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Alaska Supreme Court Addresses Claims by Nonclients Against Lawyers

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The Alaska Supreme Court recently affirmed the dismissal of claims for legal malpractice and negligence brought by an estate beneficiary against the attorney for a prior personal representative. *Guerra v. Wallace*, 542 P.3 654 (Alaska 2024), involved a deceased entrepreneur’s estate that had “languished in probate for years.” Eventually, the personal representative was removed and a successor—who was also the sole beneficiary—was appointed. The beneficiary then sued the former personal representative and the former lawyer for the removed personal representation. As to the lawyer, the beneficiary asserted claims for legal malpractice and general negligence. The trial court dismissed the claims against the lawyer and the Alaska Supreme Court affirmed.

The Supreme Court began by finding that the beneficiary had not adequately challenged the trial court’s finding that there was no contractual privity between the beneficiary and the lawyer and, therefore, the beneficiary lacked standing to bring a claim for legal malpractice against the lawyer. While that facet turned on general appellate procedure, the Alaska Supreme Court did not suggest that the trial court had erred in dismissing the legal malpractice claim based on prior Alaska case law to the effect that privity was necessary.

The Supreme Court then dismissed the general negligence claim on the merits. The court acknowledged that its prior decisional law had recognized a narrow band of circumstances when a nonclient could sue an attorney for negligence—principally when the nonclient is an intended beneficiary of the lawyer’s services. The Supreme Court agreed with the trial court that the beneficiary had not met that narrow exception on the record before it.

Guerra is reminiscent of the Washington Supreme Court’s decision in *Trask v. Butler*, 123 Wn.2d 835, 872 P.2d 1080 (1994). There, the Washington Supreme Court adopted a multi-factor test to determine when a nonclient can sue a lawyer for malpractice. As in Alaska, however, the exception is narrow and the claimant must generally show that the lawyer’s work was specifically intended to benefit the claimant.

ABOUT THE AUTHOR

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