limits had expired when plaintiffs filed their malpractice claim against defendant.

The trial court found the last date of service to be June 28, 1994, the date of the execution of the release agreement. However, defendant had completed work on the documents which are the subject of the malpractice claim by January 1992. A lawyer discontinues serving a client when relieved of the obligation by the client or the court, upon completion of a specific legal service that the lawyer was retained to perform, or upon the retention of an alternative attorney. *Maddox v Burlingame*, 205 Mich App 446, 450; 517 NW2d 816 (1994). We conclude that the trial court erred in finding that the

last date of service was the date that the release was executed. The execution of the release was done in the context of an adversarial proceeding in which defendant was seeking to recover legal fees from plaintiffs. Thus, since defendant completed the specific legal service of drafting legal documents for plaintiffs in January 1992, and the present action was filed on January 5, 1996, plaintiffs' complaint was barred by the two-year provision of the statute of limitation.

The operation of the statute of limitation may be postponed where there is fraudulent concealment of the fact that the plaintiff has a cause of action. However, if plaintiff knows of the cause of action there can be no concealment. *Eschenbacher v Hier*, 363 Mich 676, 681-682; 110 NW2d 731 (1961). Plaintiffs allege that the documents prepared by defendant were deficient and that there was a conflict of interest that should have prevented defendant from representing plaintiffs, which was not discovered until 1995. However, the alleged inadequacies of the documents were or should have been apparent in 1991 and 1992, when the documents were drafted. Plaintiffs do not allege that there was fraudulent concealment which made the documents appear adequate until 1995, when the conflict of interest was discovered. Therefore, plaintiffs' claims are barred by the statute of limitation.

Affirmed.

/s/ Roman S. Gibbs

/s/ Mark J. Cavanagh

/s/ Henry William Saad