

STATE OF MICHIGAN
COURT OF APPEALS

JAMES R. CMEJREK,

Plaintiff-Appellant,

v

TERRENCE A. BERTRAM, TERRENCE A.
BERTRAM, P.C., and ANNA CRAWFORD
BERTRAM,

Defendants-Appellees.

UNPUBLISHED

December 28, 1999

No. 205259

Washtenaw Circuit Court

LC No. 96-003483 NZ

Before: Fitzgerald, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

Plaintiff appeals as of right the orders granting summary disposition in favor of defendants. We affirm.

This case arises from plaintiff's representation of Elizabeth Dimcheff in various divorce and post-divorce proceedings. According to plaintiff, defendant Terrance A. Bertram, an attorney, counseled Dimcheff regarding the matter for which plaintiff was retained.¹ Bertram also allegedly orally defamed plaintiff by making derogatory statements to Dimcheff concerning plaintiff's representation of Dimcheff and by republishing the statements in legal documents in this and a previous lawsuit filed by Dimcheff against plaintiff. Plaintiff filed the present action involving counts for tortious interference with contractual relationship, breach of professional conduct, and defamation. The trial court granted summary disposition of each count in favor of defendants pursuant to MCR 2.116(C)(10), (C)(8), and (C)(7), respectively.

Plaintiff first argues that the trial court improperly granted summary disposition in favor of defendants on the count of tortious interference with a contractual relationship. We disagree. The elements of tortious interference with a contractual relationship include the existence of a contract between the plaintiff and a third party, a breach of that contract, and instigation of the breach by the defendant without justification. *Jim-Bob, Inc v Mehling*, 178 Mich App 71, 95; 443 NW2d 451 (1989). Although plaintiff had a contract to represent Dimcheff, Dimcheff's discharge of plaintiff did not constitute a breach. "[A] client has an absolute right to discharge an attorney, the discharge is not a

breach of contract.” *Plunkett & Cooney, PC v Capitol Bancorp Ltd*, 212 Mich App 325, 330; 536 NW2d 886 (1995).

Plaintiff next contends that the trial court improperly granted summary disposition in favor of defendants on the count of breach of professional conduct. We disagree. Failure of an individual practicing law to comply with the professional rules does not “give rise to a cause of action for enforcement of a rule or for damages caused by failure to comply with an obligation or prohibition imposed by a rule.” MRPC 1.0. Because the professional rules specifically state that a failure to comply with the rules does not give rise to a cause of action for an attorney’s failure to comply, no factual development in this case could establish the claim and justify recovery against defendant Terrence Bertram. Plaintiff’s only recourse is to file a grievance with the Attorney Grievance Commission if plaintiff believes that the violation in question rises to the level of misconduct stated in MRPC 8.3. Furthermore, nothing in the record indicates that defendant Anna Crawford Bertram is an attorney subject to the professional rules. Therefore, no factual development in this case could establish the claim and justify recovery.

Last, plaintiff contends that the trial court improperly granted summary disposition in favor of defendants pursuant to MCR 2.116(C)(7) on the defamation claim. Again, we disagree.

The statute of limitation for slander or libel actions is one year. MCL 600.5805(7); MSA 27A.5805(7). A slander or libel claim accrues “at the time the wrong was committed regardless of the time when damage results.” *Wilson v Knight-Ridder Newspapers, Inc*, 190 Mich App 277, 279; 475 NW2d 388 (1991); see also MCL 600.5827; MSA 27A.5827. The alleged wrong is committed on the date the slander or libel was published. *Id*.

Here, plaintiff filed the defamation claim regarding the alleged oral defamatory statement by Bertram more than two years after the alleged statement was published. Consequently, this claim is barred. MCL 600.5805(7); MSA 27A. 5805(7). Furthermore, with regard to the alleged republication of the slander in subsequent legal writings, the alleged defamatory statements were relevant to an issue raised in the course of a judicial proceeding. Therefore, defendants are absolutely privileged from any liability with respect to the republication. *Sanders v Leeson Air Conditioning Corp*, 362 Mich 692, 695; 108 NW2d 761 (1961).

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Joel P. Hoekstra

/s/ Jane E. Markey

¹ Defendant Anna Crawford Bertram is defendant Terrence A. Bertram’s wife. She is apparently included as a defendant because she encouraged Terrence Bertram to talk with Dimcheff, who is a personal friend of Crawford.