

STATE OF MICHIGAN
COURT OF APPEALS

PHILLIP LEONARD SMITH,

Plaintiff- Appellant,

v

WILLIAM G. RAPPLEYE and RAPPLEYE &
WILKINS,

Defendants-Appellees.

UNPUBLISHED

December 1, 1998

No. 204852

Jackson Circuit Court

LC No. 96-074909 NM

Before: Sawyer, P.J., and Wahls and Hoekstra, JJ.

MEMORANDUM.

Plaintiff Phillip Leonard Smith appeals of right from the circuit court order granting the motion for summary disposition filed by defendants William G. Rappleye and Rappleye & Wilkins. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff retained defendants to represent him after his wife died from injuries sustained in a collision with an intoxicated driver. Plaintiff was named personal representative of his wife's estate. Suit was filed against the driver. Subsequently, an amended complaint was filed asserting a dram shop action against the licensee. The licensee was granted summary disposition on the grounds that it had not been given timely presuit notice as required by MCL 436.22(5); MSA 18.993(5).

Upon learning that plaintiff's negligence could have caused the accident, defendants withdrew and referred the case to another attorney. On November 29, 1993, the probate court removed plaintiff as personal representative. On December 22, 1993, substitute counsel filed an amended complaint naming plaintiff as a defendant. On January 18, 1994, defendants notified plaintiff by letter of their withdrawal. Other counsel substituted in on plaintiff's behalf on January 27, 1994.

In the instant case, filed on January 31, 1996, plaintiff asserted that defendants committed malpractice by failing to provide timely presuit notice in the dram shop action. Defendants moved for summary disposition pursuant to MCR 2.116(C)(7) and (10), arguing that the suit was not timely filed because it was not commenced within two years after they discontinued serving plaintiff in a professional

manner. MCL 600.5838(1); MSA 27A.5838(1). The circuit court granted defendants' motion for summary disposition.

This Court reviews a trial court's ruling on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

Plaintiff argues that defendants rendered professional service to him within two years of the filing of the malpractice complaint. He points to a May 23, 1995, letter sent to him advising him that the underlying case had been settled.

We disagree. An attorney discontinues servicing a client when he is relieved of the obligation by the client or the court, or when he completes a specific legal service for which he was retained. Retention of a substitute lawyer effectively terminates the attorney-client relationship. *Maddox v Burlingame*, 205 Mich App 446, 450-451; 517 NW2d 816 (1994). Other counsel was representing both the estate and plaintiff, in his capacity as a defendant in the amended suit, no later than January 27, 1994. The attorney-client relationship between plaintiff and defendants was effectively terminated as of that date. The May 23, 1995, communication was a form letter sent to all of plaintiff's wife's heirs advising that the underlying suit had been settled. The letter did not reflect that defendants had performed any further services on plaintiff's behalf in connection with the underlying case.

Affirmed.

/s/ David H. Sawyer

/s/ Myron H. Wahls

/s/ Joel P. Hoekstra