

JOSEPH B. MANSOUR, Plaintiff-Appellant, v. HENRY D. ACCIANI and DAVID DONNETT, Defendants-Appellees, and MICHAEL E. FRY, ET AL., Defendants.

APPEAL No. C-950911

COURT OF APPEALS OF OHIO, FIRST APPELLATE DISTRICT, HAMILTON COUNTY

1996 Ohio App. LEXIS 3234

July 31, 1996, Filed

NOTICE: [*1] THE LEXIS PAGINATION OF THIS DOCUMENT IS SUBJECT TO CHANGE PENDING RELEASE OF THE FINAL PUBLISHED VERSION. THESE ARE NOT OFFICIAL HEADNOTES OR SYLLABI AND ARE NEITHER APPROVED IN ADVANCE NOR ENDORSED BY THE COURT. PLEASE REVIEW THE CASE IN FULL.

PRIOR HISTORY: TRIAL NO. A-9405554.

DISPOSITION: Judgment of the trial court affirmed.

CASE SUMMARY:

PROCEDURAL POSTURE: Appellant client challenged a judgment of a trial court (Ohio), which granted summary judgment in favor of appellee attorneys in the client's professional malpractice action in their handling of a previous lawsuit. *Ohio Rev. Code Ann. § 2305.11(A)* was involved.

OVERVIEW: The client contended that the trial court erred in failing to sanction the attorneys for their refusal to cooperate with his discovery requests and that the trial court erred in granting the attorneys' motions for summary judgment. On appeal, the court found no merit to the assignments of error. The record indicated that the client based his allegations of malpractice upon a lawsuit handled by the attorneys for a corporation and that the lawsuit had ended in 1993. The malpractice action was barred by the applicable statute of limitations contained in § 2305.11(A). Also, the attorneys were immune from liability to the client arising from their performance as attorneys acting in good faith on behalf of the corporation. Therefore, the trial court did not err in granting the attorneys' motions for summary judgment or abuse its discretion in refusing to sanction the attorneys for their alleged failure to comply with the client's discovery requests.

OUTCOME: The court affirmed the judgment of the trial court, which granted summary judgment to the attorneys. There were reasonable grounds for the appeal, thus no penalty was allowed. Costs were taxed and a copy of the memorandum decision and judgment entry constituted a mandate to be sent to the trial court for execution.

LexisNexis(R) Headnotes

*Governments > Legislation > Statutes of Limitations > Governmental Entities
Torts > Procedure > Statutes of Limitations > General Overview*

[HN1] Attorneys are immune from liability to a client arising from their performance as attorneys acting in good faith on behalf of a corporation.

HEADNOTES: CIVIL MISCELLANEOUS

SYLLABUS:

The trial court did not err in granting the defendants' motions for summary judgment on a complaint for professional malpractice, when the plaintiff's allegations were barred by the applicable statute of limitations, and when the defendants were immune from liability to the plaintiff arising from their performance as attorneys acting in good faith on behalf of a corporation.

COUNSEL: Paul Croushore, Esq., No. 0055524, 601 South High Street, Columbus, Ohio 43215, for Plaintiff-Appellant.

Martin, Bailey & MacDonald and Mark A. MacDonald, Esq., No. 0009473, 120 East Fourth Street, Suite 300, Cincinnati, Ohio 45202, for Defendant-Appellee, Henry D. Acciani.

David D. Donnett, Esq., No. 0022288, 1212 Sycamore, Suite 15, Cincinnati, Ohio 45210, for Defendant-Appellee, David Donnett.

JUDGES: M.B. BETTMAN, P.J., HILDEBRANDT and PAINTER, JJ.

OPINION: MEMORANDUM DECISION [*2] AND JUDGMENT ENTRY.

PER CURIAM.

This cause came on to be heard upon the appeal, the record filed herein, the briefs, and arguments.

Plaintiff-appellant Joseph Mansour filed a complaint against defendants-appellees Henry Acciani and David Donnett for professional malpractice in their handling of a previous lawsuit. The trial court granted appellees' motions for summary judgment and appellant appealed to this court.

In his two assignments of error on appeal, appellant contends that the trial court erred in failing to sanction appellees for their refusal to cooperate with his discovery requests, and that the trial court erred in granting appellees' motions for summary judgment. We find no merit in these assignments of error.

The record indicates that appellant based his allegations of malpractice upon a lawsuit handled by appellees

for a corporation named L.M., Inc., and that that lawsuit ended in June 1993. Appellant's malpractice action is barred by the applicable statute of limitations contained in *R.C. 2305.11(A)*. Furthermore, [HN1] appellees are immune from liability to appellant arising from their performance as attorneys acting in good faith on behalf of the corporation. See [*3] *Arpadi v. First MSP Corp.* (1994), 68 *Ohio St. 3d* 453, 628 *N.E.2d* 1335; *Hile v. Firmin, Sprague & Huffman, Co., L.P.A.* (1991), 71 *Ohio App. 3d* 838, 595 *N.E.2d* 1023. Therefore, the trial court did not err in granting appellees' motions for summary judgment. Furthermore, the trial court did not abuse its discretion in refusing to sanction appellees for their alleged failure to comply with appellant's discovery requests.

The judgment of the trial court is affirmed.

And the Court, being of the opinion that there were reasonable grounds for this appeal, allows no penalty. It is further Ordered that costs be taxed in compliance with *App.R. 24*, that a copy of this Memorandum Decision and Judgment Entry shall constitute the mandate, and that said mandate shall be sent to the trial court for execution pursuant to *App.R. 27*.

M.B. BETTMAN, P.J., HILDEBRANDT and PAINTER, JJ.