

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
AUGLAIZE COUNTY**

**NATALIE GOTTSCHALK,
PLAINTIFF-APPELLANT,**

CASE NO. 2-25-14

v.

**CHARLES BRADFORD KELLEY,
ET AL.,
DEFENDANTS-APPELLEES.**

**OPINION AND
JUDGMENT ENTRY**

**Appeal from Auglaize County Common Pleas Court
Trial Court No. 2025 CV 0087**

Judgment Reversed and Cause Remanded

Date of Decision: August 17, 2026

APPEARANCES:

Natalie J. Gottschalk, Appellant

Lindsay M. Johnson and Meredith C. Turner-Woolley for Appellees

WILLAMOWSKI, J.

{¶1} Plaintiff-appellant Natalie J. Gottschalk (“Natalie”) appeals the judgment of the Auglaize County Court of Common Pleas, arguing that the trial court erred by granting the Civ.R. 12(C) motion for judgment on the pleadings filed by defendants-appellees Charles Bradford Kelley (“Kelley”) and Huffman, Kelley, & Brock, LLC. For the reasons set forth below, the judgment of the trial court is reversed.

Facts and Procedural History

{¶2} In 2017, Natalie’s ex-husband filed a motion to modify their parental rights and responsibilities. This motion alleged that Natalie had gone on a vacation with her fiancé, Craig Gottschalk (“Craig”), in Colorado and had purchased marijuana for Craig’s son during this trip. These allegations were based on representations from Craig’s ex-wife and Craig’s son.

{¶3} In January of 2018, Kelley began to represent Natalie in this matter while he was working in the same law firm as Craig. In this process, Kelley had a meeting with Craig’s ex-wife and Craig’s son. In February of 2018, Kelley gave Craig a copy of a lengthy email that he had received from Craig’s ex-wife and that contained criticisms of Natalie. Kelley continued to represent Natalie until this legal matter was resolved on January 9, 2019.

{¶4} In 2021, the 134th General Assembly passed a statute of repose for legal malpractice claims that read, in its relevant part, as follows:

(1) No action upon a legal malpractice claim . . . shall be commenced more than four years after the occurrence of the act or omission constituting the alleged basis of the legal malpractice claim.

(2) If an action upon a legal malpractice claim . . . is not commenced within four years after the occurrence of the act or omission constituting the alleged basis of the claim, then, any action upon that claim is barred.

R.C. 2305.117(B). After the Governor signed Senate Bill 13 into law, this provision went into effect on June 16, 2021.

{¶5} In July of 2021, Craig took Natalie's client file into his possession when he left the law firm where had worked with Kelley. By this time, Craig and Natalie were married. In August of 2024, Natalie went through her client file. After reviewing its contents, Natalie sent an email to Kelley that alleged he had improperly shared information with Craig's ex-wife.

{¶6} On May 30, 2025, Natalie filed a complaint that named Kelley and his former law firm as defendants. She raised claims of legal malpractice; invasion of privacy; and intentional infliction of emotional distress. On August 27, 2025, the defendants filed a Civ.R. 12(C) motion for judgment on the pleadings, asserting that the one-year statute of limitations and the four-year statute of repose for legal malpractice claims barred the action filed by Natalie.

{¶7} On October 14, 2025, the trial court issued a judgment entry that found the allegations in the pleadings left questions of fact as to when the statute of limitations began to run in this case. However, the trial court found that the statute of repose in R.C. 2305.117(B) operated to bar Natalie’s claims and granted the defendants’ Civ.R. 12(C) motion for judgment on the pleadings on this basis.

Assignment of Error

{¶8} Natalie filed her notice of appeal on November 12, 2025 and raises the following assignment of error:

The Court erred in granting Defendant-Appellee’s Motion to Dismiss.

Natalie asserts that the application of the statute of repose to the claims in her case violated Ohio’s constitutional prohibition on retroactive laws since Senate Bill 13 went into effect after the alleged acts of legal malpractice occurred in 2018.

Standard of Review

{¶9} A Civ.R. 12(C) motion “imposes a structural test: whether on their face the pleadings foreclose the relief requested.” *Steinbrink v. Greenon Local School Dist.*, 2012-Ohio-1438, ¶ 15 (2d Dist.). As a result, courts may only consider the contents of the pleadings in deciding a Civ.R. 12(C) motion. *Smith v. Wal-Mart Stores East, LP*, 2019-Ohio-5037, ¶ 8 (3d Dist.).

{¶10} “When presented with such a motion, a court must construe all the material allegations of the complaint as true and must draw all reasonable inferences

in favor of the non-moving party.” *Provenc v. Woodridge Place Apts.*, 2023-Ohio-1388, ¶ 8 (10th Dist.). A motion for judgment on the pleadings is properly granted where the court “finds beyond doubt, that the plaintiff could prove no set of facts in support of his claim that would entitle him to relief.” *Reznickcheck v. N. Cent. Corr. Inst.*, 2007-Ohio-6425, ¶ 12 (3d Dist.).

