

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )  
Scott R. Manetta, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Jack Sinclaire, )  
 )  
Defendant. )  
 )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

Civil Action No. 2024-CP-10-04530

**ORDER**  
**RECEIVED**  
JUL 10 2025  
SC Court of Appeals

This matter came before the Court on February 28, 2025, for a hearing on three motions; (1) a Motion to Dismiss and (2) a Motion for Protective Order filed by the Defendant, Jack Sinclaire, Esq. (hereinafter the “Attorney” or the “Defendant”) and (3) a Motion to Amend the Complaint by the Plaintiff, Scott R. Manna. The Motions were heard in open court (Webex videoconference). Appearing and arguing on behalf of the Defendant was Robert L. Eaton, Esq. Appearing and arguing on his own behalf was the Plaintiff, Scott R. Manna, *pro se*.

Having considered the arguments of counsel and the Plaintiff, the written submissions and pleadings on file, the Court hereby **GRANTS** the Defendant’s Motion to Dismiss and Motion for Protective Order and **DENIES** Plaintiff’s Motion to Amend. The Court finds and concludes as follows:

**FACTS**

This case arises out of the Defendant’s court-appointed representation of Jake Manna (hereinafter “Jake”), the adult son of Plaintiff, in a guardianship matter in the Charleston County Probate Court, styled *Jake Manna, a ward, Dana Manna v. Jake Manna, an alleged incapacitated individual and Scott Manna, next of kin*, Case No. 2022-GC-10-0078.

Plaintiff, who was a Respondent in that matter, sought appointment as Jake's guardian. Following a final hearing on October 10, 2023, the Probate Court appointed Jake's mother, Dana Manna (Plaintiff's ex-wife), as sole limited guardian. The Honorable Lenna S. Kirchner entered a formal Order on January 22, 2024, appointing Dana as guardian.

Plaintiff initiated this action on September 10, 2024, alleging legal malpractice, arising from the Defendant's strategic decisions during his representation of Jake in the guardianship matter. Defendant was served with the Summons and Complaint on or about September 12, 2024, and subsequently filed his Motion to Dismiss and Motion for Protective Order on October 4, 2024. Plaintiff filed his Motion to Amend and a Response to the Motion to Dismiss on October 7, 2024.

#### **I. STANDARD OF REVIEW**

"In considering a motion to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action, the trial court must base its ruling solely on allegations set forth in the complaint. Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007). If the facts alleged and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would not entitle the plaintiff to relief on any theory, then dismissal under Rule 12(b)(6) is proper. Id.

#### **II. LEGAL CONCLUSIONS**

##### **Defendant Owed No Duty to the Plaintiff**

Plaintiff alleges legal malpractice arising out of the Defendant's representation of Jake in the guardianship matter. However, as a court-appointed attorney, Defendant's duty was to Jake, not to the Plaintiff.

"In an action for legal malpractice, the claimant must prove four elements: (1) the existence of an attorney-client relationship; (2) breach of a duty by the attorney; (3) damage to the client;

and (4) proximate causation of the client's damages by the breach." McNair v. Rainsford, 330 S.C. 332, 342, 499 S.E.2d 488, 493 (Ct. App. 1998). "A plaintiff in a legal malpractice action must generally establish the standard of care by expert testimony." Id. at 342, 499 S.E.2d at 494; *see also* Mali v. Odom, 295 S.C. 78, 80, 367 S.E.2d 166, 168 (Ct. App. 1988) ("A plaintiff in a legal malpractice case must ordinarily establish by expert testimony the standard of care, unless the subject matter is of common knowledge to laypersons.")

The Court finds that there was no attorney-client relationship between the Plaintiff and Defendant. Defendant was appointed solely to represent Jake, and no duty was owed to Plaintiff. As such, Plaintiff's claim for legal malpractice fails as a matter of law and must be dismissed.

**Plaintiff Failed to Comply with SC Code § 15-36-100**

Defendant also argues that Plaintiff failed to comply with S.C. Code § 15-36-100, which requires the contemporaneous filing of an expert affidavit in professional negligence actions, including those against attorneys. Plaintiff asserts that the affidavit was unnecessary under the "common knowledge" exception.

The Court finds that Plaintiff's claims of malpractice arising from the Defendant's strategic decisions during his representation of Jake in the guardianship action do not fall within the ambit of common knowledge such that the exception would apply. *See* Mali v. Odom, S.C. at 80. Therefore, Plaintiff was required to file an expert affidavit in compliance with § 15-36-100.

Moreover, the statute does not impose any duty upon the Court to notify a plaintiff of its requirements. It is the responsibility of the litigant to comply with statutory prerequisites to filing suit. Plaintiff's failure to do so renders the Complaint subject to dismissal.

Because Plaintiff failed to demonstrate an attorney-client relationship or a duty owed, and because his claims are procedurally deficient under § 15-36-100, the Court finds that granting

leave to amend the Complaint would be futile. Accordingly, Plaintiff's Motion to Amend is denied. *See Health Promotion Specialists, LLC v. S.C. Bd. of Dentistry*, 403 S.C. 623, 632, 743 S.E.2d 808, 812 (2013) (motion to amend is within the discretion of the trial court).

### **III. CONCLUSION**

In conclusion, the Court finds that viewing the Complaint in the light most favorable to the Plaintiff, dismissal is warranted for Defendant. Therefore, Defendant Jack Sinclaire, Esq.'s Motion to Dismiss is GRANTED. Defendant's request for Protection from Discovery is hereby GRANTED, Plaintiff's Motion to Amend his Complaint is DENIED and this case is hereby DISMISSED.

IT IS SO ORDERED

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George M. McFaddin, Jr.  
Circuit Court Judge

April \_\_, 2025  
Charleston, South Carolina



Charleston Common Pleas

**Case Caption:** Scott Manna , plaintiff, et al VS Jack Sinclair

**Case Number:** 2024CP1004530

**Type:** Order/Dismissal

So Ordered

S/George M. McFaddin, Jr., #2759

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