2024 IL App (1st) 231323

First District
Third Division
December 18, 2024

No. 1-23-1323

JAMES R. CAREY, Independent Executor of the Estate of Alyce K. Newman, Plaintiff-Appellant, v. MICHAEL HARTZ, ELIZABETH CREASY, and KATTEN MUCHIN ROSENMAN, LLP, Defendants-Appellees.	)	Appeal from the Circuit Court of Cook County. No. 2022 L 004556 The Honorable Michael F. Otto, Judge Presiding.

JUSTICE REYES delivered the judgment of the court, with opinion.
Justices Martin and D.B. Walker concurred in the judgment and opinion.

OPINION

¶ 1 Before her death, defendants Michael Hartz and Elizabeth Creasy, attorneys at defendant law firm Katten Muchin Rosenman, LLP (Katten), assisted decedent Alyce K. Newman in modifying her estate plan to benefit one of her sons. Upon discovering the modifications, Newman's other son obtained limited guardianship of her estate and person, alleging that she was suffering from dementia, and unwound the modifications. He then filed a legal malpractice action against defendants on Newman's behalf, alleging that they should have evaluated Newman's mental capacity to make changes to her estate prior to effectuating such changes. The complaint was initially dismissed on statute of limitations grounds, but that dismissal was reversed by this court, and the cause was remanded to the circuit court. On remand, the case was renumbered and, after Newman's death, James R. Carey, as the executor of her estate, was substituted as plaintiff. Defendants filed a motion to dismiss for failure to state a cause of

action, and the circuit court again dismissed the complaint, finding that (1) there is no duty for an attorney to evaluate the mental capacity of his or her client and (2) even if there was, the complaint did not sufficiently allege that defendants were aware of Newman's disability at the time they rendered services. Plaintiff appeals, and we reverse.

¶ 2 BACKGROUND

¶ 3 *Estate Plan Representation*

¶ 4 As the instant appeal arises from the circuit court's dismissal of plaintiff's second amended complaint, we relate the underlying facts as set forth in that complaint, taking all well-pleaded allegations as true.

¶ 5 Newman had two adult sons, P. Andre Katz (Andre) and Leonard Katz (Leonard). In October 2016, Newman prepared an estate plan, which listed both sons as beneficiaries; the original estate plan was not drafted by Katten. In the spring of 2017, however, Leonard contacted Hartz about modifying Newman's estate plan and, shortly thereafter, accompanied Newman to Katten's office to meet with Hartz regarding the estate plan. According to the complaint, "[a]t the time [Newman] met with Defendants, [she] was already suffering the effects of dementia. Specifically, [Newman] lacked the ability to recall past financial transactions made by her[,] including the writing of specific checks. Further, [Newman] lacked the ability to recall prior medical procedures, what medication she was taking[,] or even the name of her primary care physician." The complaint further alleged that, at the time she met with Hartz, Newman "was partially incapable of making personal decisions and wholly incapable of making financial decisions." For instance, if presented with a question relating to her financial condition, Newman "would respond with bewilderment and an inability to even estimate the value of her assets." The complaint alleged that Newman "did not understand the

nature and objects of her bounty, her finances or anything about the financial world around her." While Newman may have presented as competent in a social situation, "upon any significant questioning her condition would be revealed as [Newman] lacked the ability to answer basic questions about her life or the world at large and often struggled with word-finding to express herself as intended."

¶ 6 The complaint alleged that, at the meeting, "[o]n information and belief, *** [Newman] displayed signs of her diminished capacity including her inability to accurately answer questions about her life or about her financial situation." During the meeting, Newman also referred to handwritten notes in order to answer questions about her estate or the proposed modifications. At the conclusion of the meeting, Hartz requested that Newman prepare notes for a subsequent meeting. Upon returning home, Newman, under Leonard's influence, prepared notes on her proposed modifications at Leonard's direction.

¶ 7 Newman and Leonard met with Hartz for a second meeting on May 11, 2017, at which Newman read from her notes as to her proposed modifications. According to the complaint, "she again displayed signs of dementia." Newman also revealed that she had already given Leonard $660,000 in the past seven months. Newman additionally directed that the details of the proposed modifications not be disclosed to Andre, despite the fact that he was a beneficiary of Newman's estate.

