

VERMONT SUPERIOR COURT, CIVIL DIVISION, CHITTENDEN UNIT

Mathieu v. Jarvis

Mathieu · No. 25-CV-04072 · Decided March 19, 2026

SUMMARY

The Vermont Superior Court granted Paul Jarvis's motion to dismiss Kenneth Mathieu's claims arising from Jarvis's representation of Mathieu's son in a divorce proceeding. The court held that Jarvis owed Mathieu no attorney duty of care, Mathieu could not represent his son without being an attorney, and the action could not collaterally attack the divorce judgment or a separate repossession decision.

CASE DETAILS

COURT	Vermont Superior Court, Civil Division, Chittenden Unit
WRITING FOR THE COURT	Colin Owyang
JURISDICTION	Vermont Superior Court, Civil Division, Chittenden Unit
DECIDED	March 19, 2026
DOCKET	25-CV-04072
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved to dismiss the plaintiff's complaint under the Vermont Superior Court's motion-to-dismiss procedure.
STANDARD OF REVIEW	On a motion to dismiss, the court tests the legal sufficiency of the claim and grants dismissal when no facts or circumstances would entitle the plaintiff to relief.
PRECEDENTIAL VALUE	nonprecedential trial-court order

TOPICS

- motions to dismiss
- professional negligence
- family law procedure
- civil procedure

PRACTICE AREAS

- civil procedure
- professional negligence
- family law

QUESTIONS PRESENTED

- Whether Mathieu could maintain a claim against Jarvis based on Jarvis's representation of Mathieu's son in the divorce action.

2. Whether an attorney owes a duty of care to a nonclient third party who claims injury from the attorney's representation of the attorney's client.
3. Whether Mathieu could represent his son in the action despite being a nonattorney.
4. Whether Mathieu's action could collaterally attack the divorce judgment or the credit union's repossession decision.

HOLDINGS

1. An attorney owes a duty of care only to the client, not to a third party who claims to have been damaged by the attorney's representation. Because Jarvis represented Mathieu's son rather than Mathieu, Jarvis owed Mathieu no duty of care, and Mathieu's claim was subject to dismissal.
2. Mathieu could not represent his son because Vermont prohibits nonattorneys from practicing law.
3. The action could not be used to collaterally attack the divorce judgment or the credit union's repossession decision.

KEY QUOTATIONS

"The longstanding common law rule is that an attorney owes a duty of care only to the client, not to third parties who claim to have been damaged by the attorney's negligent representation." (at 2)

"The practice of law includes all advice to clients, and all actions taken for them in matters connected with the law." (at 2)

FACTUAL BACKGROUND

The divorce judgment awarded Mathieu's former daughter-in-law sole possession and ownership of the tow truck and residence where the tools were stored. Mathieu was not a party to that divorce, while Jarvis represented Mathieu's son at trial and on appeal. In a separate action, Green Mountain Credit Union obtained possession of the tow truck after default on the purchase loan, and that decision was not appealed. Mathieu nevertheless sued Jarvis and asserted that he represented both himself and his son.

PROCEDURAL HISTORY

Kenneth Mathieu sued attorney Paul Jarvis, who had represented Mathieu's son in a divorce action. Jarvis moved to dismiss on the ground that he represented the son, not Mathieu. The court granted the motion to dismiss.

DISPOSITION

dismissed

CASES CITED

- Mathieu v. Mathieu, No. 21-DM-00618, Final Decree of Divorce at 4 (March 2, 2022)
- Mathieu v. Mathieu, No. 22-AP-089, Entry Order Affirming Final Decree of Divorce (August Term, 2022)

- Green Mountain Credit Union v. Mathieu, No. 23-CV-03182, Decision on Motion for Summary Judgment (June 23, 2025)
- Davis v. Am. Legion, Dept. of Vt., 2014 VT 134, ¶ 12, 198 Vt. 204
- Powers v. Off. of Child Support, 173 Vt. 390, 395 (2002)
- Bovee v. Gravel, 174 Vt. 486, 487 (2002) (mem.)
- Hedges v. Durrance, 2003 VT 63, ¶ 6, 175 Vt. 588 (mem.)
- Strong v. Fitzpatrick, 2017 VT 35, ¶ 12, 204 Vt. 452
- Estate of Snelgrove v. LeBlanc, 2023 VT 58, ¶ 5, 218 Vt. 636 (mem.)
- In re Morales, 2016 VT 85, ¶ 11, 202 Vt. 549
- In re Welch, 123 Vt. 180, 182 (1962)
- Town of Pawlet v. Banyai, 2024 VT 13, ¶ 8, 219 Vt. 90

OPINION

PER CURIAM.

