DISTRICT OF COLUMBIA COURT OF APPEALS

HAROLD and LILLIAN WEISBERG,	:	
Appellants,	:	
v.	:	No. 12772
WILLIAMS, CONNOLLY & CALIFANO, *et al.*,	:	
Appellees	:	

ON APPEAL FROM THE SUPERIOR COURT

OF THE DISTRICT OF COLUMBIA

CIVIL DIVISION

REPLY BRIEF FOR APPELLANTS

DISTRICT OF COLUMBIA
COURT OF APPEALS
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Clerk

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Appellees	:	

On Appeal from the Superior Court
of the District of Columbia
Civil Disision

REPLY BRIEF FOR APPELLEES

SUMMARY

This is a suit for legal malpractice. The primary questions raised on appeal are: 1. When does a cause of action for legal malpractice accrue? 2. Was the statute of limitations on malpractice tolled in this case by appellees' fraudulent concealment of their negligence? 3. Do the pleadings and affidavits state facts from which a jury could find that the appellees' are estopped from invoking the bar of limitations?

Appellees ("the Williams law firm") concentrate on the first of these issues and more or less dismiss the others out-of-hand. The approach of the Williams law firm is to focus upon one of many allegedly negligent acts, allowing the statute of limitations to

run on appellants' Federal Tort Claims Act ("FTCA") lawsuit, while generally ignoring the argument made by appellants ("the Weisbergs") that their complaint states a cause of action for overall negligence by the Williams firm which culminated in March, 1974 when they were forced to settle their case for $13,500, far less than they would have absent such negligence.

Starting with this focus on one instance of the overall negligence attributed to it, the Williams firm proceeds to argue that the malpractice cause of action accrued on September 20, 1965, when the government pled the statute of limitations as one of five boilerplate defenses to the Weisbergs' Federal Tort Claims Act and Tucker Act claims. [App. 22-23] Therefore, Williams argues, the Weisbergs' malpractice action became barred three years later, on September 20, 1968. The effect of this argument is that the Weisbergs' malpractice action became barred while the Williams firm still represented them. In addition, the Weisbergs' are blamed for not having filed a malpractice action by September 20, 1968 because they "knew, or should have known," that they had a "statute of limitations problem," even though the Williams firm did not advise them that the statute of limitations had run and in fact had advised them, to the contrary, that the government's statute of limitations defense was "merely a pro forma lawyer's argument that was without merit." [Second Weisberg Affidavit, ¶20. App. 61]

The Weisbergs contend, on the other hand, that their malpractice action against the Williams firm accrued on March 21, 1974, the date on which they were forced to settle the case for far less than they would have absent the Williams firm's negligence in the overall handling of their legal problems. It was on this date that they suffered actual injury as the result of the negligence of the Williams law firm.

The Weisbergs contend that the argument put forth by the Williams law firm grossly misconceives the nature of the attorney-client relationship. It implies that only clients have obligations; lawyers have only the duty to enrich themselves whenever and however they can. The Weisbergs contend that the rule of accrual advocated by the Williams law firm is unjust, inequitable, and against sound public policy. In this regard, the Weisbergs note that appellees' brief does not address the policy issues raised by their brief. Instead, and notwithstanding the fact that it is directly responsible for the ten years of delay between the time it undertook to represent the Weisbergs and the time the Weisbergs were forced to settle their case on unfavorable terms, the Williams firm asks for "repose". It does not, of course, mention that there was no repose for either the government or the Weisbergs during the decade it took to resolve the case which it promised to handle expeditiosly.