¶ 8 After meeting with Newman, Hartz and Creasy prepared several modifications to Newman's estate plan. Specifically, these modifications included the insertion of a no-contest clause, as well as a requirement that Newman could not be declared incompetent without the concurrence of three physicians who had treated her within the past five years. The latter provision was subsequently further modified to provide that Newman could not be declared

incompetent without the concurrence of a physician of Leonard's choosing. The modified estate plan also directed that Newman's trust for her sons should be liquidated, with her sons receiving all of the money under the trust in a single lump-sum distribution. Previously, Leonard's share of the trust assets was to be held in a special needs trust "due to Leonard's inability to manage his own finances in part due to his significant and long-standing gambling addiction."

¶ 9 Newman executed the documents evidencing the modified estate plan on May 31, 2017, at Katten's office, where she was accompanied by Leonard, despite the fact that a number of open issues remained. At this meeting, Newman met with Creasy, as Hartz was unavailable, and "continued to show signs of her condition, including limited verbal responses to Creasy's explanation of the documents she was there to execute."

¶ 10 On June 9, 2017, Andre was appointed temporary guardian of Newman's estate and person by the probate court in case No. 17 P 3738.[1] In the order appointing him as guardian, the probate court identified the "harm" necessitating the appointment as: "The respondent's son, Leonard Katz, has isolated the respondent from family[,] friends[,] & fiduciaries. Leonard Katz refused to open the door to allow the [guardian *ad litem*] & physician access. Instead he called 911 & said respondent was not home. The respondent's cell phone is off & her voicemail is full. The court has serious concerns about the validity of the letters the respondent allegedly signed & FedExed to petitioner Andre Katz & certain of her fiduciaries. The respondent reportedly seeks to transfer large sums of money from her long-time financial advisor." As part of the order, Newman was prohibited from, *inter alia*, "executing any estate planning

[1]Andre was eventually appointed limited guardian of Newman's estate and person in September 2019.

documents, including, but not limited to, wills, codicils, trust agreements, trust amendments, and beneficiary designations until testamentary capacity is authenticated before this court."

¶ 11 After his appointment, Andre contacted Hartz to notify him about the temporary guardianship. Hartz then called Newman's home, but spoke with Leonard, not Newman. In July 2017, Newman paid Katten for estate planning services provided through May 31, 2017. Despite having knowledge that Newman was under a guardianship, defendants did not make any efforts to determine whether she had the capacity to execute the check.

¶ 12 *First Case*

¶ 13 In June 2019, Andre, as limited guardian of Newman's estate, filed a three-count complaint against all three defendants in case No. 2019 L 007155. In count I, for legal malpractice, the complaint alleged that defendants breached their duty of care to Newman, their client, by "failing to adequately investigate whether [she] had the capacity to make *** changes to her estate plan." The complaint further alleged that, had they done so, defendants would have determined that she lacked such capacity. As a direct result of defendants' actions, the complaint alleged that Newman's estate was required to incur over $100,000 in legal fees and other costs to unwind the modifications made at Leonard's behest and to recover monies wrongfully taken by Leonard from Newman's estate.

¶ 14 In count II, for tortious interference with testamentary expectancy, the complaint alleged that Andre had rights to Newman's estate upon her death and that defendants interfered with such expectancy. Finally, in count III, for unjust enrichment, the complaint alleged that defendants wrongfully accepted payment of legal fees from Newman "for services that she lacked the capacity to request and payment that she lacked the capacity to make."

¶ 15 In August 2019, Hartz and Katten filed a combined motion to dismiss the complaint pursuant to section 2-619.1 of the Code of Civil Procedure (Code) (735 ILCS 5/2-619.1 (West 2018)), which was later joined by Creasy. The motion claimed that dismissal of the entire complaint was appropriate under section 2-619(a)(5) of the Code (*id.* § 2-619(a)(5)), as it was time-barred. The motion further claimed that counts II and III of the complaint should be dismissed under section 2-615 of the Code (*id.* § 2-615), as each failed to state a cause of action.

¶ 16 In December 2019, the circuit court dismissed the entirety of the complaint with prejudice pursuant to section 2-619 of the Code, and denied the motion to dismiss pursuant to section 2-615 of the Code as moot. Andre appealed, and a different division of this court reversed, finding that it was not clear as a matter of law that the statute of limitations barred his claims. *Katz v. Hartz,* 2021 IL App (1st) 200331.