{¶11} In other words, the decision to grant a Civ.R. 12(C) motion “requires a determination that no material factual issues exist and that the movant is entitled to judgment as a matter of law.” *State ex rel. Midwest Pride IV, Inc. v. Pontious*, 75 Ohio St.3d 565, 569-570 (1996). Thus, “the review of a decision to dismiss a complaint pursuant to Civ.R. 12(C) presents only questions of law. . . .” *Rayess v. Educ. Comm’n for Foreign Med. Graduates*, 2012-Ohio-5676, ¶ 18.

{¶12} For this reason, an appellate court applies a de novo standard of review when examining a decision to grant a Civ.R. 12(C) motion for judgment on the pleadings. *Guilford v. Zaner*, 2023-Ohio-2098, ¶ 7 (3d Dist.). Under the de novo standard of review, an appellate court does not give deference to the trial court’s determination but conducts an independent evaluation of the relevant materials. *McCreary v. Taylor Cadillac, Inc.*, 2025-Ohio-2562, ¶ 15 (3d Dist.).

Legal Standard

{¶13} “A statute of limitations establishes ‘a time limit for suing in a civil case, based on the date when the claim accrued (as when the injury occurred or was discovered).’” *Wilson v. Durrani*, 2020-Ohio-6827, ¶ 9, quoting Black’s Law

Dictionary 1707 (11th Ed. 2019). In contrast, “[a] statute of repose . . . bars ‘any suit that is brought after a specified time since the defendant acted . . . even if this period ends before the plaintiff has suffered a resulting injury.’” *Id.*, quoting Black’s Law Dictionary at 1707. Thus, in applying a statute of repose, the focus of the analysis will typically be the date of the defendant’s conduct. *Id.*

{¶14} However, this analysis has a different focus if the defendant’s conduct occurred *before* the effective date of the relevant statute of repose because Article II, Section 28 of the Ohio Constitution states that “[t]he general assembly shall have no power to pass retroactive laws. . . .” This constitutional provision prohibits the state legislature “from passing new laws that reach back in time and create new burdens, deprivations, or impairments of vested rights.” *Miller v. Hixson*, 64 Ohio St. 39, 51 (1901). A “vested right” is “one that is ‘fixed, settled, absolute, and not contingent upon anything.’” *Antoon v. Cleveland Clinic Found.*, 2016-Ohio-7432, ¶ 28, quoting *Rehor v. Case W. Res. Univ.*, 43 Ohio St.2d 224, 229 (1975).

{¶15} The constitutional limitations imposed by Article II, Section 28 do not only address laws that were intended to apply retroactively but also

include a prohibition against laws which commenced on the date of enactment and which operated in futuro, but which, in doing so, divested rights, particularly property rights, which had been vested anterior to the time of enactment of the laws.

Bd. of Trustees of the Tobacco Use Prevention & Control Found. v. Boyce, 2010-Ohio-6207, ¶ 14, quoting Smead, *The Rule Against Retroactive Legislation: A*

Basic Principle of Jurisprudence (1936), 20 Minn. L.Rev. 775, 781-782. As a result, “a statute that applies prospectively may, through its operation, violate the Retroactivity Clause if it destroys vested rights[.]” *Taylor v. First Resolution Inv. Corp.*, 2016-Ohio-3444, ¶ 55.

{¶16} Further, “accrued causes of action are vested, substantive rights.”

Ruther v. Kaiser, 2012-Ohio-5686, ¶ 29. Thus,

[p]ursuant to Article II, Section 28 of the Ohio Constitution, . . . plaintiffs have a substantive right to bring their accrued actions and that the constitutional prohibition on retroactive laws prevents the Ohio General Assembly from unreasonably taking that right away by outlawing their claims.

Oaktree Condo. Ass’n v. Hallmark Bldg. Co., 2014-Ohio-1937, ¶ 10. However, “a party need not be granted an unlimited amount of time to bring a vested cause of action. . . .” *Antoon* at ¶ 28. While a vested right to sue

cannot be taken away altogether, it does not conclusively follow that the time within which the right may be asserted and maintained may not be limited to a shorter period than that which prevailed at the time the right arose, provided such limitation still leaves the claimant a reasonable time within which to enforce the right.

Gregory v. Flowers, 32 Ohio St.2d 48, 54 (1972), quoting *Smith v. New York Central Rd. Co.*, 122 Ohio St. 45, 48 (1930). See *Antoon* at ¶ 28; *Taylor* at ¶ 56.

