

STATE OF MICHIGAN  
COURT OF APPEALS

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LYDIA LITSA WALKER,

UNPUBLISHED  
May 23, 1997

Plaintiff-Appellant,

v

No. 190826  
Kent Circuit Court  
LC No. 94-003044-NM

DIANN J. LANDERS,

Defendant-Appellee.

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Before: Hoekstra, P.J., and Markey and J.C. Kingsley\*, JJ.

HOEKSTRA, P.J. (concurring in part, dissenting in part).

I concur with that part of the majority opinion that finds that defendant made no special contract with plaintiff to insure that plaintiff's husband's life insurance policy would protect plaintiff's alimony award. However, I respectfully dissent from the conclusion reached by the majority that the trial court erred in holding that plaintiff's malpractice action was untimely.

I agree that our review of this issue must be made pursuant to the standard applicable to motions brought under MCR 2.116(C)(7). In reviewing a motion for summary disposition pursuant to MCR 2.116(C)(7), if the facts are not in dispute, the question whether the claim is statutorily barred is one of law for the court. *Witherspoon v Guilford*, 203 Mich App 240, 243; 511 NW2d 720 (1994). Here, none of the facts relied on by the majority are in dispute and, therefore, in my opinion, our task is to determine whether, as a matter of law, the facts taken in a light most favorable to the plaintiff, support the granting of summary disposition. *Wakefield v Hills*, 173 Mich App 215, 220; 443 NW2d 410 (1988).

A claim for legal malpractice is governed by MCL 600.5805; MSA 27A.5805, and MCL 600.5838; MSA 27A.5838. Section 5805(4) states that the period of limitations is two years for an action charging malpractice. Section 5838(1) provides that a malpractice claim accrues at the time the attorney discontinues serving the plaintiff in a professional capacity with regard to the matters out of

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

which the claim for malpractice arose. A lawyer discontinues serving a client when relieved of the obligation by the client, by the court, or upon completion of a specific legal service that the lawyer was retained to perform. *Maddox v Burlingame*, 205 Mich App 446, 450; 517 NW2d 816 (1994). An attorney's representation in a divorce action continues only until the final judgment for divorce has been entered, and the time for appeal has passed. *Ohlman v Ohlman*, 49 Mich App 366, 369-370; 212 NW2d 75 (1973); MCR 2.117(C)(1).

In this case, the specific legal result sought by plaintiff was the judgment of divorce. Defendant achieved the result for which she was retained by obtaining the judgment of divorce on July 9, 1992. Any advice given during the five telephone calls or in the meeting on October 1, 1993 were services performed after the representation had concluded. Moreover, plaintiff's own belief that defendant would always be her attorney did not alone create a mutual attorney-client relationship. Because plaintiff filed her malpractice action more than two years after the attorney-client relationship ended, I would find that her action is barred by the statute of limitations and that the trial court properly granted summary disposition for defendant.

/s/ Joel P. Hoekstra