STATE OF MICHIGAN

COURT OF APPEALS

SZYMANSKI'S LAW PLC and MICHAEL SZYMANSKI,

Plaintiffs-Appellants,

v

ELIZABETH ELDRIDGE,

Defendant-Appellee.

UNPUBLISHED
September 08, 2026
9:46 AM

No. 375763
Wayne Circuit Court
LC No. 24-007749-CK

Before: LETICA, P.J., and O'BRIEN and REDFORD, JJ.

PER CURIAM.

In this action for breach of contract, account stated, unjust enrichment, and fraud, plaintiffs appeal as of right the trial court's order denying plaintiffs' motion for summary disposition and granting defendant's motion for summary disposition under MCR 2.116(C)(7) (collateral estoppel), 2.116(C)(8) (failure to state a claim), and 2.116(C)(10) (no genuine issue of material fact). We affirm in part, reverse in part, and remand to the trial court for further proceedings.

I. FACTS AND PROCEDURAL HISTORY

This case involves unpaid legal fees which defendant allegedly owes to plaintiffs. This Court previously summarized the initial procedural background:

> On April 4, 1995, plaintiff Elizabeth Eldridge filed a complaint for divorce against defendant William Eldridge. The judgment of divorce was ultimately entered on December 13, 1996. Unfortunately, William was uncooperative with court orders directing him to disburse assets to Elizabeth, and a receiver was appointed in 2000 to maintain control of some or all of those assets on her behalf. [*Eldridge v Eldridge*, unpublished per curiam opinion of the Court of Appeals, issued April 11, 2024 (Docket No. 365601) (*Eldridge I*), p 2.]

In May 2007, defendant retained plaintiffs as her counsel in the postdivorce proceeding. Plaintiffs moved for an attorney charging lien in August 2015, alleging defendant had an outstanding balance of $117,945 for plaintiffs' legal services. Plaintiffs alleged entitlement to a charging lien on funds recovered by the receiver, Anthony Guerriero. Plaintiffs sent defendant a billing summary and notified her of the motion for a charging lien. On November 4, 2015, the parties signed a disbursement agreement, stating Guerriero issued a check for the $117,945 balance "payable jointly to [defendant] and [plaintiffs.]" The parties agreed that another attorney, Bruce Nichols,[1] would deposit the balance in his IOLTA account and distribute $45,445 to defendant and $72,500 to plaintiffs. The agreement stated: "The balance of $45,445.00 will be paid to [plaintiffs] on an account stated between the parties from future collections in [the divorce proceeding] by payment of 50% of future collections until the balance is paid."

Guerriero's records indicate no funds were paid by the receiver to plaintiffs after the disbursement agreement. In March 2018, another attorney, Margaret Tobin, was substituted, replacing plaintiffs as defendant's counsel in the divorce proceeding. Plaintiffs sent Tobin a billing statement on May 10, 2018, stating defendant had a total balance due of $49,765, including the $45,445 balance at the time of the disbursement agreement and $4,320 in subsequent charges. Plaintiffs then moved for a charging lien on May 15, 2018. They requested the trial court order the receiver to pay the $4,320 in charges since the disbursement agreement, then pay the remaining balance as specified in the agreement.[2]

The trial court denied plaintiffs' motion, listing "the substantial amounts owed to [defendant], . . . the amount of time that has passed and the fees already paid to [plaintiffs]" as reasons for dismissing the charging lien.[3] This Court affirmed, holding "the trial court did not abuse its discretion by declining to enforce the charging liens." *Eldridge I*, unpub op at 8. This Court stated:

> While it is true [defendant] has received a substantial amount of money following the 1996 divorce judgment, this fact would weigh in favor of enforcing the charging liens, as it may be inferred that doing so would not leave her destitute. However, as the trial court observed, [defendant] was owed hundreds of thousands of dollars that she likely would never recover. In addition, the post-divorce proceedings had been ongoing for over 25 years, and when the trial court decided the case, the parties were arguing about services provided over a decade prior. The passage of time arguably rendered it difficult for the trial court to even provide a principled decision at this stage of the case. Further, while not the complete amounts they seek, [plaintiffs] were paid about $100,000 in attorney fees[] . . . . Thus, as the trial court noted, declining to enforce the charging liens would not result in the attorneys being unpaid for their legal services. [*Id.*]

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[1] This Court denied Nichols's separate motion for a charging lien in *Eldridge I*, unpub op at 2 (footnote omitted). Nichols is not a party to this appeal.

[2] Plaintiffs also filed an affidavit of account stating the alleged outstanding balance. Defendant requested the trial court dismiss plaintiffs' motion.

[3] The receivership was dismissed, and defendant received her final disbursement on August 25, 2023.