ARGUMENT

I. M.A.P. v. RYAN DOES NOT RESULT IN THIS SUIT BEING BARRED BY THE STATUTE OF LIMITATIONS

A. The Accrual of an Action for Legal Malpractice Is Determined by the Fort Myers Case, Not Noel

The Williams firm argues that a cause of action for legal malpractice which involves negligence in failing to timely file a client's claim accrues, at the latest, as of the date the client's adversary pleads the bar of limitations as a defense. In support of this proposition the Williams firm cites but a single case, Noel v. National Savings & Trust Co., 81 U.S. App. D.C. 351, 158 F. 2d 410 (1946), a thirty-two years old decision which did not involve an action for legal malpractice and which was never

cited as authority in any decision until the court below did so in this case.

The Williams firm attempts to buttress its reliance upon the Noel case by invoking the decision of this Court in M.A.P. v. Ryan, 285 A. 2d 310 (D.C. App. 1971), which held, inter alia, that no division of this Court "will . . . refuse to follow a decision of the United States Court of Appeals rendered prior to February 1, 1971 . . . ." M.A.P., at 312. Since Noel is a decision of the United States Court of Appeals rendered prior to February 1, 1971, the Williams firm argues that Noel is a binding precedent which can only be overturned by this Court sitting en banc.[1]

The first problem with this is that Noel is not a precedent and thus not binding on any court. Admittedly, as the Williams firm points out, M.A.P. speaks of "decisions" rather than "precedents". But this is just a meaningless quibble. The M.A.P. decision addresses what decisions of what courts "constitute the case law of the District of Columbia." M.A.P., at 312. Case law is governed by the doctrine of stare decisis, a Latin phrase meaning "standing by decided cases"; that is, by "decisions". The doctrine of stare decisis holds that when a court has once laid

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1/ The Williams firm first raised its M.A.P. argument in a brief filed and served on July 13, 1977, less than 24 hours before a scheduled oral argument on its Motion to Dismiss. The brief responded to a Supplemental Memorandum which the Weisbergs had filed four months earlier. The Williams firm chides the Weisbergs' counsel for being unaware of the M.A.P. decision and requesting time to study its implications for this case. From this one would infer that the Williams firm was aware of M.A.P. at least by the time it filed its Motion to Dismiss on November 30, 1977. A question arises, then, as to why the Williams firm waited more than seven months to raise this issue and then did so in a manner calculated to give the Weisbergs' counsel no time in which to respond to it effectively. When the Weisbergs' counsel protested this conduct at the July 14th hearing, Mr. Robert Weinberg, counsel for the Williams firm, told the court: "The pleading does not cite a single case that hasn't already been cited by both parties in all the prior pleadings." [R. 3] This was false.

down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases where the facts are substantially the same. Moore v. City of Albany, 98 N.Y. 396, 410. Because Noel did not consider, declare, and expressly decide a principle of law which was to serve as a rule for future guidance in analogous cases, it cannot be regarded as a precedent. Empire Square Realty Co. v. Chase Nat. Bank, 43 N.Y.S. 2d 470, 473, 181 Misc. 752, 755; KVOS, Inc. v. Associated Press, 299 U.S. 269, 279, 57 S. Ct. 197, 81 L. Ed. 183. For purposes of determining the accrual of a legal malpractice action, the Noel case is a non-decision.

There is a decision of the United States Court of Appeals which does consider and expressly decide the principle of law by which the accrual of a cause of action for legal malpractice is to be determined. It is Fort Myers Seafood Packers, Inc. v. Steptoe & Johnson, 127 U.S. App. D.C. 93, 381 F. 2d 261 (1967), cert. denied, 390 U.S. 946. Because it is a decision of the United States Court of Appeals decided before February 1, 1971, under the authority of M.A.P. v. Ryan, supra, it is binding precedent upon a division of this Court unless overturned by this Court sitting en banc. Yet the Williams firm does not list this case in its Table of Cases and Authorities as one upon which it "chiefly relies"--and with good reason.

