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2015 IL App (3d) 140468-U

Order filed April 8, 2015

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2015

NARVEEN ARYAPUTRI,)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
Plaintiff-Appellant,)	Rock Island County, Illinois,
)	
v.)	Appeal No. 3-14-0468
)	Circuit No. 14-AR-20
)	
ROBERT NOE and BOZEMAN,)	Honorable
NEIGHBOUR, PATTON & NOE, LLP)	Thomas C. Berglund,
)	Judge, Presiding.
Defendant-Appellee.)	

JUSTICE WRIGHT delivered the judgment of the court.
Justices Carter and O'Brien concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court properly dismissed plaintiff's complaint for being barred by the statute of limitations and the doctrine of *res judicata*.
- ¶ 2 Plaintiff, Narveen Aryaputri, retained defendants, Robert Noe and the law firm of Bozeman, Neighbour, Patton, and Noe (the firm) to provide legal services beginning in approximately 1990. In 2012, each party initiated a small claims action against the other

involving defendants' legal representation of plaintiff. Plaintiff voluntarily dismissed her small claims action against defendants in 2013.

¶ 3 On February 4, 2014, plaintiff filed a complaint against defendants in the instant case, Rock Island County case No. 14-AR-20, alleging legal malpractice. The trial court granted defendants' section 2-619 motion to dismiss this action after finding plaintiff's complaint was barred by both the two-year statute of limitations and the doctrine of *res judicata*. Plaintiff appeals the dismissal of her complaint. We affirm.

¶ 4 **FACTS**

¶ 5 Plaintiff retained defendants to provide legal services. In 2012, defendants filed a small claims action to collect unpaid attorney fees against plaintiff, their former client, and plaintiff's two corporations in Rock Island County case No. 12-SC-193. On December 16, 2013, the trial court entered a judgment in favor of defendants and issued a garnishment order against plaintiff in case No. 12-SC-193. Plaintiff did not file an appeal challenging that judgment.

¶ 6 Subsequently, plaintiff filed a separate legal malpractice action against defendants in Rock Island County case No. 12-SC-594. Plaintiff voluntarily dismissed the legal malpractice action on July 13, 2012.

¶ 7 In the instant case, Rock Island County case No. 14-AR-20, plaintiff's February 4, 2014, complaint alleged defendants committed legal malpractice based on negligent acts or omissions while performing legal services on behalf of plaintiff. In addition, plaintiff alleged the firm improperly obtained a garnishment against plaintiff in case No. 12-SC-193.

¶ 8 On March 5, 2014, defendants filed a motion to dismiss pursuant to section 2-619 of the Code of Civil Procedure (the Code) (735 ILCS 5/2-619 (West 2012)) arguing the two-year statute of limitations barred plaintiff's claims alleging legal malpractice. 735 ILCS 5/13-

214.3(b) (West 2012). Defendant also argued plaintiff's claims relating to Rock Island County case No. 12-SC-594 were time-barred pursuant to section 13-217 of the Code. 735 ILCS 5/13-217 (West 2012). Finally, defendants' asserted plaintiff's claims concerning the garnishment order in case No. 12-SC-193 were barred by the doctrine of *res judicata*.

¶ 9 On May 8, 2013, the trial court conducted a hearing on defendants' motion to dismiss in case No. 14-AR-20. After hearing arguments, the court granted defendants' motion to dismiss and directed defense counsel to prepare a written order. The court's May 16, 2014, written order¹ included a finding that plaintiff's complaint in case No. 14-AR-20 contained allegations describing acts or omissions committed by defendants while performing legal services, which occurred more than two years prior to the filing of plaintiff's complaint on February 4, 2014. Further, the court noted plaintiff's complaint alleged plaintiff had knowledge of defendants' alleged legal negligence in 2011 and failed to allege the two-year statute of limitations was tolled for any reason. Plaintiff appeals.

¶ 10 ANALYSIS

¶ 11 On appeal, plaintiff contends the trial court erred when it dismissed her complaint with prejudice in case No. 14-AR-20. In response, defendants point out plaintiff's appellate brief does not comply with the Supreme Court rules and should be stricken. In addition, defendants request sanctions against plaintiff pursuant to Supreme Court Rule 375 for filing this frivolous appeal. Ill. S. Ct. R. 375 (eff. Feb. 1, 1994). Alternatively, if this court reaches the merits without striking plaintiff's briefs, defendants contend the court properly dismissed plaintiff's complaint in case No. 14-AR-20.