Plaintiffs filed their complaint in this matter on May 29, 2024, alleging the disbursement agreement was a binding contract which defendant breached by refusing to pay her outstanding $49,765 balance. Plaintiffs claimed the disbursement agreement and their 2018 affidavit of account created an account stated between the parties for the same balance. Plaintiffs finally alleged defendant was unjustly enriched by benefiting from plaintiffs' legal services without paying her outstanding balance. Defendant denied owing plaintiffs any legal fees.

In her response to plaintiffs' first requests for admissions, defendant denied she intended to pay plaintiffs when she signed the disbursement agreement. After this response, the trial court granted plaintiffs' motion to amend their complaint to add a fraud claim. Plaintiffs alleged that defendant committed fraud by signing the disbursement agreement while not intending to pay plaintiffs under the agreement. Plaintiffs also moved for summary disposition under MCR 2.116(C)(10) (no genuine issue of material fact), raising the same legal allegations as in their original complaint.

Defendant moved for summary disposition under MCR 2.116(C)(7) (statute of limitations and collateral estoppel), 2.116(C)(8) (failure to state a claim), and 2.116(C)(10). Defendant argued plaintiffs' claims were time-barred because they accrued when plaintiffs moved for a charging lien. In defendant's view, collateral estoppel barred plaintiffs' claims, because they unsuccessfully litigated whether defendant owed additional legal fees.[4]

The trial court entered its final order denying plaintiffs summary disposition and granting defendant summary disposition.[5] First, the trial court dismissed plaintiffs' unjust-enrichment claim because an express contract, the disbursement agreement, covered the same subject matter as the claim. The trial court ruled plaintiffs' breach-of-contract and account-stated claims accrued on August 25, 2023, when defendant received the last disbursement from the receiver, so the claims were not time-barred. However, the trial court barred plaintiffs' fraud claim, because the claim accrued when plaintiffs moved to enforce the charging lien, more than six years before they filed their complaint. Finally, the trial court barred plaintiffs' claims based on collateral estoppel. In the trial court's view, this Court, in the appeal of the underlying matter, necessarily determined defendant did not owe plaintiffs additional legal fees.

II. COLLATERAL ESTOPPEL

On appeal, plaintiffs argue the trial court erred by ruling this Court's decision in *Eldridge I* barred plaintiffs' claims for unpaid legal fees. We agree.

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[4] Defendant further argued plaintiffs' claims were not viable because: (1) defendant timely submitted a counteraffidavit in this matter; (2) the disbursement agreement did not require defendant to pay additional legal fees; and (3) plaintiffs relied on an express contract, so their unjust-enrichment claim was barred.

[5] The trial court initially entered an order denying plaintiffs summary disposition and granting defendant summary disposition under MCR 2.116(I)(2), then vacated that order.

A. STANDARD OF REVIEW

This Court reviews a trial court's grant of summary disposition de novo. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). Plaintiffs challenge the trial court's grant of summary disposition under MCR 2.116(C)(7). Summary disposition may be granted under MCR 2.116(C)(7) when a claim is barred by collateral estoppel or by a statute of limitations. *Allen Park Retirees Ass'n, Inc v City of Allen Park*, 329 Mich App 430, 443; 942 NW2d 618 (2019); *Stephens v Worden Ins Agency, LLC*, 307 Mich App 220, 227; 859 NW2d 723 (2014). "A motion brought under MCR 2.116(C)(7) may be supported by affidavits, depositions, admissions, or other documentary evidence." *Allen Park Retirees Ass'n*, 329 Mich App at 444 (quotation marks, citation, and emphasis omitted). "[T]his Court must accept all well-pleaded factual allegations as true and construe them in favor of the plaintiff, unless other evidence contradicts them." *Mays v Governor*, 506 Mich 157, 181; 954 NW2d 139 (2020) (quotation marks and citation omitted).

B. DISCUSSION

The trial court erred by granting defendant summary disposition under MCR 2.116(C)(7), because collateral estoppel did not bar plaintiffs' claims based on allegedly unpaid legal fees.

Plaintiffs filed claims against defendant for breach of contract, account stated, unjust enrichment, and fraud.[6] Plaintiffs argue this Court's decision in *Eldridge I* did not bar their claims, because this Court did not determine whether defendant owed unpaid legal fees when it declined to enforce plaintiffs' charging lien. We agree. The issue in *Eldridge I* was the charging lien. It was not the entirety of the fee-based claims of the plaintiff. "Collateral estoppel precludes relitigation of an issue in a subsequent, different cause of action between the same parties when the prior proceeding culminated in a valid final judgment and the issue was actually and necessarily determined in the prior proceeding." *Barrow v Pritchard*, 235 Mich App 478, 480; 597 NW2d 853 (1999) (quotation marks and citation omitted). Mutuality is also a necessary element of collateral estoppel. *Id*. at 481. Estoppel is mutual "if the one taking advantage of the earlier adjudication would have been bound by it, had it gone against him." *Id*. (citation omitted). The collateral-estoppel doctrine "is intended to relieve parties of the cost and vexation of multiple lawsuits, conserve judicial resources, and, by preventing inconsistent decisions, encourage reliance on adjudication . . . ." *Monat v State Farm Ins Co*, 469 Mich 679, 692-693; 677 NW2d 843 (2004) (quotation marks and citations omitted; alteration in original).