B. Under Fort Myers, the Weisbergs Suffered Injury When They Settled Their Case, Not When the Statute of Limitations Was Pled As a Defense

The Williams law firm argues that because the effect of the running of a statute of limitions is to bar it irremediably; therefore, "the injury to the holder of the claim attaches at the moment the limitation is passed." (Brief for Appellees, p. 14) In effect, this argues the old special rule of accrual formerly ap-

plied to malpractice actions in many jurisdictions, which held that the action accrued as of the time the negligent act occurred. However, when the District Court ruled to that effect in the Fort Myers case, the United States Court of Appeals overruled this.

A second objection to this argument is that it is just not true. Allowing the statute of limitations to run did not necessarily result in injury to the Weisbergs because a case could be made--and was made--that the running of the statute had been tolled by agreement and by delay, as well as by the seven years delay in reasserting it. [App. 39-44] Obviously, if the running of a statute of limitation can be tolled, the pleading of the bar of limitations does not necessarily and irremediably result in injury. According to the Clapp Affidavit, it did not, at least with respect to the Weisbergs' claims for damages to their chicken flocks.[2/]

Thirdly, it is apparent from the context of the Fort Myers decision that by injury the court meant actual injury, not potential, speculative, or future injury. In Fort Myers the plaintiff was held to have suffered injury when its boats were seized. Its claim would have been barred if it had accrued when the negligent advice was given which irremediably resulted in the seizure of the boats. Under Fort Myers, then, an action for legal malpractice accrues when plaintiff's injury is actualized. This is why the rule in the District of Columbia is sometimes characterized as the "maturation of harm" rule.

2/ The affidavit of the Weisbergs' successor counsel, Harvey Clapp, was filed less than 24 hours before the oral argument on the Motion to Dismiss scheduled for July 14, 1977. The Weisbergs were at that time unaware that their former attorney was collaborating with the Williams firm. The Clapp affidavit contains an account of Judge Thomsen's informal in chambers ruling on the statute of limitations which is not credible. The Clapp Affidavit does not, however, contradict the representations of the First Weisberg Affidavit [App. 24-44] to which it responds.

C. Noel, As Applied to the Facts of This Case, Is Not Consistent with the Discovery Rule

The Williams firm argues that the holding in Noel as applied to this case is "consistent with discovery rule principles . . .." (Brief for Appellees, pp. 16-17) At the same time that the Williams firm makes this argument it undercuts by declaring in a footnote: "The discovery rule has not yet been adopted for legal malpractice actions in the District of Columbia." (Footnote 14, Brief for Appellees, p. 16)

In making the argument that Noel is "consistent with" discovery rule principles, the Williams firm cites Judge Goodrich's dicta that "the Noel rule dates accrual of this action form a time when the plaintiffs should have known of a possible malpractice claim." (Brief for Appellees, pp. 16-17) However, Judge Goodrich's actual holding was that:

> Since the Court considers itself bound by the rule followed in Noel, it determines that this cause of action accrued when the Statute of Limitations was pled as a defense to the plaintiffs' claim under the Federal Tort Claims Act." [App. 67]

The discovery rule delays the the accrual of an action for legal malpractice until the client "knows, or should know, all material facts essential to show the elements of that cause of action." Neel v. Magana, Olney, Levy, Cathcart & Gelfand, 6 Cal. 3d 176, 190; 98 Cal. Rptr. 837, 846 (1971). But under this standard it must be shown that the Weisbergs knew, or had reason to know, that: 1) the statute of limitations had in fact run; 2) that there had been negligence by the Williams firm in letting it run; 3) that they had suffered injury as a result of the Williams firm's negligence in allowing the statute to run; and 4) that the facts gave rise to an action for malpractice against the Williams law firm. In view of the fact that the Williams law firm advised the Weisbergs' that the statute of limitations defense was merely a "pro forma lawyer's argument that was without merit" [App. 61], it is absurd to contend that the Weisbergs "knew, or should have

known," any of the material facts essential to show the elements of a cause of action against the Williams firm for malpractice. How can they possibly be held responsible for knowing, or having reason to know, what their attorneys advised them was not so? Are the Weisbergs to be held to higher standards than the Williams law firm which represented them as fiduciaries? Are they to be held accountable for knowing that government officials and their own attorneys lied to them about them? Are they to be condemned for having trusted in their attorneys to give them full, open, and truthful advice?

