

STATE OF MICHIGAN
COURT OF APPEALS

KEITH TAYLOR and CINDY TAYLOR,

Plaintiffs-Appellants,

v

94-000621-NM

CRAIG A. ZANOT and DAVIDSON, BREEN &
DOUD, P.C.,

Defendants-Appellees.

UNPUBLISHED

December 17, 1996

No. 187716

Saginaw Circuit Court LC No.

Before: Fitzgerald, P.J., and Holbrook, Jr., and E.R. Post,* JJ.

PER CURIAM.

In this legal malpractice case, plaintiffs appeal by right from an order granting summary disposition in favor of defendants, pursuant to MCR 2.116(C)(7). The trial court held that plaintiffs' action was time-barred under the applicable two-year period of limitation, MCL 600.5805; MSA 27A.5805, MCL 600.5838; MSA 27A.5838. We reverse.

A lawyer discontinues serving his client pursuant to § 5838 when the client or the court relieves him of his obligation or when the lawyer completes a specific legal service that the lawyer was retained to perform. *Maddox v Burlingame*, 205 Mich App 446, 450; 517 NW2d 816 (1994). The date on which a lawyer discontinues serving a client for purposes of the statute of limitation is a matter of statutory construction and, therefore, is question of law for the court to decide. See *Stapleton v City of Wyandotte*, 177 Mich App 339; 441 NW2d 90 (1989).

Here, defendants continued to represent plaintiffs in a professional capacity after the settlement was placed on the record on January 22, 1992. This fact is made clear by the written correspondence of defendants that exhibited their continuing legal representation of plaintiffs in the underlying litigation. We do not accept the trial court's characterization of these activities as purely "ministerial or administrative." Moreover, the facts of this case are distinguishable from the cases relied on by the trial

* Circuit judge, sitting on the Court of Appeals by assignment.

court and by defendants in this appeal. For example, before March 2, 1992 (i.e., two years before plaintiffs filed their complaint), plaintiffs here did not discharge or otherwise relieve defendants of their authority to represent plaintiffs, cf., *Hooper v Hill Lewis*, 191 Mich App 312, 315; 477 NW2d 114 (1991), and defendants had not fully accomplished the task that they had been hired by plaintiffs to perform, cf., *Seebacher v Fitzgerald, Hodgman, Cawthorne & King, PC*, 181 Mich App 642, 647; 449 NW2d 673 (1989); *Chapman v Sullivan*, 161 Mich App 558, 561-562; 411 NW2d 754 (1987). In *Gebhardt v O'Rourke*, 444 Mich 535, 541-542; 510 NW2d 900 (1994), our Supreme Court found the language of §§ 5805 and 5838 to be straightforward and explicit: "Accrual of a malpractice action, for purposes of the two-year limitation period, occurs on the last day of professional service." In this case, defendants continued to represent plaintiffs in a professional capacity after March 2, 1992. Accordingly, summary disposition pursuant to MCR 2.116(C)(7) was improperly granted.

Reversed and remanded.

/s/ E. Thomas Fitzgerald

/s/ Donald E. Holbrook, Jr.

/s/ Edward R. Post