¶ 17 *Second Case*

¶ 18 On remand, the matter was administratively renumbered as case No. 2022 L 004556 and was assigned to the same circuit court judge. The circuit court found that, in light of the appellate court ruling, the portion of the motion to dismiss based on section 2-615 was "no longer moot" and set the matter for hearing. In May 2022, the circuit court granted defendants' motion to dismiss counts II and III of the complaint pursuant to section 2-615, dismissing count II without prejudice and dismissing count III with prejudice as to Hartz and Creasy and without prejudice as to Katten.

¶ 19 Upon dismissal of the complaint, Andre filed an amended complaint, alleging counts for (1) legal malpractice and (2) unjust enrichment. In response, defendants filed a motion to dismiss the amended complaint, pursuant to section 2-615 of the Code, contending that the

amended complaint failed to state a cause of action with respect to either count. The circuit court granted the motion to dismiss without prejudice, granting Andre leave to file a second amended complaint.

¶ 20 Newman passed away in early 2023, and James R. Carey was appointed independent executor of her estate on February 28, 2023. In his capacity as independent executor, Carey filed a second amended complaint against defendants, which is the operative complaint for purposes of the instant appeal. Count I of the second amended complaint was for legal malpractice and alleged that defendants had a duty of care towards Newman and, "[g]iven that [Newman's] diminished capacity became clear upon any significant questioning or discussion of her financial condition, Defendants had reason to believe that [Newman] did not have capacity to modify her estate [plan], and had a duty to evaluate the same." Count I further alleged that defendants owed Newman a duty "to determine if Leonard was applying any undue influence or coercion on [Newman] in amending her estate plan," in light of his outward control over her life, her recent significant financial gifts to him, and the fact that the modifications Newman sought were for his benefit. Count I alleged that defendants breached their duty of care by failing to adequately investigate whether Newman had the capacity to modify her estate plan and whether she was subject to Leonard's undue influence. As a result, count I alleged that Newman's estate "has been required to incur hundreds of thousands in legal fees and other costs to unwind the illegal and ineffective modifications made to [Newman's] estate plan at Leonard's behest and to recover monies wrongly taken by Leonard from [Newman's] estate."

¶ 21 Count II of the second amended complaint was for unjust enrichment and alleged that defendants "wrongfully accepted legal fees from [Newman] for services that she lacked the mental capacity to request and payment that she lacked the capacity to make." Count II further

alleged that defendants' failure to confirm that Newman had the capacity to make these payments "renders Defendants' retention of these sums unjustified."

¶ 22 Defendants filed a motion to dismiss the second amended complaint pursuant to section 2-615 of the Code, again contending that the complaint failed to state a cause of action for either count. On June 29, 2023, after a hearing, the circuit court granted defendants' motion to dismiss, dismissing the second amended complaint with prejudice.

¶ 23 This appeal follows.

¶ 24 ANALYSIS

¶ 25 On appeal, plaintiff contends that the circuit court erred in dismissing his complaint, where (1) an attorney has a duty to confirm a client's testamentary capacity and, in this case, (2) the complaint alleged sufficient facts to state a claim for legal malpractice.[2] A motion to dismiss under section 2-615 of the Code challenges the legal sufficiency of the complaint by alleging defects on its face. *Young v. Bryco Arms*, 213 Ill. 2d 433, 440 (2004); *Wakulich v. Mraz*, 203 Ill. 2d 223, 228 (2003). The critical inquiry is whether the allegations in the complaint are sufficient to state a cause of action upon which relief may be granted. *Wakulich*, 203 Ill. 2d at 228. In making this determination, all well-pleaded facts in the complaint and all reasonable inferences that may be drawn from those facts are taken as true. *Young*, 213 Ill. 2d at 441. In addition, we construe the allegations in the complaint in the light most favorable to the plaintiff. *Id.* We review *de novo* an order granting a section 2-615 motion to dismiss. *Id.* at 440; *Wakulich*, 203 Ill. 2d at 228. We may affirm on any basis appearing in the record, whether or

[2]We note that plaintiff does not raise any arguments concerning the dismissal of the unjust enrichment count, and we therefore find any challenge to the dismissal of that count to be forfeited.

not the circuit court relied on that basis or its reasoning was correct. *Ray Dancer, Inc. v. DMC Corp.*, 230 Ill. App. 3d 40, 50 (1992).

¶ 26 In this case, the circuit court's dismissal of plaintiff's complaint was based on its finding that there is no duty for an attorney to assess the mental capacity of a client and, even if there was, plaintiff's complaint failed to allege that defendants were on notice of Newman's disability at the time they rendered services. Plaintiff challenges both findings, and we consider each in turn.

