

STATE OF MICHIGAN
COURT OF APPEALS

JOHN FRANCIS LECHNER, d/b/a LECHNER
CONSTRUCTION,

UNPUBLISHED
July 27, 2010

Plaintiff-Appellant,

v

FRED LOVEJOY and LOVEJOY LAW
OFFICES, P.C.,

No. 291857
Chippewa Circuit Court
LC No. 08-009874-NM

Defendant-Appellees.

Before: SHAPIRO, P.J., and SAAD and SERVITTO, JJ.

MEMORANDUM.

In this action arising out of a dispute over attorney fees, plaintiff appeals the trial court's order granting summary disposition in favor of defendants, Fred Lovejoy and Lovejoy Law Offices, P.C. For the reasons set forth below, we affirm.¹

Plaintiff hired attorney Fred Lovejoy to represent him in an ultimately successful contract action. Plaintiff alleged that most of the proceeds of that action went to Lovejoy's attorney fees and that defendants engaged in fraud and misrepresentation related to the attorney fees charged. He also asserted claims for malpractice, breach of contract, and breach of fiduciary duty. Defendants moved for summary disposition pursuant to MCR 2.116(C)(7) and (8). Defendants argued that all of plaintiff's claims are barred by the two-year statute of limitations for malpractice actions. Defendant further maintained that plaintiff failed to present a fraud claim upon which relief could be granted because there is no evidence of a material misrepresentation by Lovejoy and no evidence of reliance by plaintiff. The trial court agreed with defendants and also ruled that plaintiff should have raised claims about the attorney fees charged by Lovejoy in the underlying action when Lovejoy moved to enforce his lien.

Here, plaintiff has only asked for reversal of the trial court's decision on his fraud claim. We review de novo a trial court's decision on a motion for summary disposition. *Dressel v Ameribank*, 468 Mich 557, 561; 664 NW2d 151 (2003). To determine the applicable limitations

¹ This appeal has been decided without oral argument pursuant to MCR 7.214(E).

period, a court must first ascertain the true nature of the claim, focusing on the type of interest allegedly harmed. In doing so, we read the complaint as a whole and look behind the labels used to determine the true nature of the claim. *Adams v Adams (On Reconsideration)*, 276 Mich App 704, 710-711; 742 NW2d 399 (2007). The determination is important in this case because the basic statute of limitations for legal malpractice claims is two years from the last day of an attorney's service to the client, MCL 600.5805(6) and MCL 600.5838(1), while the basic statute of limitations for fraud is six years, MCL 600.5813. If the two-year malpractice statute of limitations applies, plaintiff's claim is time-barred because it was filed more than two years after the last day of Lovejoy's service.

Defendants successfully argued in the trial court that the true nature of plaintiff's fraud claim was legal malpractice. On appeal, plaintiff simply fails to address the basis of the court's holding in that regard. Instead, he merely states that the fraud count is not time-barred because the malpractice count is time-barred. Plaintiff also fails to address the court's ruling that summary disposition was appropriate because plaintiff's claims should have been raised in the underlying action. "It is not sufficient for a party 'simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position.'" *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959). Accordingly, we hold that these issues have been abandoned. Because the abandonment of these issues is outcome determinative, we will not address the underlying merits of plaintiff's appeal.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Henry William Saad
/s/ Deborah A. Servitto