

STATE OF MICHIGAN
COURT OF APPEALS

REX BRIGMON,

Plaintiff-Appellant,

v

SACHS, WALDMAN, O'HARE, HELVESTON,
BOGAS & McINTOSH, P.C., SACHS,
WALDMAN, O'HARE, HELVESTON, HODGES
& BARNES, P.C. and SACHS, NUNN, KATES,
KADUSHIN, O'HARE, HELVESTON &
WALDMAN, P.C.,

Defendants-Appellants.

UNPUBLISHED

May 23, 2000

Nos. 210982; 212349

Wayne Circuit Court

LC No. 97-709571-NM

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

PER CURIAM.

Plaintiff appeals by right from an order granting defendants' motion for summary disposition in Docket No. 210982; in Docket No. 212349, plaintiff appeals by leave granted from an order awarding mediation sanctions to defendants. We affirm.

There is no merit to plaintiff's claim that the circuit court improperly granted defendants summary disposition pursuant to MCR 2.116(C)(7), based on the statute of limitations. Plaintiff acknowledged below that his cause of action sounded in either malpractice or contract. It is clear that plaintiff does not allege the *breach* of a contract, but the absence of a contract. Plaintiff's complaint is based on allegations that defendants did not enter into an attorney fee agreement with plaintiff, who was incompetent at the time of the underlying action, and that defendants had no right, therefore, to collect attorney fees despite the assent of plaintiff's guardian, plaintiff's guardian ad litem and the trial court. Contrary to plaintiff's argument on appeal, we affirm the trial court's conclusion that plaintiff's cause of action sounds in malpractice rather than contract. The limitations period for a legal malpractice action is either two years from the date the lawyer discontinues representing the client or six months after the client discovers or should have discovered the alleged malpractice. MCL 600.5805(4); MSA 27A.5805(4) & MCL 600.5838(1) and (2); MSA 27A.5838(1) and (2); *Hooper v Hill Lewis*, 191

Mich App 312, 314; 477 NW2d 114 (1991). Plaintiff's complaint was filed well after expiration of the applicable limitations period, and also after expiration of the additional one-year period provided when plaintiff's mental disability was removed. MCL 600.5851(1); MSA 27A.5851(1).

Nor is there any merit to plaintiff's claim that the circuit court erred by awarding defendants attorney fees as mediation sanctions. This case is distinguishable from *Watkins v Manchester*, 220 Mich App 337, 343-345; 559 NW2d 8 (1996). It is well established that a corporation, including a professional corporation, is a legal person distinct and separate from its shareholders. *Department of Cons & Ind Svcs v Shah*, 236 Mich App 381, 393; 600 NW2d 406 (1999). A lawyer who owns shares in a corporation and represents that corporation in litigation is not effectively representing himself. *Adell v Sommers, Schwartz, Silver & Schwartz*, 170 Mich App 196, 205; 428 NW2d 26 (1988).

Affirmed.

/s/ Roman S. Gibbs

/s/ Joel P. Hoekstra

/s/ Jane E. Markey