As the Williams firm points out, the statute of limitations was again pled as a defense to the Weisbergs' claims on December 5, 1972, by a motion to limit their proof. By this time the Weisbergs were at long last represented by successor counsel to the Williams firm, which had abandoned them. The Williams firm argues that "the hiring of new counsel and access to independent legal advice should be a conclusive factor in fixing a time when a plaintiff should know of his injury since it obviates whatever disadvantage a layman might have in evaluating claims the plaintiff might have against his former attorney." (Brief for Appellees, p. 18)

There is no case law in the District of Columbia which supports this proposition. The Williams law firm tries to support it by going outside the jurisdiction to cite a California case, _Tuck v. Theusen_, 10 Cal. App.3d 193, 888 Cal. Rptr. 759 (1970). The Williams firm is well-aware, however, that the holding in _Tuck_ was expressly disavowed by the subsequent decision in _Neel v._

Magana, Olney, Levy, Cathcart & Gelfand, 6 Cal. 3d 176, 190; 98 Cal. Rptr. 837, 846 (1971), which stated:

> Tuck v. Theusen, supra, suggests that since the client's reliance upon his attorney ceases once the attorney-client relationship terminates, the period of limitation should run from that date. We conclude, however, that an action for malpractice does not accrue until the client discovers, or should discover, his cause of action; under this standard, termination is relevant only to the extent that the client, aided by disclosures from the former attorney or the investigations of new counsel, acquires the essential information. Neel, supra, at 98 Cal. Rptr. 847, n. 26.

Thus, the proposition advanced by the Williams firm is not now California law.[3/] Under California law as stated in the above holding in Neel, it is clear that the Weisbergs' malpractice action against the Williams firm did not accrue on December 5, 1972 because the Weisbergs' were not "aided by disclosures from the former attorney or the investigations of new counsel" in acquiring the information essential to bringing a malpractice action.

Thus, the Williams argument on this point is not supported by the case law it cites. It is also totally irrelevant to the alleged rule of the Noel case. Under the rule of Noel, if it can be said to state any rule, the rule is that the malpractice action accrues as of the moment the statute of limitations is pled as a defense, regardless of whether the client has a successor attorney or any attorney at all.

3/ Unfortunately, this is not the first time in the history of this case that the briefs submitted by the Williams firm have misled the court (and increased the burdens upon the Weisbergs' counsel) by not fully disclosing the actual state of the case law upon which the Williams firm relies. Thus, the Motion to Dismiss filed by the Williams firm on November 30, 1977 cited Galloway v. Hood, 69 Ohio App. 278, 43 N.E. 2d 631 (1941) for the proposition that "The day the statute of limitations runs has been designated as the accrual date for a legal malpractice action in other jurisdictions" without informing the court that it had been overruled by Keaton v. Kolby, 27 Ohio St. 2d 234, 271 N.E. 2d 772 (1971).

Moreover, if the alleged rule of Noel is in fact binding precedent, as Judge Goodrich held, a further problem arises: on December 5, 1972, the date on which the government reasserted its statute of limitations defense, or at any time thereafter, the Weisbergs' successor counsel could only have advised them that under Noel their malpractice cause of action had accrued on September 20, 1965 and become barred by the running of the stattue of limitations on September 20, 1978.

D. The Rules of Accrual Advocated by the Williams Firm Are Unjust, Unworkable, and Against Sound Public Polcy

The Weisbergs came to the Williams law firm as victims of tortious conduct which had deprived them of their livlihood. They became victims again when the negligence of the Williams firm kept them in poverty for a decade. Even had they known that they had a malpractice action against the Williams firm for allowing the statute of limitations to run, they would have been unable to afford it at any date by which the Williams firm now argues they had to bring it.

