

STATE OF LOUISIANA

COURT OF APPEAL, FIRST CIRCUIT

FRANCES ELIZABETH CLAYBOURN

NO. 2026 CW 0342

VERSUS

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MARIA FINLEY AND MARIA A.
FINLEY, ATTORNEY AT LAW, LLC

AUGUST 25, 2026

In Re: Maria Finley and Maria A. Finley, Attorney At Law,
applying for supervisory writs, 19th Judicial District
Court, Parish of East Baton Rouge, No. C-765583.

**BEFORE: McCLENDON, C.J., THERIOT, MILLER, GREENE, AND HAGGERTY,¹
JJ.**

WRIT GRANTED. The trial court's November 12, 2025 judgment denying the Peremptory Exception of Prescription filed by defendants, Maria Finley and Maria Finley, Attorney at Law, LLC, is reversed. La. R.S. 9:5605(A) provides a legal malpractice action shall be brought within one year from the date of the alleged act, omission, or neglect, or within one year from the date that the alleged act, omission, or neglect is discovered or should have been discovered. However, even as to actions filed within one year from the date of such discovery, in all events such actions shall be filed at the latest within three years from the date of the alleged act, omission, or neglect. **Id.** The one-year and three-year periods of limitation provided in Subsection A of this Section are peremptive periods within the meaning of Civil Code Article 3458 and, in accordance with Civil Code Article 3461, may not be renounced, interrupted, or suspended. La. R.S. 9:5605(B).

The alleged act, omission, or neglect occurred on February 19, 2021, when defendants failed to follow the provisions of then La. Civ. Code art. 1579 in preparing decedent's will. The Louisiana Supreme Court has held La. R.S. 9:5605's peremptive periods began to run "when the plaintiff knew or should have known of the existence of facts that would have enabled her to state a cause of action for legal malpractice." **Jenkins v. Starns** 2011-1170 (La. 01/24/12), 85 So.3d 612. The Court held that to trigger the running of the peremptive period, a plaintiff must have actual or constructive knowledge: (1) of the damage or harm; (2) that the damage or harm was caused by a delictual act; and (3) that defendants were connected to the damage. **Id.** at 621-622.

We find plaintiff knew or should have known of the existence of facts that would have enabled her to state a cause of action for legal malpractice, at the latest, on March 18, 2021, when decedent's 2021 will was publicly filed for probate by Maria Finley in the succession proceeding. Plaintiff opposed the probate on the grounds of Maria Finley's failure to comply with the provisions of La. Civ. Code art. 1579. Plaintiff's legal malpractice claim was not filed until more than three years later on July 11, 2025.

¹Honorable Bryan D. Haggerty is serving ad hoc by special appointment of the Louisiana Supreme Court.

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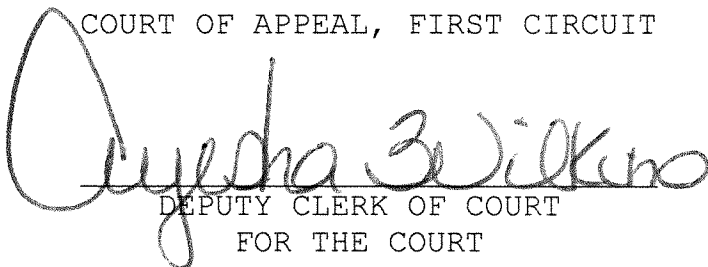
Therefore, defendants' exception of prescription is granted and plaintiff's claims made against defendants, Maria Finley and Maria Finley, Attorney at Law, LLC, are dismissed with prejudice.

MRT
SMM
BDH

McClendon, C.J., concurs in the result reached by the majority in granting the writ.

Green, J., dissents and would deny the writ.

COURT OF APPEAL, FIRST CIRCUIT


DEPUTY CLERK OF COURT
FOR THE COURT