2026 IL App (1st) 250895-U

SECOND DIVISION
September 8, 2026

No. 1-25-0895

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

STEVEN J. MORTON & ASSOCIATES, LTD.,	) Appeal from the
	) Circuit Court of
Plaintiff-Appellant,	) Cook County
	)
v.	) No. 2023 L 13004
	)
DANIEL J. STOHR and AJA SEATS,	) Honorable
	) Patrick J. Sherlock,
Defendants-Appellees.	) Judge, Presiding.

PRESIDING JUSTICE D.B. WALKER delivered the judgment of the court.
Justices McBride and Ellis concurred with the judgment.

ORDER

¶ 1 *Held*: We affirm the trial court's dismissal of plaintiff's complaint where the written retainer agreement did not indicate a referral arrangement between plaintiff and the other attorney.

¶ 2 Plaintiff Steven J. Morton & Associates, Ltd., appeals the judgment of the trial court dismissing its amended complaint pursuant to section 2-619.1 of the Code of Civil Procedure (Code) (735 ILCS 5/2-619.1 (West 2022)). Plaintiff contends that dismissal was improper as to its claim for breach of contract where a valid referral agreement existed between plaintiff and defendant Daniel J. Stohr, and plaintiff was not paid a referral fee. Plaintiff also contends that the

trial court erred in failing to grant plaintiff leave to file a second-amended complaint. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On October 9, 2016, John Kyles, the brother of defendant Aja Seats (Seats), was killed during a police chase. Seats was appointed special administrator of the estate. After Kyles' death, his mother, Gelinda Kyles (Gelinda), contacted plaintiff to represent the family in a lawsuit against the village of Dolton. Plaintiff is a law firm owned by attorney Steven J. Morton.

¶ 5 Plaintiff's first-amended complaint alleged that on October 11, 2016, Morton contacted Stohr to discuss the possibility of representing the family as co-counsel. During the call, Stohr convinced Morton that they should sign the clients, "work up the case together in pre-trial litigation, and then hand the reins to Loevy & Loevy for trial." When Morton and Stohr discussed the attorney fees in the case, they agreed the fees would be divided equally between them. However, when Stohr prepared a draft of the representation agreement, he "misallocated" the fee sharing portion "to favor himself." Plaintiff alleged that Morton approached Jon Loevy, a partner at Loevy & Loevy, to express his doubts about Stohr.

¶ 6 Plaintiff's complaint alleged that "Mr. Loevy assured Attorney Morton that he and Defendant Stohr would 'take care of you' in the litigation and ensure [Morton] was properly compensated as the referring attorney." The complaint alleged that, based on Loevy's representation, Morton introduced Stohr to Kyles' family and they presented the family with a "Representation Agreement."

¶ 7 On October 19, 2016, Seats, in her capacity as the special administrator, signed a "Retainer Agreement" with plaintiff and Stohr. This agreement was attached to the complaint. The agreement provided for a 40% contingency fee to be divided between plaintiff and Stohr. Plaintiff alleged

that under the "Retainer Agreement," it was "entitled to 50% of any contingency fee earned by the attorneys, and Defendant Stohr was entitled to the remaining 50%." The agreement stated, in relevant part,

> "1. It is hereby agreed by the undersigned that Daniel J. Stohr and Steven J. Morton and Associates, Ltd., ("attorneys") will represent Aja Seats, in her capacity as Special Administrator of Decedent and as Administrator of the estate of John Christopher Kyles, ("Client") ***. This representation shall include pursuing wrongful death and related litigation claims on the Client's behalf.
>
> 2. In consideration for such services, including, if necessary, representation at a trial on the merits, Attorneys shall receive a percentage of the gross value of any and all judgment(s), award(s), or settlement(s) *** received by the Client (hereafter, the "Contingent Fee").
>
> ***
>
> 6. Client has been advised and understands that the Attorney Contingency shall be split by the Attorneys as follows: (as amended by the parties) 50% of the fees shall accrue to [plaintiff], and the balance to Attorney Daniel J. Stohr. Nothing about the split by the Attorneys of the Attorneys' Contingency shall effect [*sic*] the total amount recovered by the Client.
>
> 7. Client understands that the Attorneys may bring in additional co-counsel but in that event the client's written approval will be obtained in writing.
>
> 8. Attorneys and Client agree to adopt this fee arrangement because it is the opinion of all of the undersigned that this fee arrangement maximizes not only the Attorneys' incentive to prevail for Client, but this arrangement also maximizes Attorneys' incentive

> to endeavor to obtain the maximum possible amount of compensation/recovery/settlement from the Defendants."

