

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

WILLIAM MOORE

CIVIL ACTION

VERSUS

NO. 10-311 C/W 13-6448

ARNOLD & ITKIN, LLP, ET AL

SECTION "N" (4)

ORDER AND REASONS

Before the Court is a Motion for Summary Judgment (Rec. Doc. 115) filed by defendant Arnold & Itkin, LLP, seeking dismissal of plaintiff's legal malpractice claims against it. The motion is opposed by the plaintiff, William Moore (Rec. Doc. 116).

The Court finds that material issues of fact exist such that the defendant's Motion for Summary Judgment is DENIED. In particular, the Court disagrees that this is a case requiring expert testimony regarding the breach of a standard of care. Rather, the claim involves whether defendant (plaintiff's counsel in the underlying litigation) conducted due diligence of all outstanding medical bills and maintenance and cure obligations, such that counsel's conduct was reasonable in accepting underlying defense counsel's representation¹ that all such items had been paid, and,

¹ The underlying defendants in plaintiff's Jones Act lawsuit (USDC-EDLA No. 10-311) were Omega Protein and M/V Raccoon Point, which went to trial on January 10, 2011, and resulted in a judgment in favor of defendants.

consistent therewith, not opposing the underlying defendant's motion for directed verdict. Indeed, in failing to oppose the motion for directed verdict, and in accepting underlying defense counsel's representation that all medical expenses and maintenance and cure had been paid at the time of trial, defendant/movant herein is presumed to have investigated whether such amounts had, in fact, been paid, or in the alternative, whether sufficient grounds existed to oppose the motion for directed verdict. An additional issue exists as to whether counsel's failure to discover the unpaid Acadian Ambulance expenses was an error/omission which constituted negligence on the part of counsel.

For these reasons, the defendant's Motion for Summary Judgment (Rec. Doc. 115) is DENIED.

New Orleans, Louisiana, this 7th day of August, 2014.


KURT D. ENGELHARDT
United States District Judge