STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1660

Meshbesher & Associates PA,
Appellant,

vs.

Lindell & Lavoie LLP,
Respondent.

Filed May 7, 2018
Affirmed
Kirk, Judge

Hennepin County District Court
File No. 27-CV-16-14813

William R. Skolnick, Amy D. Joyce, Samuel M. Johnson, Skolnick & Joyce, P.A., Minneapolis, Minnesota (for appellant)

Peter J. Gleekel, Mark A. Solheim, John M. Bjorkman, Stephanie L. Chandler, Larson · King, LLP, St. Paul, Minnesota (for respondent)

Considered and decided by Peterson, Presiding Judge; Halbrooks, Judge; and Kirk, Judge.

U N P U B L I S H E D O P I N I O N

KIRK, Judge

Appellant law firm challenges the summary-judgment dismissal of its claims against respondent law firm for breaches of a referral agreement. Appellant asserts that the district court erred in concluding that there were no genuine disputes of material fact and misapplied the law. Because the referred clients discharged appellant, we affirm.

FACTS

Appellant Meshbesher & Associates, PA (Meshbesher) and respondent Lindell & Lavoie, LLP (L&L) are both Minnesota law firms. Meshbesher primarily practices criminal defense and L&L primarily practices personal-injury law. On April 16, 1997, Meshbesher and L&L entered into a "mutual and exclusive referral relationship for criminal and personal injury plaintiffs' cases" (the referral agreement). The parties agreed that L&L would "refer all criminal clients to Meshbesher, and Meshbesher [would] refer all personal injury plaintiffs to [L&L]." The firms would be jointly responsible for representing the referred cases and would share the fees. The referred clients would sign retainer agreements consenting to the joint representation and the fee division.

Around 2005, L&L hired an attorney with criminal-law experience who handled criminal-defense cases that were referred to him personally while working for L&L. L&L continued to refer other criminal cases to Meshbesher. In 2012, Meshbesher hired an attorney to conduct personal-injury work in house. Meshbesher continued to refer medical-malpractice and workers'-compensation cases to L&L.

On March 8, 2016, L&L sent Meshbesher a letter alleging that Meshbesher had breached the referral agreement by hiring an in-house personal-injury attorney. The letter also states that after discussing the matter with impacted clients, a few of the clients elected to discharge Meshbesher and directed that no part of an attorney fee should be paid to Meshbesher if a recovery was made. L&L attached letters from the impacted clients to its letter.

On October 7, 2016, Meshbesher filed a complaint against L&L, which it later amended, alleging: (1) breach of the referral agreement after L&L failed to pay Meshbesher its earned portion of the shared attorney fees; (2) breach of the implied covenant of good faith and fair dealing after L&L induced its clients to discharge Meshbesher; (3) promissory estoppel after Meshbesher relied on the promises made by L&L in the referral agreement and retainer agreements by investing in personal-injury advertising and by referring personal-injury clients to L&L; (4) unjust enrichment after Meshbesher referred clients to L&L and L&L failed to compensate Meshbesher as agreed upon; (5) fraud based on L&L's false representations; and (6) accounting to determine the amounts L&L owed Meshbesher as a result.

L&L moved for summary judgment, which the district court granted on August 23, 2017. The district court concluded that there were no genuine issues of material fact and entered judgment for L&L on all claims. This appeal follows.

D E C I S I O N

"We review a district court's summary judgment decision de novo. In doing so, we determine whether the district court properly applied the law and whether there are genuine issues of material fact that preclude summary judgment." *Riverview Muir Doran, LLC v. JADT Dev. Grp., LLC*, 790 N.W.2d 167, 170 (Minn. 2010) (citation omitted). "[W]e may affirm a grant of summary judgment if it can be sustained on any grounds." *Doe v. Archdiocese of St. Paul & Minneapolis*, 817 N.W.2d 150, 163 (Minn. 2012).

"There is no genuine issue of material fact . . . when the nonmoving party presents evidence which merely creates a metaphysical doubt as to a factual issue and which is not sufficiently probative with respect to an essential element of the nonmoving party's case to permit reasonable persons to draw different conclusions." *DLH, Inc. v. Russ*, 566 N.W.2d 60, 71 (Minn. 1997). "[T]he party resisting summary judgment must do more than rest on mere averments." *Id.*

Meshbesher argues that genuine disputes of material fact remain precluding summary judgment and that the district court misapplied the law. We disagree.

Minn. R. Prof. Conduct 1.5(e) requires a client to agree in writing to a fee-splitting arrangement between two attorneys who are not in the same firm. A client has the right to discharge her attorney at any time, with or without cause. *Lawler v. Dunn*, 145 Minn. 281, 283, 176 N.W. 989, 989 (1920). When a client discharges her attorney, the contingency-fee contract between the client and her attorney terminates, and "the compensation terms of the contract become unenforceable." *Trenti, Saxhaug, Berger, Roche, Stephenson, Richards & Aluni, Ltd. v. Nartnik*, 439 N.W.2d 418, 421 (Minn. App. 1989), *review denied* (Minn. July 12, 1989). Instead, a discharged attorney retained on a contingency-fee basis may recover "the reasonable value of his service[s] based on quantum meruit." *Stall v. First Nat'l Bank of Buhl*, 375 N.W.2d 841, 845 (Minn. App. 1985).

Here, although the impacted clients signed retainer agreements agreeing to the fee division, they later rescinded their approval of any payments to Meshbesher in their letters terminating Meshbesher's legal services. Meshbesher does not provide any evidence that it performed substantive work on the impacted clients' cases after making the initial referral to L&L; in fact, the record suggests the opposite. Given the impacted clients' rescinded approval of the fee division, and given the inadequate record on the reasonable value of services that Meshbesher provided in the referred clients' cases, if any, Meshbesher is not entitled to recover under its referral agreement with L&L. The district court did not err in granting L&L summary judgment. Because we affirm the district court's grant of summary judgment on this basis, we need not reach the remaining issues raised by Meshbesher. *See Doe*, 817 N.W.2d at 163 ("[W]e may affirm a grant of summary judgment if it can be sustained on any grounds.").

Affirmed.