¶ 8 Plaintiff alleged that Morton and Stohr began the litigation process, including the preparation of pleadings and conducting discovery. However, when Morton asked for contact information for investigators working on the case, Stohr ceased communications with him.

¶ 9 On January 15, 2017, Stohr met with Seats and Gelinda without Morton present. At the meeting, Seats and Gelinda signed an agreement to terminate plaintiff's representation in the matter. The agreement stated:

> "I have been told by Attorney Daniel Stohr today that he can no longer work with Attorney Steven Morton in the case of *Aja Seats, Special Administrator for Deceased Person John Christopher Kyles v. Village of Dolton and Unknown Police Officers*, Case number 16 L 010353 and that I must choose either Attorney Stohr or Attorney Morton to represent me. *** "

On the document, Seats and Gelinda initialed the option stating, "I choose to continue with Attorney Stohr and discharge Attorney Morton, effective immediately."

¶ 10 Plaintiff was notified of the discharge on January 17, 2017. After plaintiff's discharge, Arthur Loevy filed an appearance in the suit, and the matter proceeded to trial. On August 3, 2022, a jury awarded Kyles' family $10 million. The village of Dolton has not paid the judgment.

¶ 11 On January 13, 2023, plaintiff filed a complaint against Stohr, Seats and Loevy & Loevy. On January 8, 2025, plaintiff filed an amended complaint alleging (1) tortious interference with prospective economic advantage against Stohr and Loevy & Loevy, (2) preliminary injunction on the distribution of attorney fees against Loevy, Stohr and Seats; (3) breach of contract against Stohr; and (4) *quantum meruit* against Stohr.

¶ 12 Defendants filed a motion to dismiss pursuant to sections 2-615 and 2-619 of the Code, alleging that (1) plaintiff's complaint was barred by the statute of limitations, (2) as a discharged attorney, plaintiff could not bring a breach of contract claim based on the retainer agreement, and (3) the claims for tortious interference, unjust enrichment and *quantum meruit* are barred as against public policy.

¶ 13 The trial court first addressed the statute of limitations issue. It found that the claims "are not subject to the § 13-214.3(b) statute of limitations. This is not a legal malpractice claim alleging defendant committed malpractice." Instead, it found that the five-year statute of limitations in section 13-205 of the Code (735 ILCS 5/13-205 (West 2022)) applied. That section pertains to "all civil actions not otherwise provided for by statute" and states that such claims "shall be commenced within five years after the cause of action accrued." *Id.* The trial court further found that the "latest date plaintiff was put on notice of his claims is January 17, 2017 when defendant advised plaintiff that their relationship was concluded and attached the executed 'Notice of Lawyer Choice and Termination' letter executed by the client on January 15, 2017."

¶ 14 The trial court found that plaintiff's claims of tortious interference, unjust enrichment, and *quantum meruit* were untimely in that he failed to file a complaint by January 17, 2022. The court dismissed these claims with prejudice pursuant to section 2-619 of the Code. The court also dismissed the preliminary injunction count with prejudice because it was "not a cause of action in itself," and there were "no claims surviving." As for the breach of contract count, the trial court found that "[p]laintiff cannot sustain a claim for breach of contract grounded on a terminated contingency fee agreement. There is no dispute the attorney-client relationship was terminated." The court dismissed this count with prejudice as well.

¶ 15 Plaintiff filed this appeal.

¶ 16 II. ANALYSIS

¶ 17 Defendants moved to dismiss plaintiff's complaint pursuant to section 2-619.1 of the Code. A section 2-619.1 motion to dismiss is a combined motion under sections 2-615 and 2-619 of the Code. 735 ILCS 5/2-619.1, 2-615, 2-619 (West 2024). A motion to dismiss pursuant to section 2-615 attacks the legal sufficiency of the complaint by alleging defects on its face. *Gatreaux v. DKW Enterprises, LLC*, 2011 IL App (1st) 103482, ¶ 10. A motion to dismiss pursuant to section 2-619 admits the legal sufficiency of the complaint but raises an affirmative defense or other basis to defeat the claims. *Id*. We review a trial court's dismissal of a complaint under section 2-619.1 *de novo*. *Morris v. Harvey Cycle and Camper, Inc.*, 392 Ill. App. 3d 399, 402 (2009). As such, we may affirm the court's judgment on any basis in the record, regardless of whether it relied on that basis or its reasoning was correct. *Grassroots Collaborative v. City of Chicago*, 2020 IL App (1st) 192099, ¶ 21.