Vermont Superior Court Filed 03/12/26 Chittenden UUnit VERMONT SUPERIOR COURT CIVIL DIVISION Chittenden Unit Case No. 25-CV-04072 175 Main Street Burlington VT 05401 802-863-3467 www.vermontjudiciary.org Kenneth Mathieu v. Paul Jarvis ENTRY REGARDING MOTION Title: Motion to Dismiss (Motion: 1) Filer: Andrew H. Maass Filed Date: October 22, 2025 Plaintiff Kenneth Mathieu brought this case against Defendant Paul Jarvis, Esq., who represented Mathieu's namesake son in a divorce action.

Mathieu claims that he should have received a tow truck and tools on the property where his son and former daughter-in-law lived when the judge in the divorce case divided the marital property. Jarvis has moved to dismiss Mathieu's complaint since Jarvis represented Mathieu's son in the divorce, not Mathieu. Mathieu asserts he represents both his son and himself in this case.

Mathieu represents himself and Jarvis has counsel. For the reasons set forth below, the court GRANTS Jarvis's motion to dismiss (Mot. 1). I. Background The divorce awarded Mathieu's former daughter-in-law "sole possession and ownership" of the tow truck and the residence storing the tools that he seeks. See Mathieu v. Mathieu, No. 21-DM-00618, Final Decree of Divorce at 4 (March 2, 2022).

Mathieu was not a party to the divorce. Jarvis represented Mathieu's son in that case at trial and on appeal. The Vermont Supreme Court affirmed the trial court's division of marital property. Mathieu v. Mathieu, No. 22-AP-089, Entry Order Affirming Final Decree of Divorce (August Term, 2022).

In a separate case by Green Mountain Credit Union against Mathieu and Mathieu's former daughter-in-law, the court allowed the credit union to take possession of the tow truck following default on the loan to purchase the truck. Green Mountain Credit Union v. Mathieu, No. 23-CV-

03182, Decision on Motion for Summary Judgment (June 23, 2025). No one appealed that decision.

II. Discussion A motion to dismiss tests the law of the claim and the court will grant it when no facts or circumstances entitle plaintiff to relief. *Davis v. Am. Legion*, Dept. of Vt., 2014 VT 134, ¶ 12, 198 Vt. 204; *Powers v. Off. of Child Support*, 173 Vt. 390, 395 (2002). "The longstanding common law rule is that an attorney owes a duty of care only to the client, not to third parties who claim to have been damaged by the attorney's negligent representation."

Bovee v. Gravel, 174 Vt. 486, 487 (2002) (mem.). This rule allows the attorney to represent their clients "zealously... without the threat of suit from third parties compromising that representation." *Hedges v. Durrance*, 2003 VT 63, ¶ 6, 175 Vt. 588 (mem.) (quotation omitted); see also *Strong v. Fitzpatrick*, 2017 VT 35, ¶ 12, 204 Vt. 452 (rule requiring attorney- client privity for legal malpractice action developed to ensure attorney maintains focus on client's objectives without interference or "looming possibility of suit from third parties").

Only Jarvis' client, Mathieu's son, may bring a malpractice action against Jarvis based on Jarvis's representation of him in the divorce action. Mathieu brought this case alone. Jarvis owed Mathieu no duty of care. No facts or circumstances would entitle Mathieu to the relief he seeks in this case. See *Davis*, 2014 VT 134, ¶ 12. Nor may Mathieu represent his son in this case.

Vermont prohibits the practice of law by non-attorneys like Mathieu. *Estate of Snelgrove v. LeBlanc*, 2023 VT 58, ¶ 5, 218 Vt. 636 (mem.). "The practice of law includes all advice to clients, and all actions taken for them in matters connected with the law." *In re Morales*, 2016 VT 85, ¶ 11, 202 Vt. 549 (quoting *In re Welch*, 123 Vt. 180, 182 (1962)). This case may not collaterally attack Mathieu's son's divorce or the credit union's repossession of the tow truck.

See *Town of Pawlet v. Banyai*, 2024 VT 13, ¶ 8, 219 Vt. 90 (prohibiting collateral attack in one proceeding as impermissible attempt to question validity of final judgment in another) (citation omitted). III. Order For the reasons set forth above, the court GRANTS Jarvis's motion to dismiss (Mot. 1). Electronically signed pursuant to V.R.E.F. 9(d) on March 12, 2026.

Colin Owyang Superior Court Judge 2