

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSEPH GIORDANO,

Plaintiff Below-
Appellant,

v.

HENRY A. HEIMAN and
HEIMAN, ABER & GOLDLUST,

Defendants Below-
Appellees.

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§ No. 458, 2000

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§ Court Below—Superior Court

§ of the State of Delaware,

§ in and for New Castle County

§ C.A. No. 93C-03-226

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Submitted: December 13, 2000

Decided: January 18, 2001

Before **VEASEY**, Chief Justice, **WALSH**, and **HOLLAND**, Justices.

ORDER

This 18th day of January 2001, upon consideration of the appellant's opening brief and the appellees' motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The plaintiff-appellant, Joseph Giordano, filed this appeal from an order of the Superior Court dated August 30, 2000. The Superior Court's order granted the defendant-appellees' motion for summary judgment and entered judgment in their favor on all counts of Giordano's complaint. The appellees, Henry Heiman and Heiman, Aber and Goldlust ("the Law Firm"), have filed a

motion to affirm the Superior Court's judgment on the ground that it is manifest on the face of Giordano's opening brief that the appeal is without merit.

(2) The record reflects that Giordano filed a complaint in Superior Court alleging that he had retained Heiman as his attorney to represent him in certain matters including the proposed merger of a Delaware corporation, Sheffield Development Corporation (SDC), in which Giordano was a shareholder, and a Court of Chancery action initiated by Giordano against several defendants including SDC. Giordano alleged that Heiman and the Law Firm failed to file an appraisal action on his behalf in connection with the merger and failed to properly prosecute the Court of Chancery action. Heiman and the Law Firm filed a motion for summary judgment in the Superior Court action. After a hearing on the motion, the Superior Court concluded that summary judgment was appropriate because: (a) Giordano failed to identify an expert witness to support his claim of legal malpractice; and, alternatively, (b) the claim of legal malpractice was barred by the doctrine of collateral estoppel.

(3) We have reviewed the record carefully and conclude that the Superior Court properly granted summary judgment to Heiman and the Law Firm. It is well settled under Delaware law that claims of legal malpractice must be

supported by expert testimony.* We disagree with Giordano's assertion that the defendants' alleged mistakes were so obvious that expert testimony was not necessary. Accordingly, this Court finds that summary judgment was appropriate as a matter of law on this ground. Given this conclusion, we find it unnecessary to reach the issue of collateral estoppel.

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

BY THE COURT:

s/Joseph T. Walsh
Justice

**Alston v. Hudson*, Del. Supr., No. 160, 1997, Veasey, C.J. (Aug. 22, 1997) (ORDER); *Weaver v. Lukoff*, Del. Supr., No. 15, 1986, McNeilly, J., 1986 WL 17121 (July 1, 1986) (ORDER) (citing *Seiler v. Levitz Furniture Co.*, Del. Supr., 367 A.2d 999, 1008 (1976)); *Wahle v. Medical Center of Delaware*, Del. Supr., 559 A.2d 1228 (1989) (medical malpractice).