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# The Discovery Rule Remains Alive and Well

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On February 4, 2022, the Northern District of Illinois denied Defendant Mudd Law Offices P.C.’s (“Defendant” or “Mudd Law”) motion to dismiss Plaintiff Michael Koumjian’s (“Plaintiff”) complaint for legal malpractice. In the underlying case, Plaintiff hired Mudd Law to sue his former employer for wrongful termination. *Koumjian v. Mudd Law Offices P.C., et al.*, 2022 WL 345080, \*1 (N.D. Ill. 2022). Defendant, however, did not file suit for the better part of two-years after collecting a \$10,000 retainer. *Id.* At which time, the statute of limitations clock had run on Plaintiff’s employment claims. *Id.*

Plaintiff then filed a legal malpractice suit against Mudd Law. In response, Defendant filed a motion to dismiss, asserting that Plaintiff’s legal malpractice claim was time-barred. In its short opinion, the Northern District summarized the case by stating, “The lawyer who botched the statute of limitations invokes the statute of limitations to dismiss a claim about botching the statute of limitations.” *Id.*

In evaluating whether Plaintiff’s malpractice complaint was time-barred, the Court’s analysis hinged on the question of when Plaintiff knew or should have known he was injured by Mudd Law and that injury was wrongfully caused. All parties conceded that Plaintiff was injured when the statute of limitations ran on his claims against his former employer, Express Jet Airlines. *Id.*, \*3. The parties, however, disagreed about whether Plaintiff should have recognized or “discovered” his wrongfully caused injury when the statute of limitations expired. *Id.*, \*4. In support of its position, Mudd Law relied on two Illinois Appellate Court decisions: *McIntosh v. Cueto*, 323 Ill. App. 3d 384 (5th Dist. 2001) and *Brite Lights, Inc. v. Gooch*, 305 Ill. App. 3d 322 (2d Dist. 1999). The Northern District Court found that neither of these cases to be helpful. *Id.*, \*5.

Ultimately, the Northern District concluded that Plaintiff did not allege any facts suggesting he knew or should have known that Mudd Law missed the deadline and therefore the legal malpractice complaint could not be dismissed at the motion-to-dismiss stage.

*Koumjian v. Mudd Law Offices P.C., et al., 2022 WL 345080 \*1 (N.D. Ill. 2022).*

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