In essense, the arguments advanced by the Williams firm amount to a declaration that a rich and powerful law firm has the right to negligently represent its clients, conceal material facts about that negligence from them, drag the case out past the time when a malpractice action can be brought, then throw their clients out on the street to fend for themselves as best they can.

The argument advanced by the Williams law firm on behalf of an alleged principle of accrual which holds that a malpractice action can and does become barred while the attorney still represents the client and in spite of concealment of the negligence is a complete and utter outrage. The fact that such an argument is even advanced is a disgrace to the legal profession. In light

of this it is no wonder that public dissatisfaction with the competency of lawyers and mistrust of their integrity is assuming tidal wave proportions.

The policy arguments against the rules of accrual advocated by the Williams firm are obvious. It is clearly against public policy to have a rule of accrual which gives attorneys an incentive to conceal their malpractice and drag out their representation of their victimized clients until an action for malpractice has become time barred. This, however, is what the rule of accrual advanced by the Williams firm does.

It is also clear that it is against sound public policy to establish a rule of accrual which is likely to result in a proliferation of baseless malpractice suits. Yet the rule of accrual advocated by the Williams firm requires every client to sit in judgment of his attorney's every action, or else hire a second lawyer to do so, and to file a malpractice action every time his original attorney does or omits to do something which may constitute negligence.

It is also in the public interest that where an attorney does act negligently, the client shall be able to secure sccussor counsel to represent him. The alternative rule of accrual advanced by the Williams firm violates this policy consideration by requiring that the successor counsel undertake not only the original case, perhaps already made difficult and unremunerative by the negligence of the predecessor counsel, but also assume the obligation of advising his new client on, and prosecuting for him, an action for malpractice committed by the first counsel. Few attorneys are likely to agree to undertake that heavy burden, especially when, as here, the clients have been reduced to indigency by the negligence of their original attorneys.

In addition, it is the policy of the law to encourage the trust and confidence of clients in professionals such as attorneys and to protect them from the negligent acts of such professionals. Chisholm v. Scott, 526 P. 2d 1300, 1302 (C.A.N.M. 1974). The rules of accrual urged by the Williams firm would totally undermine the confidence of clients in professionals and encourage mistrust of them by requiring that they must constantly be on guard for negligence and suspcious of the professional's every action or failure to act.

Against these policy considerations, and the overriding policy in favor of seeing that justice is done, the Williams firm offers only a policy of "repose" for defendants. The facts of this case make it clear that this is only a euphemism for a license to commit malpractice with impunity. For the Williams firm to ask for "repose" on the facts of this case is grossly insulting. It is the Williams law firm which delayed fourteen months in filing the Weisbergs' lawsuit. It is the Williams law firm which undertook no significant action on the Weisbergs' behalf during the five years between February, 1964 and January, 1969. It is the Williams law firm which threw the Weisbergs out on the street and told them to find other counsel, an abandonment which caused five more years of delay, until what remained of their case was finally settled in March, 1974. It is the Williams' firm which, because of this delay, kept the Weisbergs' in poverty for a decade. And now the Williams firm has the gall to seek "repose"?! One is reminded of the child who, convicted of killing his parents, asked the court for mercy on the grounds he was an orphan.

II. THE WEISBERGS WERE DENIED THE OPPORTUNITY TO PRESENT ALL MATERIALS PERTINENT TO WILLIAMS FIRM'S MOTION TO DISMISS

The Weisbergs' brief contends that the pleadings and affidavits filed in this case raise there issues of fact which must be determined by a jury: 1) when the Weisbergs' suffered injury, 2) whether fraudulent concealment of their cause of action for malpractice tolled the statute of limitations, and 3) whether the Williams firm should be equitably estopped from raising the statute of limitations as a bar to this suit. The Williams firm responds by asserting that the Weisbergs have "erroneously suggested to the Court that they were not given an opportunity to present all materials pertinent to the Motion to Dismiss."