¶ 18 Plaintiff's only contention on appeal is that the trial court erred in dismissing its claim for breach of contract against Stohr. Therefore, plaintiff has forfeited review of the court's dismissal of the remaining counts in his complaint. See Ill. S. Ct. Rule 341(h)(7) (eff. Oct. 1, 2020) (providing that "[p]oints not argued are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing").

¶ 19 Plaintiff contends that, "at all times [Morton was] a *referring* attorney whose primary service was the referral of the Underlying Suit to Stohr." (Emphasis in the original.) Plaintiff points to the retainer agreement signed by Morton, Stohr and Seats to support that a valid referral agreement existed between plaintiff and Stohr. Plaintiff argues that the discharge letter signed by Seats and Gelinda did not invalidate the *referral* agreement, and therefore, the trial court erred in dismissing plaintiff's claim for breach of contract against Stohr.

¶ 20 Plaintiff does not dispute that Seats and Gelinda discharged Morton pursuant to the letter they signed on January 15, 2017, indicating that they chose "to continue with Attorney Stohr and discharge Attorney Morton, effective immediately." Rather, plaintiff argues that Morton and Stohr entered into a referral arrangement where they agreed to split the attorney fees equally. Plaintiff points to the retainer agreement to support its contention.

¶ 21 The Rules of Professional Conduct govern the propriety of attorney-fee agreements. Relevant here, Rule 1.5(f) provides that:

> "(f) A division of a fee between lawyers who are not in the same firm may be made only if:
>
> (1) the division is in proportion to the services performed by each lawyer, or if the primary service performed by one lawyer is the referral of the client to another lawyer and each lawyer assumes joint financial responsibility for the representation;
>
> (2) the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and
>
> (3) the total fee is reasonable." Ill. R. Prof'l Conduct Rule 1.5(f) (eff. July 1, 2023).

¶ 22 Rule 1.5 reflects our state's public policy of "placing the rights of clients above and beyond any lawyers' remedies in seeking to enforce fee-sharing arrangements." (Internal quotation marks omitted.) *Romanek v. Connelly*, 324 Ill.App.3d 403, 399 (2001). Thus, fee-sharing agreements that violate Rule 1.5 are against public policy and unenforceable. *Donald W. Fohrman & Assocs., Ltd. v. Mark D. Alberts, P.C.*, 2014 IL App (1st) 123351, ¶ 33. Although Rule 1.5 authorizes fee-sharing arrangements between attorneys, "where the primary service performed by one lawyer is the referral of the client to another lawyer [citation], such arrangements cannot rest on the referral alone." *Id.*

¶ 23 In *Ferris, Thompson & Zweig, Ltd. v. Esposito,* 2017 IL 121297, our supreme court examined the language of what is now Rule 1.5(f). The question it considered was whether the requirement that "each lawyer assumes joint financial responsibility for the representation," as set forth in subsection (1), must be in writing when the primary service performed by one firm is the referral of clients to another firm. The court determined that in a referral situation, Rule 1.5 permits the division of fees between lawyers who are not in the same firm, as long as three conditions are met: (1) "where the primary service provided by one lawyer was the referral of the client to another lawyer, both lawyers must assume joint financial responsibility for the representation as a whole," (2) "the client must agree in writing to the arrangement, including the share each attorney is to receive," and (3) the total fee charged must be reasonable. *Id.* ¶ 32.

¶ 24 The court noted that the client consent provision set forth in Rule 1.5(f)(2) "makes no mention of the attorneys' assumption of joint financial responsibility." *Id.* ¶ 34. Rather, pursuant to the plain language of Rule 1.5(f)2, the client must agree to the "arrangement," and that agreement must be "confirmed in writing." Ill. R. Prof'l Conduct Rule 1.5(f)(2) (eff. July 1, 2023). Our supreme court concluded that "all the written consent must include is that the client has agreed to the 'arrangement,' *i.e.*, the referral of the case and the division of fees between the referring and receiving lawyers, including how much each lawyer will receive." *Ferris*, 2017 IL 121297, ¶ 34.

¶ 25 In this case, plaintiff relies on the Retainer Agreement signed by Morton, Stohr, and Seats to support its referral argument. To determine whether the Retainer Agreement complied with the requirements of Rule 1.5(f), we must construe the contract. In construing the provisions of a contract, our primary objective is to effectuate the parties' intent at the time the contract was made. *Owens v. McDermott, Will & Emery,* 316 Ill. App. 3d 340, 344 (2000). Where the terms of an agreement are clear and unambiguous, we determine the parties' intent from the language of the

agreement alone, given its plain and ordinary meaning. *Shapich v. CIBC Bank USA*, 2018 IL App (1st) 172601, ¶ 18. If the language of a contract is clear and unambiguous, the construction of that contract is a matter of law that we review *de novo*. *Lease Management Equipment Corp. v. DFO Partnership*, 392 Ill.App.3d 678, 684 (2009).