¹ The court's order indicates the court took judicial notice of the court records in case Nos. 12-SC-193 and 12-SC-594.

¶ 12 Initially, we note Supreme Court Rule 341 requires the statement of facts include citations to the record without including argument or comment in the statement of facts. Ill. S. Ct. R. 341(h)(6) (eff. Feb. 6, 2013). The same rule requires appellant to include the standard of review and a statement of this jurisdiction to consider the appeal. Ill. S. Ct. R. 341(h)(3), (4) (eff. Feb. 6, 2013). We agree plaintiff’s brief fails to conform to the requirements set out in Supreme Court Rule 341 governing the form and contents of appellate briefs. Ill. S. Ct. R. 341 (eff. Feb. 6, 2013).

¶ 13 In addition, as defendants argue, plaintiff’s brief fails to contain any citation to legal authority in support of her position as required by Rule 341. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). However, this court permitted plaintiff to file a document entitled, “Inclusion of Case Law,” to supplement her briefs.² After reviewing plaintiff’s citations to case law and statutes contained in this supplemental document, we observe plaintiff relies on case law which is inapplicable to the issues raised in the case at bar. In addition, plaintiff has not provided either a proper standard of review or statement of appellate jurisdiction. Moreover, the supplemental pleading filed in this case does not correct the deficiencies contained in plaintiff’s original statement of facts.

¶ 14 However, defendants’ brief provides a neutral statement of facts that is helpful to this court. Consequently, we elect to reach the merits of this appeal rather than striking plaintiff’s briefs since Rule 341 is an admonishment to the parties, and not a limitation upon this court’s jurisdiction. *In re A.H.*, 215 Ill. App. 3d 522, 529 (1991).

¶ 15 Next, we turn to the issue on appeal regarding whether the trial court properly dismissed plaintiff’s complaint in case No. 14-AR-20 with prejudice, pursuant to section 2-619 of the

² This court denied defendants’ motion to strike plaintiff’s “Inclusion of Case Law.”

Code. 735 ILCS 5/2-619 (West 2012). When ruling on a section 2-619 motion to dismiss, the trial court must accept as true all well-pled facts and reasonable inferences based on those well-pled facts. *Hermitage Corp. v. Contractors Adjustment Co.*, 166 Ill. 2d 72, 85 (1995). This court reviews the trial court's decision concerning a motion to dismiss based on section 2-619 of the Code *de novo*. *Butler v. Mayer, Brown and Platt*, 301 Ill. App. 3d 919, 922 (1998).

¶ 16 In this case, plaintiff's complaint in case No. 14-AR-20 stated a cause of action for legal malpractice. The statute of limitations provides that a cause of action against an attorney based on contentions of legal malpractice "must be commenced within 2 years from the time the person bringing the action knew or reasonably should have known of the injury for which damages are sought." 735 ILCS 5/13-214.3(b) (West 2012). Our careful review of plaintiff's complaint reveals plaintiff discovered the revocation of the corporation's 501(c)(3) status in either 2010 or 2011. Accordingly, we conclude the trial court properly dismissed plaintiff's cause of action involving defendants' purported legal malpractice based on the applicable two-year statute of limitations.

¶ 17 With respect to plaintiff's allegations that the wage garnishment order entered in case No. 12-SC-193 was improper, the trial court determined, as a matter of law, that this claim was barred by the doctrine of *res judicata*. The doctrine of *res judicata* provides that a final judgment on the merits is conclusive as to the rights of the parties and constitutes an absolute bar to a subsequent action involving the same claim or cause of action. *Corcoran-Hakala v. Dowd*, 362 Ill. App. 3d 523, 526 (2005). In case No. 12-SC-193, the trial court entered a garnishment order on December 16, 2013, from which plaintiff did not appeal. Accordingly, plaintiff is barred from relitigating her prior claim in case No. 12-SC-193, by asserting in the instant case,

that the garnishment was unlawful. Consequently, the trial court's dismissal of plaintiff's complaint is affirmed.

¶ 18

CONCLUSION

¶ 19

For the foregoing reasons, the judgment of the circuit court of Rock Island County is affirmed.

¶ 20

Affirmed.