



## Alerts

### Ohio Court of Appeals Affirms Parol Evidence Rule As Applied to Engagement Letters for Attorneys

July 7, 2011

*Lawyers for the Profession® Alert*

*Katz, Teller, Brant & Hild LPA v. Farra*, Slip Copy, 2011 WL 1591286 (Ohio App. 2 Dist.)

#### Brief Summary

The Ohio Court of Appeals affirmed summary judgment for a law firm on claims filed by a former client, based on the parol evidence rule, because the attorney engagement letter contained sufficient fee information to bind the parties. The court also rejected a challenge to application of the discovery rule for purposes of the statute of limitations.

#### Complete Summary

A law firm filed a complaint against a former client for breach of contract, unjust enrichment, and unpaid fees. The client filed a counterclaim for fraudulent inducement, alleging that he reasonably relied on the law firm's false verbal representation that a third party would pay his legal fees and that the client would not be personally responsible. In other counterclaims, he alleged substantial delay by the law firm in the representation on an eminent domain matter. The law firm moved for summary judgment. The trial court denied summary judgment for the claims filed by the law firm, but granted it for the firm on the client's counterclaims, concluding that the fraudulent inducement claim was barred by the parol evidence rule and the claims for substantial delay were barred by the one-year statute of limitations for legal malpractice.

The Ohio Court of Appeals affirmed. With respect to the fraudulent inducement counterclaim, the court found that the law firm and the former client had entered into an agreement via an engagement letter that contained unambiguous terms, including as to billing practices, legal fees, payment terms, and termination of representation provisions. The court found that the oral agreement alleged by the client for materially different payment obligations would contradict the parties' written agreement. The court held that the parol evidence rule precludes admission of evidence of the alleged oral agreement. The court also held that the fraud exception to the parol evidence rule did not apply to claims of fraudulent inducement which allege that an inducement to sign the agreement was a promise directly contradicted by the express terms of the signed written agreement.

The law firm's representation in the eminent domain case terminated in January

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2008 and the former client continued to trial with new counsel in May 2008. The client's claims were filed in July 2009. The appellate court rejected the former client's position that the one-year statute of limitations on the claims of malpractice during the representation did not commence until after the jury trial and until the matter ultimately settled. Rather, the court enforced the discovery rule and affirmed the dismissal of the claims, running the statute of limitations from the time that the client was aware of the alleged malpractice, which was not later than the time of trial.

### **Significance of Opinion**

This decision affirms the parol evidence rule as applied to engagement letters for attorneys. When a signed agreement incorporates an express term, and the parties discuss a related term prior to finalization of the written agreement, the related term will not be enforceable if it is contrary to the express term in the agreement.

This decision also holds that the statute of limitations for a legal malpractice claim in Ohio will not be tolled until the underlying matter is settled, if the lawyer's representation terminated before that and the client was aware of the alleged malpractice outside the limitations period.

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