¶ 26 The plain language of the Retainer Agreement does not mention a referral arrangement between plaintiff and Stohr. It simply states that Morton and Stohr "will represent Aja Seats, in her capacity as Special Administrator." Furthermore, the agreement provides only that "[t]his representation shall include the pursuit of wrongful death and related litigation claims," that in consideration for such services the attorneys will receive a portion of the judgment or settlement (contingent fee), and that the attorneys will split the fee equally. The Retainer Agreement thus does not satisfy Rule 1.5(f)(2)'s requirement that the client agree in writing to the referral arrangement.

¶ 27 Plaintiff cites *Elane v. St. Bernard Hospital*, 284 Ill. App. 3d 865 (1996), and *Corcoran v. Northeast Illinois Regional Commuter R.R. Corp.*, 345 Ill. App. 3d 449 (2003), as support. In *Elane*, however, the referring attorney entered into a written "fee contract" which "referred four medical malpractice cases" to the other attorney and set forth the referral fee. *Elane*, 284 Ill. App. 3d at 867. In *Corcoran*, the contract signed by the client stated that she fully understood and agreed and consented "to the fact that Joseph P. Dowd, the referring lawyer, will receive 40% of the attorneys' fees and that Joseph P. Dowd has agreed to assume the same legal responsibility for the performance of the legal services as CORBOY & DEMETRIO assumes on my behalf." *Corcoran*, 345 Ill. App. 3d at 451. Unlike the contracts in *Elane* and *Corcoran*, the Retainer Agreement in this case said nothing about plaintiff as a referring attorney. These cases are inapposite.

¶ 28 We note that in the first-amended complaint, plaintiff referred to a possible second agreement. Plaintiff alleged that Mr. Loevy assured Morton that he and Stohr would "take care of you" so that Morton would be "properly compensated as the referring attorney." Based on that representation, Morton introduced Stohr to Kyles' family and they were allegedly presented with a "Representation Agreement." Plaintiff, however, did not raise the issue of a separate "Representation Agreement" in its appellate brief. As such, plaintiff has forfeited this issue on appeal. See Rule 341(h)(7) (eff. Oct. 1, 2020). Regardless, there was no allegation in the amended complaint that a "Representation Agreement," signed by the client, set forth the referral arrangement between plaintiff and Stohr. Also, no such agreement was attached to the amended complaint. This "Representation Agreement," as alleged, could not satisfy the writing element of Rule 1.5(f)(2).

¶ 29 To claim referral fees here, Rule 1.5(f)(2) requires a written agreement indicating that Seats consented to the arrangement of plaintiff as the referring attorney. See *Ferris*, 2017 IL 121297, ¶ 34. Plaintiff's amended complaint did not allege such an agreement, nor was such an agreement attached to the complaint. Fee-sharing agreements that violate Rule 1.5 are unenforceable. *Fohrman*, 2014 IL App (1st) 123351, ¶ 33. Where a claim is based on the existence of a contract, but it is clear from the face of the complaint that the contract is unenforceable as a matter of public policy, dismissal pursuant to section 2-615 is appropriate. *K. Miller Construction Co. v. McGinnis*, 238 Ill. 2d 284, 291–92 (2010).

¶ 30 Plaintiff next contends that the trial court erred in dismissing the amended complaint with prejudice and instead should have granted plaintiff leave to file a second-amended complaint. Although plaintiff insists that it requested leave to amend in the proceedings below, we do not find any specific request in the record. "The general rule is that where a trial court dismisses a complaint

and plaintiff does not seek leave to amend, the cause of action must stand or fall on the sufficiency of the stricken pleading." *Bajwa v. Metropolitan Life Insurance Co.*, 208 Ill. 2d 414, 435 (2004).

¶ 31 Nonetheless, given that plaintiff's breach of contract claim depends on the existence of an enforceable referral agreement, and we have found that such an agreement, if it was made, violated Rule 1.5(f)(2), an attempt by plaintiff to amend its complaint would be futile. Accordingly, we affirm the trial court's dismissal of plaintiff's complaint with prejudice. See *Bellik v. Bank of America*, 373 Ill. App. 3d 1059, 1065 (2007) (we may affirm the trial court's dismissal of a complaint with prejudice where it is clearly apparent that the plaintiff can prove no set of facts that entitles them to recovery).

¶ 32 II. CONCLUSION

¶ 33 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 34 Affirmed.