¶ 27 *Duty of Attorney to Assess Capacity*

¶ 28 We first consider the overarching question of whether an attorney has a duty to assess the mental capacity of a client. To state a claim for legal malpractice, a plaintiff must establish that (1) the defendant attorneys owed the plaintiff a duty of care arising from the attorney-client relationship, (2) the defendants breached that duty, and (3) as a proximate result, the plaintiff suffered injury. *In re Estate of Powell*, 2014 IL 115997, ¶ 13. Here, plaintiff contends that the duty owed by an attorney to a client includes the duty to assess the client's competency.

¶ 29 Both parties recognize that there is no Illinois law directly on the subject, making this a case of first impression. Plaintiff, however, relies on Rule 1.14 of the Illinois Rules of Professional Conduct of 2010 to suggest that such a duty should be imposed on attorneys practicing in Illinois. See Ill. R. Prof'l Conduct (2010) R. 1.14 (eff. Jan. 1, 2010). The Rules of Professional Conduct of 2010 "provide a comprehensive set of rules governing the professional conduct of Illinois attorneys" and, as part of the Illinois Supreme Court rules, operate with the force and effect of law. *Bennett v. GlaxoSmithKline LLC*, 2020 IL App (5th) 180281, ¶ 51. See also *In re Vrdolyak*, 137 Ill. 2d 407, 422 (1990) ("[a]s an exercise of this court's inherent power over the bar and as rules of court," the Code of Professional

Responsibility, a predecessor to the Rules of Professional Conduct of 2010, "operates with the force of law"); *In re Marriage of Newton*, 2011 IL App (1st) 090683, ¶ 40 (the Rules of Professional Conduct, the immediate predecessor to the Rules of Professional Conduct of 2010, "have the force of law and embody the public policy of our state").

¶ 30 Rule 1.14 concerns clients with diminished capacity and generally requires that, "[w]hen a client's capacity to make adequately considered decisions in connection with a representation is diminished," the attorney should, as far as reasonably possible, "maintain a normal client-lawyer relationship with the client." Ill. R. Prof'l Conduct (2010) R. 1.14(a) (eff. Jan. 1, 2010). When, however, the attorney "reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest," the attorney "may take reasonably necessary protective action," including consulting with individuals or entities having the ability to take action to protect the client. Ill. R. Prof'l Conduct (2010) R. 1.14(b) (eff. Jan. 1, 2010). The comments to Rule 1.14 further explain that "[i]n determining the extent of the client's diminished capacity" in considering whether protective measures are necessary, "the lawyer should consider and balance such factors as: the client's ability to articulate reasoning leading to a decision, variability of state of mind and ability to appreciate consequences of a decision; the substantive fairness of a decision; and the consistency of a decision with the known long-term commitments and values of the client." Ill. R. Prof'l Conduct (2010) R. 1.14 cmt. 6 (eff. Jan. 1, 2010). Plaintiff reasons that Rule 1.14 supports a duty to assess a client's capacity, as "[i]f there is an obligation to determine the extent of a diminished client's capacity, logically there must first be an obligation to determine whether a client has capacity." We do not find this argument persuasive.

¶ 31 In order to have testamentary capacity, a testator " 'must be capable of knowing what [her] property is, who are the natural objects of [her] bounty, and also be able to understand the nature, consequence, and effect of the act of executing a will.' " *DeHart v. DeHart*, 2013 IL 114137, ¶ 20 (quoting *Dowie v. Sutton*, 227 Ill. 183, 196 (1907)). An individual is presumed to possess testamentary capacity "until the contrary is proved." *In re Estate of Fordyce*, 130 Ill. App. 2d 755, 757 (1971); see also *In re Estate of Harn*, 2012 IL App (3d) 110826, ¶ 26 ("Each person is presumed under the law to be sane for the purpose of making a will, until the contrary is proven."). Thus, an attorney working with a client begins the relationship with the presumption that the client has testamentary capacity, until proven otherwise. Plaintiff's position, by contrast, begins from the opposite perspective—namely, requiring the attorney to essentially make a finding of competence before embarking on representation of the client. Such a position turns the presumption of competence on its head, making it something that needs to be affirmatively established instead of something that needs to be rebutted in appropriate circumstances. We cannot find that Rule 1.14 stands for such a proposition, especially in light of the well-established presumption of competence.

