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Former Polekatz Owner Fails to State a Claim for Legal Malpractice

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On November 21, 2022, the First District Appellate Court of Illinois affirmed dismissal of a legal malpractice claim after Plaintiff Adriana Mazutis was given five attempts to plead her claims and still failed to state a claim. *Mazutis v. Karlin*, 2022 IL App (1st) 210942-U, ¶ 1.

Plaintiff's latest attempt to state a claim was called the "First Amended Complaint at Law." The First Amended Complaint at Law was filed on February 24, 2021 and alleged that Defendants Lawrence Karlin, Warren Lupel, and Lupel Weininger, LLP (collectively, "Lupel Weininger") were negligent in their representation of Plaintiff regarding her ownership interest in Polekatz Gentlemen Club (the "Club"). *Id.* ¶¶ 2, 5, 17.

Prior to filling the First Amended Complaint at Law, the Appellate Court struck Plaintiff's complaint and remanded for the filing of an amended complaint. *Id.* ¶ 15. In doing so, the Court expressly admonished "that the complaint must comply with section 2-603 of the Code, requiring a 'plain and concise statement' of the plaintiff's cause of action with each cause of action stated in a separate count that is separately pled, numbered, and divided into

consecutively numbered paragraphs with each paragraph containing a separate allegation.” *Id.* (internal citation omitted).

On March 26, 2021, defendants filed two motions to dismiss the First Amended Complaint at Law. Lupel Weininger argued that Plaintiff violated section 2-603 of the Code by commingling multiple causes of actions and Plaintiff failed to state a claim under section 2-615 of the Code. *Id.* ¶ 18. On July 16, 2021, the trial court entered two separate dismissal orders. In the first order, the court found that counts I, II, III and VI failed to comply with the requirements of section 2-603 because they “remain virtually impossible to decipher.” *Id.* ¶ 19 (cleaned up). The trial court also dismissed count V pursuant to section 2-615 because plaintiff “failed to sufficiently allege facts, rather than conclusions.” *Id.*

On appeal, the Appellate Court affirmed the trial court’s dismissal, finding that Plaintiff failed to state a cause of action. *Id.* ¶¶ 30-38. More specifically, the Court dismissed Counts I through III, Plaintiff’s legal malpractice claims, because Plaintiff failed to assert how Lupel Weininger proximately caused her damages. The Court reasoned that the First Amended Complaint at Law merely provided conclusory allegations, unsupported by any facts and “not connected to any injury.” *Id.* ¶ 31. For example, Plaintiff alleged that Lupel Weininger drafted a fraudulent purchase agreement between herself and another owner of the Club that purported to transfer all or part of her ownership interest. *Id.* Based on this purchase agreement, a motion for summary judgement was filed in the underlying case. This motion, however, was denied. *Id.* Therefore, Plaintiff was unharmed. Likewise, Plaintiff’s other allegations of wrongdoing did not result in any injuries. Instead, Plaintiff claimed she was “forced to settle for a fraction of the damages incurred by her.” *Id.* ¶ 34. (internal quotations omitted). The Court held that Plaintiff’s failure to allege any facts supporting her vague accusations was fatal to the complaint. Applying the same logic, the Court also affirmed dismissal of Plaintiff’s claims for common law fraud, negligent hiring and supervision and breach of contract claims. *Id.* ¶¶ 39, 43, 46.



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