

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

DOROTHY WRIGHT, APPELLANT,

v.

SCOTT L. CAMPBELL, ET AL., RESPONDENT.

DOCKET NUMBER WD69141

DATE: January 27, 2009

Appeal From:

PLATTE COUNTY CIRCUIT COURT

THE HONORABLE DAREN LEE ADKINS, JUDGE

Appellate Judges:

Division Three: Thomas H. Newton, C.J., and Lisa White Hardwick and Alok Ahuja, JJ.

Attorneys:

Mark Meyer, Esq., Kansas City, MO, **for appellant.**

Brian Jenkins, Esq., Overland Park, KS, **for respondent.**

**MISSOURI APPELLATE COURT OPINION SUMMARY
COURT OF APPEALS – WESTERN DISTRICT**

DOROTHY WRIGHT,

APPELLANT,

V.

SCOTT L. CAMPBELL, ET AL,

RESPONDENT.

WD69141

Platte County

Before Division Three Judges: Thomas H. Newston, C.J., and Lisa White Hardwick and
and Alok Ahuja, JJ.

On May 8, 1999, Appellant Dorothy Wright allegedly suffered bodily injuries when she was struck by a shopping cart pushed by an employee at a Country Mart grocery store in Atchison, Kansas. In March 2000, Wright met with attorney Scott Campbell at Cady & Campbell's offices in Platte City, Missouri concerning a potential claim against Country Mart. On August 29, 2001, Campbell informed Wright at his Platte City office that he believed that he may have failed to file the lawsuit within the applicable Kansas two-year statute of limitations, and advised her to obtain other counsel.

Based on the claim that he had failed to timely file her personal injury lawsuit, Wright sued Campbell for legal malpractice in the Platte County Circuit Court on May 9, 2006. Campbell moved for summary judgment, arguing that Wright's malpractice claims were barred by the two-year statute of limitations found at K.S.A. 60-513(a)(4), which was rendered applicable by operation of Missouri's borrowing statute, § 516.190. On November 1, 2007, the circuit court granted Campbell's motion. The court held that Wright's legal malpractice action accrued when the Kansas statute of limitations expired in the Kansas court where the underlying personal-injury lawsuit should have been filed no later than May 8, 2001. Because Wright's malpractice claim accrued in Kansas, the circuit court held that Kansas' two-year statute of limitations for legal malpractice actions governed, and that this suit – filed on May 9, 2006 – was untimely.

In her sole Point Relied On, Wright argues that the circuit court “erred in granting summary judgment to [Campbell] because the Missouri borrowing statute was inapplicable . . . in that [Wright's] cause of action for legal malpractice originated in Missouri.”

REVERSED AND REMANDED

Division Three holds:

In ruling on statute of limitation issues, the law of the forum state is applied. As a general proposition, Missouri, the forum, considers statute of limitations issues

procedural, and therefore governed by Missouri law. However, when a cause of action “originates” in another state and is time-barred under the laws of that state, the foreign state’s statute of limitations becomes applicable through Missouri’s borrowing statute, § 516.190, RSMo. A cause of action “originates” for purposes of § 516.190 when and where the damage “is sustained and is capable of ascertainment.” § 516.100, RSMo.

In situations where the plaintiff and defendant are in a “layman/expert” relationship, the Missouri Supreme Court has repeatedly rejected any reading of “capable of ascertainment” that would impose upon plaintiffs an automatic, affirmative duty to double check the services provided by a professional expert. Instead, damages caused by a retained professional’s malpractice are “capable of ascertainment” only when a client is put on “inquiry notice,” meaning that the client knew or should have known of reasons to question the professional’s work. These layman/expert principles apply to legal malpractice claims.

Here, Campbell points to no evidence that would suggest that Wright knew or should have known of any reason to question Campbell’s work before the August 2001 meeting at his Platte City office, where he informed her that he may have failed to file a timely lawsuit, and advised her to retain separate counsel. Wright’s legal malpractice claim accordingly “originated” in Missouri for purposes of § 516.190, and Missouri’s five-year statute of limitations for legal malpractice claims governs. The parties do not dispute that, under Missouri’s limitations statutes, Wright’s lawsuit was timely filed. We accordingly reverse the grant of Campbell’s motion for summary judgment, and remand for further proceedings consistent with this opinion.

Opinion by: Alok Ahuja, Judge

January 27, 2009

**THIS SUMMARY IS UNOFFICIAL AND
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