Collateral estoppel did not bar plaintiffs' claims, because this Court did not determine if defendant owed plaintiffs any legal fees in *Eldridge I*; it addressed the charging liens for specific

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[6] Initially, the trial court ruled plaintiffs' claim for unjust enrichment was clearly unenforceable and dismissed the claim under MCR 2.116(C)(8). Plaintiffs do not address that ruling in their brief on appeal. In their reply brief on appeal, plaintiffs state: "Appellant [sic] has effectively abandoned the unjust enrichment claim, and this Court need not concern itself with that claim . . . ." Plaintiffs abandoned any challenge to the dismissal of their unjust-enrichment claim by providing no argument on the issue. *Bronson Methodist Hosp v Mich Assigned Claims Facility*, 298 Mich App 192, 199; 826 NW2d 197 (2012).

funds. In *Eldridge I*, this Court held that the trial court did not abuse its discretion by declining to enforce plaintiffs' charging lien against defendant.

An attorney charging lien is "an equitable right to have the fees and costs due for [the attorney's] services secured out of the judgment . . . in a particular suit." *Souden v Souden*, 303 Mich App 406, 411; 844 NW2d 151 (2013) (quotation marks and citation omitted). The lien "automatically attach[es] to funds or a money judgment recovered through the attorney's services." *George v Sandor M Gelman, PC*, 201 Mich App 474, 477; 506 NW2d 583 (1993). However, a trial court has discretion over whether and how to enforce a charging lien, as this Court recognized in *Eldridge I*, unpub op at 6.[7] A charging lien "is subject to the control of the court for the protection of the client and third parties." *Souden*, 303 Mich App at 411 (quotation marks and citation omitted).

In the subsequent action, it was error for the trial court to bar plaintiffs' claims based on collateral estoppel. Plaintiffs argued the trial court and this Court, in declining to enforce a charging lien, did not address the underlying issue of whether defendant owed plaintiffs the $49,765 balance. Plaintiffs analogized an attorney charging lien to other actions to enforce a lien.

For example, this Court recognized an action to enforce a construction lien "is separate and distinct from an action for breach of contract[,]" because the former proceeding "is an action directed at the property . . . ." *Dane Constr, Inc v Royal's Wine & Deli, Inc*, 192 Mich App 287, 292-293; 480 NW2d 343 (1991). However, an attorney charging lien is a distinct, equitable right to have legal fees secured out of a judgment. *Souden*, 303 Mich App at 411. The existence of the lien is automatic, but enforcement of the lien depends on the facts of the case. *Eldridge I*, unpub op at 7. In *Eldridge I,* the trial court dismissed a charging lien based on the facts in the divorce proceeding—the substantial amount defendant was owed, the significant length of the proceeding, and the substantial fees plaintiffs already received. This Court affirmed that decision.

By dismissing the charging lien, the trial court and this Court did not determine plaintiff did not have a right to recover additional legal fees from defendant. Mutuality of estoppel does not apply in this matter because while defendant would have had to pay the legal fees out of the judgment in *Eldridge I* if the charging lien was enforced, it does not automatically then mean that no fees are owed or can ever be collected. The trial court erred when it dismissed plaintiffs' claims based on collateral estoppel.

Finally, the trial court ruled plaintiffs' fraud claim was barred by the six-year statute of limitations, MCL 600.5813. The trial court ruled that the claim accrued when plaintiffs moved to enforce the charging lien on May 15, 2018, and plaintiffs filed their complaint on May 29, 2024. Plaintiffs did not address this ruling until their reply brief on appeal. "[R]aising an issue for the first time in a reply brief is not sufficient to present the issue for appeal." *Bronson Methodist Hosp*,

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[7] "Although MCR 7.215(C)(1) provides that unpublished opinions are not binding under the rule of stare decisis, a court may nonetheless consider such opinions for their instructive or persuasive value." *Cox v Hartman*, 322 Mich App 292, 307; 911 NW2d 219 (2017).

298 Mich App at 199 (quotation marks and citation omitted). Plaintiffs abandoned their challenge to the dismissal of their fraud claim, so we do not address whether the claim was time-barred.

III. CONCLUSION

For the reasons discussed above, we reverse the trial court's dismissal of plaintiffs' claims based on collateral estoppel and affirm the trial court's dismissal of plaintiffs' fraud claims. The matter is remanded to the trial court for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Anica Letica
/s/ Colleen A. O'Brien
/s/ James Robert Redford