

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LOREN LORENZETTI,	§	
	§	No. 659, 2011
Plaintiff Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for Sussex County
	§	
PAUL ENTERLINE, ESQUIRE,	§	
	§	
Defendant Below,	§	C.A. No. S10C-12-020
Appellee.	§	

Submitted: January 26, 2012

Decided: April 18, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

ORDER

This 18th day of April 2012, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) This appeal arises from a *pro se* litigant's unsuccessful Superior Court complaint alleging legal malpractice. The appellant, Loren Lorenzetti, filed the appeal from the Superior Court's November 7, 2011 order granting summary judgment in favor of the appellee, Paul Enterline, Esquire.¹ On appeal, Enterline has moved to affirm the Superior Court's judgment on the ground that it is

¹ *Lorenzetti v. Enterline*, 2011 WL 5966726 (Del. Super.).

manifest on the face of Lorenzetti's opening brief that the appeal is without merit.²

We agree and affirm.

(2) The record reflects that Lorenzetti retained Enterline for assistance in securing the return of personal chattels. After consulting with Lorenzetti, Enterline filed an action in the Court of Chancery for a temporary restraining order ("TRO") and injunctive relief.³ The TRO was granted, but at the hearing that ensued the Court of Chancery dismissed the matter with leave to transfer after concluding that Lorenzetti had an adequate remedy at law.⁴ Thereafter, Enterline terminated his representation with written notice to Lorenzetti.

(3) In his legal malpractice complaint filed in the Superior Court, Lorenzetti alleged that Enterline failed to bring the case in the proper court or, alternatively, failed to raise arguments that would have prevented its dismissal in the Court of Chancery. Enterline filed a motion to dismiss the complaint for failure to state a claim,⁵ which the Superior Court deemed to be a motion for summary judgment.⁶ By order dated November 7, 2011, the Superior Court granted the motion, ruling as follows:

² Del. Supr. Ct. R. 25(a).

³ The Court takes judicial notice of the proceedings in *Lorenzetti v. Hodges*, Del. Ch., C.A. No. 4244.

⁴ See docket at 11, *Lorenzetti v. Hodges*, Del. Ch., C.A. No. 4244 (June 15, 2010) (dismissing case for lack of subject matter jurisdiction with leave to move for transfer within thirty days).

⁵ Del. Super. Ct. Civ. R. 12(b)(6).

⁶ *Id.*

At the heart of this motion for summary judgment, is the fact that [Lorenzetti] has not retained an expert in an attorney malpractice action.⁷

* * *

Overall, without an expert . . . it is unclear how [Enterline's] representation was inadequate, what damages were caused and how [Lorenzetti's] conduct should factor into damages, and whether the alleged inadequate representation was the proximate cause of [Lorenzetti's] damages. There is no genuine issue of material fact as to the requirement for [Lorenzetti] to retain an expert to expound upon this legal malpractice claim. As such, this motion for summary judgment is ripe for adjudication. This Court finds [Lorenzetti's] lack of an expert in this case to be fatal such that [Lorenzetti] cannot meet the prima facie case for malpractice. This case is dismissed with prejudice.⁸

(4) On appeal, we review the Superior Court's grant or denial of a summary judgment motion *de novo*.⁹ On a motion for summary judgment, the moving party must demonstrate that there are no genuine issues of material fact and that, viewing the facts in the light most favorable to the non-moving party, the movant is entitled to judgment as a matter of law.¹⁰

(5) On a claim of legal malpractice, the plaintiff must establish (i) the employment of the attorney; (ii) the attorney's neglect of a professional obligation, and (iii) resulting loss, *i.e.*, that the underlying action would have been successful

⁷ *Lorenzetti v. Enterline*, 2011 WL 5966726, at *2 (Del. Super.).

⁸ *Id.* at*3.

⁹ *ConAgra Foods Inc. v. Lexington Ins. Co.*, 21 A.3d 62, 68 (Del. 2011).

¹⁰ Del. Super. Ct. Civ. R. 56(c).

but for the attorney's negligence.¹¹ Also, it is well-settled that expert testimony is necessary to support a claim of legal malpractice, except in those cases where the attorney's mistakes are so obvious that such testimony is not required.¹²

(6) Having undertaken a careful, *de novo* review of the record in this case, we conclude that there was no error or abuse of discretion on the part of the Superior Court when granting Enterline's motion for summary judgment. Notwithstanding Lorenzetti's position on appeal, we conclude that the Superior Court correctly found that, viewing the facts in the light most favorable to Lorenzetti, there was no factual or legal basis upon which a trier of fact could conclude that there was professional negligence on the part of Enterline or that Lorenzetti's claim would have been successful but for Enterline's conduct.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

¹¹ See *Weaver v. Lukoff*, 1986 WL 17121 (Del. Supr.) (citing *Seiler v. Levitz Furniture Co.*, 367 A.2d 999, 1008 (Del. 1976)).

¹² *Id.* (citing *Larrimore v. Homeopathic Hosp. Ass'n*, 181 A.2d 573, 577 (Del. 1962)).