

Date : 3/16/2021 12:02:09 PM

From : "Paul Dulberg"

To : "Law Office Of Alphonse Talarico"

BCc : "Paul Dulberg"

Subject : Re: Legal Malpractice statute tolled by mental disability

Attachment : Rosecrance-TreatmentPlan.pdf; ATT00002.bin;

Dear Mr Talerico,

Thank you for sending the Katz v. Hartz case.

Below is what I have found that may be relevant, please correct me if I am wrong:

(5 ILCS 70/1.06) (from Ch. 1, par. 1007)

Sec. 1.06. "Person under legal disability" means a person 18 years or older who (a) because of mental deterioration or physical incapacity is not fully able to manage his or her person or estate, or (b) is a person with mental illness or is a person with developmental disabilities and who because of his or her mental illness or developmental disability is not fully able to manage his or her person or estate, or (c) because of gambling, idleness, debauchery or excessive use of intoxicants or drugs, so spends or wastes his or her estate as to expose himself or herself or his or her family to want or suffering.

(Source: P.A. 88-380.)

(735 ILCS 5/13-214.3) (from Ch. 110, par. 13-214.3)

Sec. 13-214.3. Attorneys.

(e) If the person entitled to bring the action is under the age of majority or under other legal disability at the time the cause of action accrues, the period of limitations shall not begin to run until majority is attained or the disability is removed.

(f) If the person entitled to bring an action described in this Section is not under a legal disability at the time the cause of action accrues, but becomes under a legal disability before the period of limitations otherwise runs, the period of limitations is stayed until the disability is removed. This subsection (f) does not invalidate any statute of repose provisions contained in this Section. This subsection (f) applies to actions commenced or pending on or after the effective date of this amendatory Act of the 98th General Assembly.

In the above statutes, 735 ILCS 5/13-214.3 (e) "other legal disability" I believe is defined in 5 ILCS70/1.06

I was diagnosed with Recurring Major Depressive Disorder and anxiety as is demonstrated in the attached file named Rosecrance-TreatmentPlan.pdf.

Rosecrance-TreatmentPlan.pdf is from the counselor at the time with Rosecrance and is the only documentation I have.

For further records Dr Elizabeth McMasters would need to be contacted and she is no longer with McHenry Community Health Center and I have been unable to locate her regarding her records and diagnosis of me.

I did reach out to social security administration for a copy of the records and was told that it was not legal for me to get a copy of the medical and or psychological evidence submitted at the social security disability hearings.

I do not have a law degree nor any experience that would qualify me to make a determination whether I fall under the "other legal disability" term used in 735 ILCS 5/13-214.3 (e) nor understand if the definition I used above (5ILCS 70/1.06) is what is meant as the definition from "other legal disability" term used in 735 ILCS 5/13-214.3 (e).

If you, in your professional capacity, feel this applies to the statute of limitations in my case then I trust your opinion as to whether or not we should use this as an argument as I am not qualified to make that determination but I do believe if I fall under a "legal disability" in Illinois then the argument should be made. If it is clear that I do not fall under the Illinois definition of the terms "legal disability" then we shouldn't make the argument. I have to trust and defer to your legal experience to make the argument or not because I cannot determine that on my own.

I did read the Katz case and noticed the mother had appointed a guardian to make decisions. I have never appointed a guardian.

We can discuss the possibility of using the "legal disability" clause found in 735 ILCS 5/13-214.3 (e) further.

I just wanted to show you what I had found and find out if (5ILCS 70/1.06) is the correct definition of the phrase "other legal disability" found in 735 ILCS 5/13-214.3 (e)?

Thank you,
Paul