

SUPREME COURT OF MONTANA

H & H Development, LLC v. Ramlow, 2012 MT 51

272 P.3d 657 (Mont. 2012) · No. DA 11-0236 · Decided March 6, 2012

SUMMARY

The Supreme Court of Montana held that a complaint filed pro se on behalf of a limited liability company by a nonlawyer is not automatically a nullity. It directed the district court to evaluate factors including the entity's knowledge of the filing prohibition, the promptness of obtaining counsel, prejudice to the opposing party, and the extent of the nonlawyer's participation. The court reversed and remanded for determination of whether the amended complaint could relate back under Montana Rule of Civil Procedure 15(c).

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Brian Morris; Chief Justice Mike McGrath; Justice Beth Baker; Justice Michael E. Wheat; Justice Jim Rice; Justice Brian Morris
JURISDICTION	Montana
DECIDED	March 6, 2012
DOCKET	DA 11-0236
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed from the Eleventh Judicial District Court's orders declaring their original pro se complaint a nullity, granting summary judgment to defendants on statute-of-limitations grounds, and entering final judgment.
STANDARD OF REVIEW	The application of M.R. Civ. P. 15(c) to undisputed facts and the grant or denial of summary judgment are reviewed de novo. Summary judgment is proper when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	H & H Development, LLC, David House v. James Ramlow, Kaufman, Vidal, Hileman P.C., Ramlow & Rudbach PLLP

TOPICS

summary judgment

statute of limitations

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether H & H's claims were governed by Montana's three-year statute of limitations for professional malpractice rather than the five-year limitations period for breach of contract.
2. Whether plaintiffs waived their argument concerning the effect of H & H's pro se complaint by failing to raise it adequately in the District Court.
3. Whether an amended complaint signed by counsel could relate back under M.R. Civ. P. 15(c) to an earlier complaint filed on behalf of an LLC by a nonlawyer, or whether the original complaint was a nullity.

HOLDINGS

1. The three-year statute of limitations for professional malpractice actions applies because the claims are grounded in alleged legal malpractice; relabeling the claims as breach of contract or breach of fiduciary duty does not obtain a longer limitations period.
2. Plaintiffs did not waive their challenge to treating the 2007 pro se complaint as a nullity because their arguments below were sufficient to avoid a significant change in legal theory on appeal.
3. A district court may not automatically declare an otherwise valid complaint a nullity solely because it was initially filed on behalf of a limited liability company by a nonlawyer. The court must evaluate whether the later attorney-signed amended complaint may relate back under M.R. Civ. P. 15(c), considering specified circumstances.

KEY QUOTATIONS

“These factors include whether the entity had knowledge that it could not file a pro se complaint, the amount of time that has elapsed between learning of the prohibition and seeking counsel, whether the pro se complaint caused prejudice to the opposing party, and how extensively the non-lawyer participated in the proceeding.” (¶ 25, 272 P.3d at 662)

“A district court must evaluate the circumstances of each case as it arises.” (¶ 27, 272 P.3d at 662)

FACTUAL BACKGROUND

H & H Development, LLC, sought to develop property near the Eagle Bend Golf Course and hired attorney James Ramlow to assist with regulatory and transactional matters. Ramlow drafted an agreement whose electronic version was altered by the other party's attorneys, deleting provisions concerning a closing date, density units, and free and clear title; Ramlow acknowledged that he failed to review the altered document

before it was signed. H & H later defaulted and lost the subdivision, and it brought a professional-negligence action against Ramlow and his law firms.

PROCEDURAL HISTORY

H & H filed a complaint in Lake County in 2007 alleging professional negligence, but the complaint was signed by a nonlawyer on behalf of the LLC, no summons issued, and no service occurred. After transfer to Flathead County, H & H filed amended complaints signed by counsel and served Ramlow in February 2010; the District Court declared the original complaint void and later granted summary judgment based on the statute of limitations. The Montana Supreme Court reversed and remanded for the District Court to determine whether the amended complaint could relate back under Montana Rule of Civil Procedure 15(c).

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The District Court must assess whether M.R. Civ. P. 15(c) permits the 2010 amended complaint in Flathead County to relate back to H & H's 2007 Lake County complaint, applying the factors identified by the Montana Supreme Court: whether the entity knew it could not file pro se, the time elapsed between learning of the prohibition and seeking counsel, prejudice to the opposing party, and the extent of the nonlawyer's participation.

CASES CITED

- Citizens Awareness Network v. Mont. Department of Environmental Review, 2010 MT 10, 355 Mont. 60, 227 P.3d 583
- Lampi v. Speed, 2011 MT 231, 362 Mont. 122, 261 P.3d 1000
- Guest v. McLaverty, 2006 MT 150, 332 Mont. 421, 138 P.3d 812
- Unified Indus., Inc. v. Easley, 1998 MT 145, 289 Mont. 255, 961 P.2d 131
- Becker v. Rosebud Operating Serv., Inc., 2008 MT 285, 345 Mont. 368, 191 P.3d 435
- Prentice Lumber Co. v. Hukill, 161 Mont. 8, 504 P.2d 277
- Continental Realty, Inc. v. Gerry, 251 Mont. 150, 822 P.2d 1083
- Zempel v. Liberty, 2006 MT 220, 333 Mont. 417, 143 P.3d 123
- Weaver v. Law Firm of Graybill, Ostrem, Warner & Crotty, 246 Mont. 175, 803 P.2d 1089 (1990)
- Weaver v. Advanced Refrigeration, 2011 MT 174, 361 Mont. 233, 257 P.3d 378
- Carlson v. Workforce Safety & Insurance, 765 N.W.2d 691 (N.D. 2009)
- Boydston v. Strole Development Co., 193 Ariz. 47, 969 P.2d 653 (1998)
- Graham v. Davis County Solid Waste Management & Energy Recovery Special Service District, 979 P.2d 363 (Utah Ct. App. 1999)
- Save Our Creeks v. City of Brooklyn Park, 699 N.W.2d 307 (Minn. 2005)
- Old Hickory Engineering & Mack Co. v. Henry, 937 S.W.2d 782 (Tenn. 1996)

