

STATE OF MICHIGAN  
COURT OF APPEALS

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ISHAM GRADY,

Plaintiff-Appellant,

v

ROSE HOOPER and WILLIAM F. BRANCH,

Defendants-Appellees.

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UNPUBLISHED  
October 10, 1997

No. 196258  
Wayne Circuit Court  
LC No. 94-424526 NM

Before: Doctoroff, P.J., and Cavanagh and Saad, J.J.

MEMORANDUM.

In this legal malpractice action, summary disposition was granted in favor of defendants after a judgment adverse to plaintiff in the prior, underlying proceeding was, as respects the alleged acts of malpractice, amended to eliminate any prejudicial effect of such alleged legal malpractice. Plaintiff appeals by right, contending that the circuit court erred in granting summary disposition “with prejudice”, because the amended judgment in the prior action could be vacated, reversed, or otherwise modified in a manner detrimental to plaintiff by the trial court or an appellate court. This case is being decided without oral argument pursuant to MCR 7.214(E).

Summary disposition is inherently a judgment on the merits, and therefore is properly a disposition with prejudice. *ABB Paint Finishing Co v National Union Fire Ins Co*, 223 Mich App 559; \_\_\_ NW2d \_\_\_ (1997). However, the fact that summary disposition was properly granted with prejudice does not preclude plaintiff from having the present judgment set aside in due course should the amended judgment in the prior action be modified so as to adversely affect plaintiff’s present position. While the mere pendency of proceedings to review a judgment does not affect its admissibility or effect as the basis of an estoppel claimed in a later suit, its subsequent vacation by the court rendering it or its reversal by an appellate court renders it nugatory and subjects any other judgment based thereon to similar vacation or reversal. *Walz v Agricultural Ins Co of Watertown, New York*, 282 F 646 (CA 6, 1922); *Hallett v Gordon*, 128 Mich 364; 87 NW 261 (1901). Thus, although summary disposition was properly granted with prejudice, plaintiff’s right to pursue his legal malpractice claims against these defendants is nonetheless preserved should future events result in plaintiff having suffered cognizable damage from the alleged acts of malpractice (as to which this Court expresses no opinion).

Affirmed.

/s/ Martin M. Doctoroff

/s/ Mark J. Cavanagh

/s/ Henry W. Saad