¶ 32 While plaintiff suggests that an affirmative duty to determine a client's competence is supported by public policy, we disagree. Plaintiff is correct that there is a public policy in favor of protecting the elderly from abuse and harm. See *County of De Witt v. American Federation of State, County & Municipal Employees, Council 31*, 298 Ill. App. 3d 634, 637 (1998). Similarly, there is a public policy in favor of "vigilant protection" of the disabled. See *In re Mark W.*, 228 Ill. 2d 365, 374-75 (2008). There is also, however, a public policy in support of testamentary freedom. See *In re Estate of Feinberg*, 235 Ill. 2d 256, 266 (2009). Our supreme court has long balanced these policies by establishing a presumption that a person is capable

of exercising that testamentary freedom unless it has been established that they are unable to do so. See, *e.g.*, *Langwisch v. Langwisch*, 361 Ill. 632, 644 (1935) ("The law presumes every man to be sane until the contrary is proved, and the burden of proof rests upon him who asserts the lack of testamentary capacity."); *Morecraft v. Felgenhauer*, 346 Ill. 415, 420 (1931) (same). Indeed, our courts have made clear that this is a lenient standard, and that a person need not be in perfect health to retain testamentary capacity. See, *e.g.*, *Anthony v. Anthony*, 20 Ill. 2d 584, 588 (1960) ("It is not necessary *** to be of absolutely sound mind in every respect in order to have sufficient mental capacity to make a will."); *In re Estate of Fordyce*, 130 Ill. App. 2d at 758 ("The fact that the decedent was aged and in feeble health does not impair the ability to properly execute a will."). We therefore cannot find that public policy requires us to impose an affirmative duty for an attorney to assess a client's competence.

¶ 33 We are similarly unpersuaded by the parties' reliance on foreign authority. While cases from foreign jurisdictions are not binding on this court, "comparable court decisions of other jurisdictions are persuasive authority and entitled to respect." (Internal quotation marks omitted.) *Kostal v. Pinkus Dermatopathology Laboratory, P.C.*, 357 Ill. App. 3d 381, 395 (2005). In this case, however, we find such cases unnecessary, as Illinois case law sufficiently guides our analysis on the matter, as explained above. See *id.* ("When there is Illinois case law directly on point, we need not look to case law from other states for guidance ***."). Furthermore, the cases cited by the parties (1) involve different factual scenarios than present in the case at bar (*e.g.*, one case cited by plaintiff involves an attorney disciplinary proceeding, while one case cited by defendants involves the question of an attorney's duty to a beneficiary of a will), (2) are issued by trial-level courts (*e.g.*, one case cited by plaintiff was decided by a federal district court, while one case cited by defendants was decided by a trial-level court in

New Jersey), and/or (3) do not thoroughly address the issues present here. See *In re Manby*, 2023 VT 45, 308 A.3d 465; *Moore v. Anderson Zeigler Disharoon Gallagher & Gray, P.C.*, 109 Cal. App. 4th 1287 (Ct. App. 2003); *Lovett v. Estate of Lovett*, 593 A.2d 382 (N.J. Super. Ct. Ch. Div. 1991); *Glazer v. Brookhouse*, 471 F. Supp. 2d 945 (E.D. Wis. 2007). We therefore choose not to rely on these cases in our analysis and conclude that the circuit court properly found that there is no affirmative duty for an attorney to assess the mental capacity of a client.

¶ 34 *Notice of Disability*

¶ 35 Despite our decision as to a blanket duty, however, it does not necessarily follow that dismissal of plaintiff's complaint was appropriate. Both parties appear to accept that, if defendants were on notice of Newman's disability at the time they rendered services, defendants would have been obligated to determine the extent of that disability with respect to her capacity to alter her estate plan. Such an obligation is consistent with the provisions of Rule 1.14, and at least one court has suggested that a failure to comply with Rule 1.14 may support a claim for legal negligence in such a circumstance. See *Estate of Christo v. Law Offices of Thomas Leahy*, 2021 IL App (1st) 200575-U, ¶¶ 54-56 (finding that attorneys' failure to disclose their client's disability to probate court supported the breach of duty and causation elements of the legal malpractice claim against them). In this case, then, we consider whether the second amended complaint alleged sufficient facts to support plaintiff's claim that defendants were on notice of Newman's disability at the time they rendered services.