The facts are as follows. On May 25, 1977 the Weisbergs responded the request for admissions made by the Williams firm. On June 1, 1977, the Weisbergs served their own request for admissions on the Williams firm. [App. 50-53] On June 30, 1977 the Williams firm served on the Weisbergs counsel <u>by mail</u> a Motion to Stay Discovery on the Merits Pending Disposition of Defendants' Motion to Dismiss. On July 8, 1977, the Weisbergs time filed and served on the Williams firm an Opposition to the Motion to Stay and a Motion to Postpone Hearing on Defendants' Motion to Stay Until Defendants Have Respondent to Plaintiffs' Request for Admissions of Facts. Also on July 8, 1977, Judge Goodrich granted the Williams firm's Motion to Stay without having considered the Weisbergs' Opposition to it and their Motion to Postpone.

The Weisbergs' Opposition to the Motion to Stay Discovery stated:

> In support of their motion for a stay, defendants' assert that their motion to dismiss presents a purely legal question as to when the statute of limitations on malpractice accrued. This, however, is not the case. First, there are factual issues which have a direct bearing on defendants' motion to dismiss, such as when plaintiffs' suffered damage and whether

> defendants' concealed their negligence from plaintiffs until after the dates on which they contend the statute of limitations on malpractice ran.
>
> Moreover, even if defendants prevail in arguing that the statute of limitations has run on malpractice, plaintiffs' will then seek to have this defense barred on grounds of equitable estoppel. In fact, paintiffs' had intended to submit a motion to estop defendants' from raising the limitations defense once the answers to plaintiffs' request for admissions were received. The dealy in filing for a motion to stay has now made it impossible to accomplish this in time for the July 14 hearing. [Opposition to Motion to Stay, p. 2]

The Weisbergs' Opposition to the Motion to Stay specifically listed three of the requested admissions which were directly relevant to the Motion to Dismiss because they concerned facts which would establish concealment and justify invoking the doctrine of equitable estoppel. The three admissions requested were:

> 8. Prior to January 16, 1969, defendant Peter Taft and/or other lawyers at the Edward Bennett Williams law firm evaluated the Government's claim that the statute of limitations had run on all their Federal Tort Claims Act claims which had accrued before May 3, 1963 and determined that the Government was correct.
>
> 9. At no time prior to October 21, 1973 did defendant Peter Taft or anyone at the Edward Bennett Williams law firm inform the Weisbergs that the statute of limitations had run on all their Federal Tort Claims Act claims accruing prior to May 3, 1963.
>
> 10. The failure of the Edward Bennett Williams law firm to advise the Weisbergs that the statute of limitations had run on all their Federal Tort Claims Act claims accruing prior to May 3, 1963 constitutes a violation of a lawyer's duty to make full, open and immediate disclosure of all facts material to a client's interests. [Opposition to Motion to Stay, p. 3]

These and other admissions requested by the Weisbergs were directly relevant to the Motion to Dismiss because they have a direct bearing on the fraudulent concealment by the Williams law firm of its negligence and lay a predicate for estoppel. Judge Goodrich

plainly committed error in granting the protective order against this discovery without even considering the Weisbergs' Opposition to it. This error was compounded by the fact that in considering materials outside the pleadings when he granted the Motion to Dismiss, Judge Goodrich in effect granted the Williams firm summary judgment, and did so without allowing the Weisbergs the discovery they needed to oppose it with full force and effect.

The Williams firm contends (Brief for Appellees, p. 23) that the Weisbergs an issue of fact concerning equitable estoppel, asserting that in order to raise equitable estoppel, a defendant must have done something that amounted to an affirmative inducement to plaintiffs to delay bringing it.

