

June 28, 2019

Fifth District Holds Two-Year Statute of Limitations for Actions Against Lawyers is Not Just for Malpractice

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Defendants Betty A. Lauth, Rose Zimmer, Carol Heilman, Ralph Bauer, and Ruth Smith (the “Lauths”) filed a mortgage foreclosure action against Donald, Laretta, Karla, and David Bauer (the “Bauers”). The Lauths were represented by E.T. Graham, Jr. and The Law Firm of Beavers, Graham & Calvert (the “BGC Defendants”). The trial court entered an order of foreclosure on October 18, 2013. *Id.* at ¶4. On March 14, 2017, the Bauers sued the BGC Defendants and others on several counts, including civil conspiracy. *Id.* at ¶25. They alleged that the BGC Defendants conspired to file and present documents in the underlying foreclosure action that were “false representations of the evidence,” leading the court to enter a \$280,000 judgment against them. *Id.* at ¶25. The trial court dismissed the civil conspiracy counts as to the BGC Defendants based upon the two-year statute of limitations for actions against attorneys: 735 ILCS 5/13-214.3(b). It states that a claim based on tort, contract, or otherwise “against an attorney arising out of an act or omission in the performance of professional services” must be commenced within two years from the time the party bringing the action knew or reasonably should have known of the injury for which damages are being sought. *Id.* at ¶26.

On appeal, the Bauers argued that the two-year statute of limitations applied only to cases of legal malpractice, not civil conspiracy. The Fifth District rejected this argument, and affirmed dismissal. It explained that “[a]s there is no language in the statute restricting its application to legal malpractice claims, the plain language of the statute directs that the two-year limitation applies to all claims against an attorney arising out of acts or omissions in the performance of the professional services, and not just legal malpractice claims.” *Id.*

***Bauer v. Niemerg* , 2019 IL App (5th) 180229-U**

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