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Court of Appeals Outlines Statute of Limitation for Lawyer Breach of Fiduciary Duty Claims

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Like their legal malpractice counterparts, claims for breach of fiduciary duty against lawyers are subject to a three-year limitation period under RCW 4.16.080. Division I of the Court of Appeals recently outlined how this plays out when the particular claims involved seek to void a lawyer's fee agreement and disgorgement of fees already collected.

Block v. Law Offices of Ben F. Barcus & Associates, PLLC, 2015 WL 4531138 (Wn. App. July 27, 2015) (unpublished), involved, in relevant part, claims filed in 2013 by a former client against a lawyer who had concluded his work in a personal injury matter for the former client in 2008. The former client was pursuing, among other theories, claims seeking to void the lawyer's fee agreement and for disgorgement based on asserted violations of the RPCs. The former client contended that these were governed by a six-year limitation period under RCW 4.16.040(1) because they concerned the lawyer's written fee contract. The lawyer moved for summary judgment, arguing that they were instead controlled by RCW 4.16.080's three-year limitation. The trial court agreed with the lawyer that the claims were time-barred and dismissed them. The Court of Appeals affirmed.

In doing so, the Court of Appeals first noted that RCW 4.16.040(1) only applies to disputes over promissory language within the contract involved. Division I found that seeking to have a fee agreement held void and disgorgement were *remedies* for breach of fiduciary duty rather than separate claims in and of themselves. Having swept them under the former client's theory of breach of fiduciary duty, the Court of Appeals concluded that they were subject to the three-year limitation period in RCW 4.16.080. Finding no extension on the facts before it under the "discovery" or "continuous representation" rules, the Court of Appeals affirmed the trial court's dismissal.

Block serves as a useful reminder that although a dispute may revolve around a lawyer's fee agreement, if a particular claim focuses on the lawyer's conduct beyond the fee agreement itself, it will likely be subject to the three-year limitation period for breach of fiduciary duty claims.

ABOUT THE AUTHOR

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Page 3

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