But the Weisbergs have raised the issue of equitable estoppel. The complaint and the affidavits of Harold Weisberg allege that the Williams firm concealed the the running of the statute of limitations from the Weisbergs. In fact, Williams' lawyer Peter Taft even told Harold Weisberg not to worry about the government's claim that the statute of limitations had run because it was just a "_pro forma_ lawyer's argument that was without merit." [Second Weisberg Affidavit, ¶20. App 61] When the government reasserted the defense of limitations on December 5, 1972, Weisberg immediately wrote Edward Bennett Williams about this problem. He did not receive an immediate response, nor did he receive a full and open disclosure of all material facts. Obviously the conduct of the Williams law firm delayed the institution of this malpractice suit; in fact, if the Williams firm is correct in asserting that the alleged _Noel_ rule governs the accrual of legal malpractice actions, then it is clear that the conduct of the Williams firm delayed the institution of the suit until after the date on which it became barred. These are facts which raise the issues of fraudulent concealment and equitable estoppel, issues which must

resolved by a jury.

CONCLUSION

The fundamental issue in this case is whether the District of Columbia has a rule of accrual for legal malpractice actions which protects clients from the negligence of attorneys and promotes sound public policy, including the overriding consideration that the ends of justice must be served.

The decision of the United States Court of Appeals for the District of Columbia in the Fort Myers case sets forth such a rule of accrual. As a pre-February 1, 1971 decision of the U.S. Court of Appeals, it is binding on this Division under the authority of M.A.P. v. Ryan. The rule of accrual declared by Fort Myers is that time begins to run against an action for malpractice from the date the client suffers injury. In this case, the Weisbers suffered injury when they were forced to settle their lawsuit for less than they would have absent the overall negligence of the Williams law firm. Since there suit was settled March 21, 1974, and this action was brought on October 21, 1976, it was timely filed.

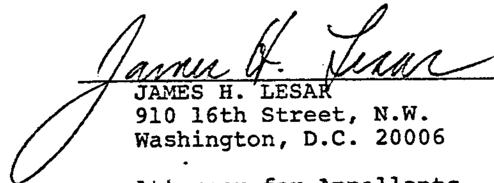
The rule of accrual adopted by the court below is that the time begins to run on a malpractice action as of the time the statute of limitations is pled as a defense, even if it means that the action becomes barred because the attorney conceals his negligence and stalls them past the deadline for bringing a malpractice suit. This rule is harsh, unjust, and against sound public policy. It leaves already victimized clients at the mercy of malpracticing attorneys and promises to foment needless malpractice suits and mistrust between attorney and client by requiring clients to file needless suits in order to protect themselves against any possibly negligent action by their attorney. It also requires that clients

assume the obligation to know what the law is, even if their fiduciaries don't know or don't advise them what it is, and releases the fiduciaries from any obligations to their clients.

Even if the statute of limitations had run on when the Weisbergs filed this suit, the Williams firm should be estopped from from asserting the bar of limitations as a defense because it concealed the cause of action from the Weisbergs and dragged the case out past the date when the statute of limitations on malpractice ran.

For these reasons the decision of Judge Goodrich should be reversed.

Respectfully submitted,



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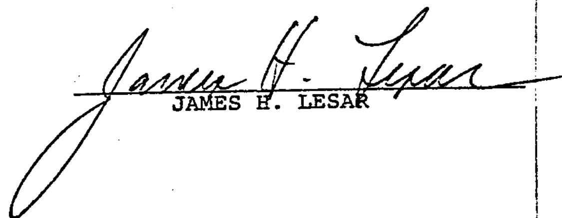
DISTRICT OF COLUMBIA COURT OF APPEALS

HAROLD and LILLIAN WEISBERG, Appellants, c. WILLIAMS, CONNOLLY & CALIFANO, et al., Appellees	No. 12772

CERTIFICATE OF SERVICE

I hereby certify that I have this 30th day of April, 1978 hand-delivered two copies of the Reply Brief for Appellants to the offices of David Webster, Williams & Connolly, the Hill Building, Washington, D.C. 20006.



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