

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CHERYL PEREZ, Personal Representative of the  
Estate of KEVIN RUTCOSKEY, Deceased,

UNPUBLISHED  
March 28, 2000

Plaintiff-Appellant,

v

No. 212502  
Kent Circuit Court  
LC No. 96-000267-NM

JOEL S. WHETSTONE,

Defendant-Appellee.

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Before: Wilder, P.J., and Sawyer and Markey, JJ.

PER CURIAM.

Plaintiff appeals by right the order granting defendant summary disposition in this legal malpractice action. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff's son was killed in an automobile accident. Plaintiff met with attorney Steven Timmers to discuss a potential wrongful death action. Defendant shared space with Timmers, and was brought into the meeting. Plaintiff believed that defendant would be helping Timmers with the representation.

Plaintiff informed the attorneys that the decedent may have had an illegitimate child. Defendant investigated the claim, and was retained by the child's mother to represent the interests of the child. Plaintiff believed that this constituted a conflict of interest, and she discharged both defendant and Timmers by hand-delivered letters on November 11, 1992.

At a November 20, 1992 hearing, the probate court approved a third-party automobile settlement previously negotiated that also provided for the division of the proceeds. Timmers and defendant each received a fee. Defendant's portion of the fee was based on his representation of the child.

On December 4, 1992, plaintiff was called to Timmers' office, where she signed a check and release from the insurance company, and received a disbursement from defendant's trust account.

When plaintiff attempted to file another action against other parties regarding the accident, the court found that the action was barred by the general release signed by plaintiff.

Plaintiff brought legal malpractice actions against Timmers and defendant. The action against Timmers was dismissed based on plaintiff's discharge of Timmers before the execution of the release. In this action, the trial court found that defendant did not owe plaintiff a duty of care sufficient to support a malpractice claim where defendant was retained to represent the child and not the estate.

In order to state an action for legal malpractice, a plaintiff has the burden of adequately alleging the following elements: (1) the existence of an attorney-client relationship; (2) negligence in the legal representation of the plaintiff; (3) that the negligence was a proximate cause of an injury; and (4) the fact and extent of the injury alleged. *Simko v Blake*, 448 Mich 648, 655; 532 NW2d 842 (1995). In legal malpractice actions, a duty exists as a matter of law if there is an attorney-client relationship. *Id.* Whenever an attorney is retained in a cause, the attorney has an implied duty to exercise reasonable skill, care, discretion and judgment in the conduct and management thereof. *Id.* at 655-656.

When a client terminates an attorney's services, that is the end of the representation. *Hooper v Lewis*, 191 Mich App 312; 477 NW2d 114 (1991). Even if plaintiff had an attorney-client relationship with defendant, that relationship ended as of the dismissal letter. The release was executed after the termination date, and there is no basis to impute a duty on the part of defendant to represent plaintiff.

We affirm.

/s/ Kurtis T. Wilder  
/s/ David H. Sawyer  
/s/ Jane E. Markey