

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION



TUFF CAR, INC.,

PLAINTIFF,

v.

MICHAEL DEL GALDO, ESQ.; and  
DEL GALDO LAW GROUP LLC;

DEFENDANTS.

CASE NO. 2017-L-003188

JUDGE DIANE M. SHELLEY

CALENDAR W

ORDER ON DEFENDANTS' § 2-619.1 MOTION  
TO DISMISS SECOND AMENDED COMPLAINT

This matter comes to be heard on defendants' motion to dismiss the second amended complaint under § 2-619.1 of the Code. For the reasons that follow, the motion is granted and plaintiff's remaining count for legal malpractice is stricken, with prejudice.

Plaintiff's sole remaining claim arises from alleged legal malpractice that arose from an alleged conflict of interest between defendants' client, plaintiff, and another client, the Town of Cicero. Plaintiff concedes that the alleged act or omission—the conflict-of-interest itself—occurred in 2005 and continued through 2017. Defendants argue that because the alleged act or omission started in 2005, any continuation of that same act or omission would not toll the statute of repose.

In support of that argument, defendants cite *Maniscalco v. Porte Brown LLC*, 2018 IL App (1st) 180716. In that case, the Illinois Appellate Court noted that, unlike medical-malpractice actions, “the continuous course of treatment doctrine is inapplicable to accounting malpractice actions,” even when the “relationship continues beyond the purportedly tortious act or omission.” *Id.* ¶ 23. The court held that, even though the relationship and alleged negligent acts between the professional and the client continued past the statute of repose period, the statute of repose is not tolled.

Here, plaintiff's claim is barred because the alleged negligent conduct—the conflict-of-interest—occurred in 2005, more than 6 years before the commencement of this action. This court on January 11, 2019, granted defendants' motion on similar grounds without prejudice, extending plaintiff leave to replead because plaintiff may have been able to plead more facts

that brought the claim within the statute-of-repose period. Because the alleged negligent conduct is pleaded as occurring in 2005 and continuing through 2017, the court finds that plaintiff's claim for legal malpractice is barred by the statute of repose. See 735 ILCS 5/13-214.3(b), (c); *Maniscalco*, 2018 IL App (1st) 180716.

**WHEREFORE, IT IS HEREBY ORDERED:**

- I. Defendants' combined motion to dismiss under § 2-619.1 is granted.
- II. Count I (legal malpractice) and count II (*respondeat superior*) of Plaintiff's Second Amended Complaint are stricken, with prejudice.
- III. This case is disposed as of May 20, 2019.

4020

4226

4271

ENTER:



---

Judge Diane M. Shelley, #1925

May 20, 2019

Judge Diane M. Shelley

MAY 20 2019

Circuit Court - 192

