

## White and Williams Secures Dismissal in Legal Malpractice Suit

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On February 28, 2019, the Pennsylvania Supreme Court shot down an appeal of a ruling that a now-defunct telecom company waited too long to sue an Astor Weiss Kaplan & Mandel LLP attorney over purportedly faulty work on an \$18 million contract dispute.

The justices left standing a decision by the state's Superior Court agreeing that the clock on a potential malpractice suit against Astor Weiss partner W. Mark Mullineaux began running after a bankruptcy judge threw out the underlying claims, even if they'd been tossed because of faulty pleadings that Mullineaux attempted to explain away to his client.

The malpractice suit stems from work Mullineaux performed for CNI in response to a lawsuit brought by MCI WorldCom Communications Inc. in February 2001 over unpaid debts and other charges CNI owed. Mullineaux fired back with counterclaims accusing MCI of stealing tens of thousands of CNI's customers without their consent — a practice known as slamming — fraud and breach of contract. The claims were eventually handled by a bankruptcy judge as part of Chapter 11 proceedings for MCI.

During the course of the litigation, Mullineaux transitioned from a position at RatnerPrestia to Flamm Walton PC before ultimately ending up at Astor Weiss. All three firms were named as defendants in the malpractice case, though RatnerPrestia was dismissed in the early going.

In analyzing the malpractice claims, both a trial judge and the Superior Court found that the statute of limitations was not tolled, regardless of what Mullineaux allegedly told CNI, because the executives should have exercised due diligence and read the decisions themselves.

Robert Devine, Kim Kocher and Victor Zarrilli represented Flamm Walton.

You can read the full article on Law360. (subscription required)