¶ 36 As an initial matter, we note that the parties rely on two documents that are not attached to the second amended complaint as exhibits. Specifically, the parties rely on (1) the deposition testimony of Hartz, which was attached to prior versions of the complaint as an exhibit but was not attached to the second amended complaint; and (2) the testimony of a doctor hired to

evaluate Newman's mental competency in connection with the proceedings in the probate court, which was attached to plaintiff's response to the motion to dismiss. In ruling on a section 2-615 motion to dismiss, "only those facts apparent from the face of the pleadings, matters of which the court can take judicial notice, and judicial admissions in the record may be considered." *Mt. Zion State Bank & Trust v. Consolidated Communications, Inc.*, 169 Ill. 2d 110, 115 (1995). The testimony from the probate court proceedings, which was never part of the pleadings in the instant case, is therefore not properly before us in reviewing the circuit court's dismissal order. With respect to the deposition testimony of Hartz, defendants contend that this testimony may be considered, as it was previously attached to plaintiff's complaints, and plaintiff referenced such testimony in the second amended complaint, "thereby incorporating it into the Second Amended Complaint." See *Claude Southern Corp. v. Henry's Drive-In, Inc.*, 51 Ill. App. 2d 289, 296-97 (1964) (finding that the plaintiff's earlier exhibit was "sufficiently referred to" in the amended complaint to make it part of the pleadings). Plaintiff does not appear to object to the consideration of this testimony and, as the second amended complaint references that testimony, we find it sufficiently incorporated into the second amended complaint such that we may consider it as appropriate in our analysis.

¶ 37 In this case, the circuit court found that, even if there was a duty to assess Newman's competency, the second amended complaint failed to allege sufficient facts to demonstrate that defendants were on notice of Newman's disability. We cannot agree.

¶ 38 The second amended complaint alleges that, at the time defendants rendered services, Newman was suffering from dementia and that signs of her impairment would be apparent upon any significant questioning. Specifically, the second amended complaint alleges that Newman was unable to accurately answer questions about her financial condition or even to

answer basic questions about her life. The second amended complaint further alleges facts that suggest that the proposed modifications may have been unusually influenced by Leonard, such as the fact that the modifications were sought less than a year after the estate plan was formed, the fact that the changes all benefited Leonard, and the fact that Newman had recently made several large gifts to Leonard. At this early stage of the proceedings, we find these allegations sufficient to withstand dismissal.

¶ 39 We recognize that, in his deposition testimony, Hartz testified that he questioned Newman and did not observe any behaviors which indicated that she lacked the capacity to understand the modifications to her estate plan. To be clear, we do not express any opinion as to whether plaintiff will ultimately prevail in proving legal malpractice, and it is possible that the evidence will establish that Hartz's conduct was entirely appropriate. A ruling on a section 2-615 motion to dismiss, however, does not weigh the evidence—it is solely concerned with whether there are allegations present which could even potentially support the cause of action alleged in the complaint. See *Vernon v. Schuster*, 179 Ill. 2d 338, 344 (1997) (a motion to dismiss is reviewed *de novo* since "ruling on a motion to dismiss does not require a court to weigh facts or determine credibility"). At this point, we take all well-pleaded facts as true and interpret them in the light most favorable to plaintiff. *Young*, 213 Ill. 2d at 441. Here, there are well-pleaded facts in the complaint which allege that Newman lacked the capacity to modify her estate plan at the time she engaged defendants' services and that her diminished capacity would have been apparent upon any significant questioning. Consequently, we find that plaintiff stated a cause of action for legal malpractice, and dismissal of that count of the complaint was therefore improper.

¶ 40 CONCLUSION

¶ 41 The circuit court's dismissal of count I of plaintiff's complaint is reversed. While there is no general duty for an attorney to assess a client's competence, the facts alleged in the complaint support a claim that defendants were on notice of Newman's disability at the time they rendered services and failed to take appropriate steps to ensure she was competent to modify her estate plan.

¶ 42 Reversed.

***Carey v. Hartz*, 2024 IL App (1st) 231323**

Decision Under Review:	Appeal from the Circuit Court of Cook County, No. 2022-L-004556; the Hon. Michael F. Otto, Judge, presiding.
Attorneys for Appellant:	Glenn M. Kanter, of Brown, Udell, Pomerantz & Delrahim, Ltd., of Chicago, for appellant.
Attorneys for Appellee:	Dawn M. Canty, Sarah Weber, and Jamie N. Noonan, of Katten Muchin Rosenman LLP, of Chicago, for appellees.