{¶17} In determining whether a statute of repose can be applied retroactively under the Ohio Constitution, a court must “determine when th[e] action accrued” before determining whether the action was filed “within a reasonable time of its accrual.” *Oaktree Condo. Ass’n*. at ¶ 10, 12. Under the general rule, “a claim

accrues when the wrongful act occurs.” *Brust v. Kravitz*, 2016-Ohio-7871, ¶ 21 (10th Dist.); *Harris v. Reedus*, 2015-Ohio-4962, ¶ 12 (10th Dist.) (“[A] cause of action exists from the time the wrongful act is committed.”). *See also Collins v. Sotka*, 81 Ohio St.3d 506, 507 (1988).

{¶18} However, the Supreme Court of Ohio noted that applying the statute of limitations based upon this general rule could lead to unjust results if the injury caused by the malpractice is not apparent at the time of the relevant act or omission. *Harris v. Liston*, 86 Ohio St.3d 203, 205-206 (1999); *Oliver v. Kaiser Community Health Found.*, 5 Ohio St.3d 111, 113 (1983). To address this issue, the Supreme Court of Ohio enunciated the discovery rule:

an action for legal malpractice accrues and the statute of limitations begins to run when there is a cognizable event whereby the client discovers or should have discovered that his injury was related to his attorney’s act or non-act and the client is put on notice of a need to pursue his possible remedies against the attorney or when the attorney-client relationship for that particular transaction or undertaking terminates, whichever occurs later.

Smith v. Conley, 2006-Ohio-2035, ¶ 4, quoting *Zimmie v. Calfee, Halter & Griswold*, 43 Ohio St.3d 54 (1989), at syllabus. In the context of applying a statute of repose retroactively under the Ohio Constitution, the Supreme Court of Ohio has held that the date on which the discovery rule is triggered provides the reference point for determining whether the cause of action was filed within a reasonable time. *Adams v. Sherk*, 4 Ohio St.3d 37, 40 (1983).

Legal Analysis

{¶19} Natalie argues that the trial court unconstitutionally applied the statute of repose for legal malpractice claims retroactively. In this case, the alleged act of malpractice occurred in 2018; the statute of repose took effect in June of 2021; possession of Natalie’s client file was transferred in July of 2021; Natalie reviewed her client file in August of 2024; and the complaint was filed in May of 2025.

{¶20} In examining the applicability of the statute of limitations in its judgment entry, the trial court found that the discovery rule could have potentially been triggered (1) when possession of Natalie’s client file was transferred in July of 2021; (2) when another child support case arose in July of 2022; or (3) when Natalie reviewed her client file in August of 2024. After concluding that factual issues existed as to when the discovery rule was triggered, the trial court found that the statute of limitations could not serve as a basis for granting the Civ.R. 12(C) motion for judgment on the pleadings.

{¶21} The trial court then found that the statute of repose barred this action because Natalie filed her complaint more than four years after the defendant’s conduct. But in reaching this conclusion, the trial court failed to apply the analysis that was required to determine whether the application of the statute of repose for legal malpractice claims was unconstitutionally retroactive in this case.

{¶22} As noted previously, the Supreme Court of Ohio held that the application of a statute of repose is not unconstitutionally retroactive if the claimant

had a reasonable time in which to file his or her claim. *See Adams*, 4 Ohio St.3d at 40; *Oaktree*, 2014-Ohio-1937, at ¶ 1, 12. In turn, the Supreme Court of Ohio relied upon the discovery rule to provide the reference point for determining whether a claim was filed within a reasonable time. *Adams* at 40.

{¶23} In the case presently before us, the trial court's statute-of-limitations analysis correctly concluded that the date on which the discovery rule was triggered could not be discerned in the absence of further discovery. But the date on which the discovery rule was triggered also provides the reference point for determining whether the relevant statute of repose is unconstitutionally retroactive.

{¶24} Because the discovery rule cannot be applied without further discovery, no determination can be made at this juncture as to whether Natalie had a reasonable time in which to file this action. As a result, no determination can be made at this juncture as to whether the application of the statute of repose for legal malpractice claims in this case would be unconstitutionally retroactive.

{¶25} Since the trial court correctly found that the discovery rule could not be applied at this stage of the proceedings, neither the statute of limitations nor the statute of repose could serve as a basis for granting the Civ.R. 12(C) motion for judgment on the pleadings under the facts of this case. Accordingly, the sole assignment of error is sustained.

Conclusion

{¶26} Having found error prejudicial to the appellant in the particulars assigned and argued, the judgment of Auglaize County Court of Common Pleas is reversed. This cause of action is remanded to the trial court for further proceedings consistent with this opinion.

***Judgment Reversed
And Cause Remanded***

ZIMMERMAN, P.J. and MILLER, J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, the assignment of error is sustained and it is the judgment and order of this Court that the judgment of the trial court is reversed with costs assessed to Appellees for which judgment is hereby rendered. The cause is hereby remanded to the trial court for further proceedings and for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. *See* App.R. 30.

John R. Willamowski, Judge

William R. Zimmerman, Judge

Mark C. Miller, Judge

DATED:
/hls