

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

VINOD SHARMA, M.D.,

Plaintiff-Appellant,

v

JULIUS GIARMARCO, ESQ., COX,  
HODGMAN & GIARMARCO, P.C., and PAUL  
MCCOY, C.P.A.,

Defendants-Appellees,

and

JAY S. KALISH & ASSOCIATES, P.C., NEIL  
DESAI, C.P.A., and H & R BLOCK,

Defendants.

---

UNPUBLISHED  
September 28, 2004

No. 248840  
Oakland Circuit Court  
LC No. 2002-044670-NM

Before: Schuette, P.J., and Bandstra and Meter, JJ.

PER CURIAM.

Plaintiff Vinod Sharma, M.D., appeals as of right from orders entered by the circuit court granting summary disposition to the remaining defendants in plaintiff's malpractice suit. We affirm.

**I. FACTS**

Plaintiff was a client of attorney Giarmarco and his firm, Cox, Hodgson & Giarmarco, PC (defendants) until August 13, 1998, the date on which they last provided services to plaintiff. Two transactions accomplished during their relationship figure in plaintiff's complaint. The first was the creation in June 1989 of the Sharma Limited Partnership (SLP), of which plaintiff was made general partner. The second was the creation and funding of a limited liability company, Shree LLC, completed in August 1998. Plaintiff's complaint alleged malpractice because, in July 1999, plaintiff's bankruptcy trustee was able to obtain funds from plaintiff's IRA accounts and SLP to pay creditors. Plaintiff also alleged that SLP was "created incorrectly, lacking key information in its articles" and that "the defendant created Shree LLC that was not necessary, unneeded, untimely with only to pad the legal fees [sic]," and that "the defendant wrongly and untimely advised to fund the Shree LLC. . . . That the two policies with cash value were owned

by plaintiff's wife and as per legal advise, the transfer was made, leading to a loss of 106,000\$ [sic]." Plaintiff's complaint also alleged that "defendant advised that IRA are safe from the creditors but the court ordered the monies from IRA be released [sic]"

On October 17, 2002, plaintiff filed an undated and unsigned complaint, bringing claims against these defendants, McCoy, and four others. At a hearing on one of the codefendant's motions for summary disposition, the court described plaintiff's complaint:

I agree with the defendant here, that you really haven't pleaded a cause of action in accordance with the court rules, specifically MCR 2.111(B)(1) against this defendant. The allegations in the complaint are extremely vague, they're non-specific, they don't reasonably inform [H & R] Block of the claims they are to defend. I will give you an opportunity to amend the complaint. I have a duty to do so. I would suggest, sir – there's an old saying that a man who represents himself has a fool for a client. You understand what I'm saying? If you're really serious about this, I suggest you probably should get legal help. But you have every right to try it yourself. But if it's wrong the second time, I will dismiss it.

Plaintiff did not amend the complaint, which presented claims under the following headings:

Count 1: Incompetence/misrepresentation and legal malpractice as to Julius Ciarmarco & Cox & Hodgman and Giarmarco, PC (CHG) [sic]

Count 2: Breach of contract/breach of trust as to Julius Giarmarco & Cox & Hodgman [sic]

Count 3: Breach of fiduciary duty

Count 4: Negligence as to Julius Giarmarco and Cox & Hodgman

Count 5: Breach of contract/breach of fiduciary duty/negligence/malpractice as to Paul McCoy, Keith Kalish/Neil Desai/Kalish Jay S & Assoc, PC/H&R Block [sic]

The complaint requested the following relief:

WHEREFORE, the plaintiff requests a judgment against the above named defendants jointly & severally to compensate the plaintiff for any and all the damages, including financial/emotional/physical and punitive damages, interests, attorney fees and other associated fees, as a result of the above defined actions of the defendants. The plaintiff also prays to the honorable court to grant the future right to add or remove any defendants and allegations to its initial list of allegations, based upon the due process of discovery. The plaintiff also requests the honorable court to grant the addition of a co-counsel as deemed necessary to help thru the appropriate trial proceedings.

Defendants moved for summary disposition under MCR 2.116(C)(7) and (C)(10). McCoy moved for summary disposition under MCR 2.116(C)(7) and (C)(8). Plaintiff did not

amend the complaint, and the court granted summary disposition for Giarmarco and his firm under MCR 2.116(C)(7) and (C)(10), and for McCoy under MCR 2.116(C)(7) and (C)(8). Plaintiff's motion for reconsideration was denied and this appeal followed.

## II. PROFESSIONAL MALPRACTICE

Plaintiff alleges various theories for recovery, including breach of contract, breach of fiduciary duty, negligence, and professional malpractice. Regardless of the labels employed, we conclude that the gravamen of plaintiff's claim is professional malpractice. *Aldred v O'Hara-Bruce*, 184 Mich App 488, 490; 458 NW2d 671 (1990).

### A. Standard of Review

"This Court reviews the grant or denial of summary disposition de novo to determine . . . as a matter of law . . . whether defendant is entitled to summary disposition." *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

### B. Analysis

We conclude that dismissal under MCR 2.116(C)(7) was proper because plaintiff's malpractice claims were brought more than two years after they accrued and more than six months after plaintiff knew or should have known about the alleged malpractice. The statute of limitations for malpractice is two years, MCL 600.5805(6), which begins as soon as the claim accrues, MCL 600.5827. A legal malpractice claim accrues when the last services are provided, MCL 600.5838(1), with a discovery rule providing an additional six months for filing claims that were not reasonably discoverable within the two year period, MCL 600.5838(2). Plaintiff's claim accrued on August 13, 1998, and as the trial court noted, plaintiff's "bankruptcy was in '99, and if there was any problem then, if he thought he was being [made] bankruptcy-proof, that should have triggered something logically at that point in time." We agree with the trial court. Plaintiffs under certain disabilities when the claim accrues are permitted an additional period to file claims, MCL 600.5851. Further, we agree with the trial court that "plaintiff has not presented evidence of . . . [a] disability" that would toll the statute of limitations. MCL 600.5851; *Hooper v Hill Lewis*, 191 Mich App 312, 316; 477 NW2d 114 (1991).

The summary disposition of plaintiff's complaint against defendant McCoy was also proper. MCL 600.5805(b). McCoy's last provided professional services to plaintiff in 1990 when he prepared plaintiff's 1989 tax return. Plaintiff fails to explain any connection between McCoy and plaintiff's many subsequent misfortunes.

Affirmed.

/s/ Bill Schuette  
/s/ Richard A. Bandstra  
/s/ Patrick M. Meter