SB196

QY3H415-1

By Senators Givhan, Smitherman

RFD: Judiciary

First Read: 05-Mar-24

SYNOPSIS:

Under existing law, an action may be made against a legal service provider when it is alleged that some injury or damage was caused in whole or in part by the legal service provider's breach of the applicable standard of care.

This bill would require the plaintiff in a legal service liability action to include in the complaint a detailed specification and factual description of each and every act and omission alleged by the plaintiff to render the legal service provider liable and, on a violation, would authorize a court to dismiss the action for failure to state a claim upon which relief may be granted and prohibit any party from conducting discovery with regard to the act or omission.

This bill would clarify that the statute of limitations begins to run on the date the alleged act or omission occurred, and not on the date a subsequent legal injury occurred as a result thereof.

This bill would also provide that when the legal services in the underlying action were provided within this state and the alleged breach of care occurred within this state, the laws of the State of Alabama apply unless certain choice of law requirements are met under certain conditions.

A BILL

TO BE ENTITLED

AN ACT

Relating to civil practice; to add Sections 6-5-573.1 and 6-5-582 to the Code of Alabama 1975; to amend Section 6-5-574, Code of Alabama 1975, to provide certain pleading requirements in legal service liability actions; to further provide for the statute of limitations in such actions; and to provide for the choice of law, with exception, in such actions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 6-5-573.1 is added to the Code of Alabama 1975, to read as follows:

6-5-573.1

(a) In any legal service liability action, whether in contract or in tort, against a legal service provider for breach of the standard of care, the plaintiff shall include in the complaint filed in the action a detailed specification and factual description of each act and omission alleged by the plaintiff to render the legal service provider liable to the plaintiff and shall include when feasible and ascertainable the date, time, and place of the alleged act or acts.

(b) Upon ascertainment of new or different acts or omissions upon which the plaintiff's claim is based, the plaintiff shall timely amend the complaint. Any amendment

required under this subsection must be made at least 120 days before trial.

(c) Any complaint that fails to include the detailed specification and factual description of each act and omission required by this section shall be subject to dismissal for failure to state a claim upon which relief may be granted. Any party shall be prohibited from conducting discovery with regard to the alleged act or omission or any other act or omission or from introducing at trial evidence of any other act or omission.

Section 2. Section 6-5-574, Code of Alabama 1975, is amended to read as follows:

"§6-5-574

(a)(1) ~~All~~Except as provided in subdivision (2), all legal service liability actions against a legal service provider must be commenced within two years after the alleged act or omission or failure giving rise to the claim, and not afterwards, irrespective of the date any subsequent legal injury ensued.~~; provided, that if~~

(2) If the cause of action is not discovered and could not reasonably have been discovered within ~~such~~the period described in subdivision (1), then the action may be commenced within six months from the date of ~~such~~the discovery or the date of discovery of facts which would reasonably lead to ~~such~~ a discovery, whichever is earlier; provided, further, that in no event may the action be commenced more than four years after such act or omission or failure~~; except, that an act or omission or failure giving rise to a claim which occurred~~

~~before August 1, 1987, shall not in any event be barred until the expiration of one year from such date~~.

(b) Subsection (a) of this section shall be subject to all existing provisions of law relating to the computation of statutory periods of limitations for the commencement of actions, namely, Sections 6-2-1, 6-2-2, 6-2-3, 6-2-5, 6-2-6, 6-2-8, 6-2-9, 6-2-10, 6-2-13, 6-2-15, 6-2-16, 6-2-17, and 6-2-30~~, and 6-2-39~~; provided, that notwithstanding any provisions of such sections, no action shall be commenced more than four years after the act, omission, or failure complained of; except, that in the case of a minor under four years of age, such minor shall have until his or her eighth birthday to commence such action."

Section 3. Section 6-5-582 is added to the Code of Alabama 1975, to read as follows:

(a) Except as provided in subsection (b), in a legal service liability action, where the legal services in the underlying action were substantially conducted in this state and the alleged breach of the standard of care which is the basis of the legal service liability action occurred in this state, the laws of the State of Alabama shall apply.

(b) Subsection (a) does not apply when all of the following occur:

(1) The parties to the contract for the legal services in the underlying action agree in writing to be governed by the law or laws that the parties have chosen.

(2) The choice of law is express or clearly demonstrated from the terms of the contract. If the contract

is a standard-form contract drafted primarily by only one of the parties, the choice of law must be express and conspicuous.

(3) Any modification of the choice of law that operates retrospectively may not prejudice the rights of a third party or this state.

Section 4. This act shall become effective on October 1, 2024.