

**COURT OF APPEALS
DECISION
DATED AND FILED**

September 26, 2000

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

No. 99-3097

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

BILL REBANE,

PLAINTIFF-APPELLANT,

V.

MYRON KATZ,

DEFENDANT-RESPONDENT.

APPEAL from a judgment of the circuit court for Lincoln County:
J. MICHAEL NOLAN, Judge. *Affirmed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 PER CURIAM. Bill Rebane appeals a summary judgment dismissing his legal malpractice action against Myron Katz.¹ Although the parties present numerous issues on appeal, we conclude that two matters are dispositive: (1) the statute of limitations expired on all of Rebane's personal claims against Katz, and (2) Rebane lacks standing to prosecute any claims Shooting Ranch, Ltd., may have had against Katz. Therefore, we affirm the judgment.

¶2 Bill Rebane is a movie producer who, with his wife Barbara, created Shooting Ranch, Ltd. Bill served as CEO and chairman of the board, but was not a shareholder. Barbara served as secretary and treasurer and was a shareholder. At one time, both of the Rebanes were creditors of the corporation. In May 1988, Bill suffered a stroke and the Rebanes and the corporation incurred financial problems.

¶3 At that time, the Rebanes and the corporation were defendants in a lawsuit filed by Reel Films. The shareholders voted to file for bankruptcy. Barbara, at the direction of the corporation's president, retained Katz to commence bankruptcy proceedings for the corporation. The Rebanes also retained Katz to represent them as well as the corporation in settlement of the Reel Films action. That action was settled by stipulation on October 24, 1989. As part of that settlement, Shooting Ranch's debts to the Rebanes were assigned to Reel Films. Katz then initiated Chapter 7 bankruptcy proceedings for the corporation. Bill Rebane brought this action against Katz alleging that he should have filed for ch. 11 bankruptcy, that he failed to adequately investigate his clients' financial

¹ Although Rebane states that Barbara and Shooting Ranch, Ltd., were joined as plaintiffs, the record does not support that assertion. In addition, neither Barbara nor Shooting Ranch has joined in this appeal. We conclude that Barbara and Shooting Ranch are not parties to this action.

circumstances and that he violated numerous Supreme Court Rules in his handling of the Reel Films and bankruptcy matters.

¶4 The statute of limitations expired on Bill Rebane's personal claims against Katz for his handling of the Reel Films lawsuit. Rebane's initial complaint was filed March 16, 1996, more than six years after the date of settlement in the Reel Films case. Katz's representation of Rebane ended when the Reel Films case was settled. Rebane has not identified any malpractice that occurred within six years of the date the complaint was filed that relates to Katz's representation of Bill Rebane.

¶5 Rebane lacks standing to prosecute claims on behalf of the corporation. The elements of legal malpractice include the existence of an attorney-client relationship. *See Lewandowski v. Continental Cas. Co.*, 88 Wis.2d 271, 277, 276 N.W.2d 284 (1979). After the Reel Films action was settled, the only attorney-client relationship was between Katz and the corporation. Negligent representation of the corporation in the bankruptcy proceeding cannot be prosecuted by an employee. *See Marshfield Clinic v. Doege*, 269 Wis. 519, 526, 69 N.W.2d 558 (1955). Bill Rebane was not a shareholder. For marital property purposes, Barbara's shares are not attributable to him because they were acquired before the determination date. *See WIS. STAT. § 766.01(5)* (1997-98). Rebane was not a creditor of the corporation, having lost that status in the settlement with Reel Films. Therefore, as merely an employee of Shooting Ranch, Ltd., he has no standing to bring claims on behalf of the corporation.

By the Court.—Judgment affirmed.

This opinion will not be published. *See WIS. STAT. RULE 809.23(1)(b)5* (1997-98).

