NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

MAGDALENA SWEET	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
	:	
v.	:	
	:	
	:	
MICHAEL F. FOX, PETRELLI PREVITERA, LLC, MADELEINE R. KAUFMAN, AND LAW OFFICES OF MADELEINE R. KAUFMAN	:	No. 434 EDA 2026

Appeal from the Order Entered December 18, 2025
In the Court of Common Pleas of Montgomery County Civil Division at No(s): 2023-18608

BEFORE: BOWES, J., OLSON, J., and McLAUGHLIN, J.

MEMORANDUM BY McLAUGHLIN, J.: **FILED NOVEMBER 16, 2026**

Magdalena Sweet appeals *pro se* from the order granting summary judgement in favor of Madeleine R. Kaufman and Law Offices of Madeleine R. Kaufman (collectively, "Defendants"). Sweet argues the court erred in finding her professional negligence and breach of fiduciary duty claims failed as a matter of law because she did not offer expert evidence and failed to plead causation. We affirm the order entering summary judgment.

The trial court summarized the facts as follows.

> [Sweet and her ex-husband were divorced in February 2020]. In April of 2020, [Sweet] retained Madeleine Kaufman, Esquire to represent her in her equitable distribution dispute.
>
> From May 2020 to June 2021 [Sweet] regularly emailed [Attorney] Kaufman with purported evidence of fraud committed by [Sweet]'s ex-husband as well as claims of evidence of the parties' assets, debts, and credits. On June 30, 2021, [Attorney]

> Kaufman submitted a prehearing statement prior to an equitable distribution conference before a master. The purported fraudulent activity and debts of [Sweet]'s ex-husband were not included in the pre-hearing statement submitted by [Attorney] Kaufman. The master's conference took place on July 7, 2021. In August of 2021, [Sweet] fired [Attorney] Kaufman and filed for a *de novo* equitable distribution hearing before a common pleas judge.
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> [Sweet] chose to represent herself after terminating [Attorney] Kaufman's representation. On October 25, 2021, Ms. Sweet, representing herself, filed a supplemental pre-hearing statement prior to the *de novo* hearing before . . . [the Honorable Charissa J.] Liller. [Sweet]'s supplemental pre-hearing statement included the allegations of fraud and purported additional debts accrued by her ex-husband during the marriage.
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> Prior to the equitable distribution hearing before Judge Liller, Ms. Sweet and her husband reached an agreement on the value of all of the disputed assets and liabilities except the marital home. [Sweet] never raised the issue of the purported fraud and additional debts of her ex-husband at the *de novo* hearing on October 28, 2021. Judge Liller issued her Decision on November 23, 2021. [Sweet] did not appeal the Decision.

Trial Court Opinion, 2/24/26, at 3-6 (citations and footnote omitted).

On August 16, 2023, Sweet instituted this action against Defendants.[1] Sweet's complaint asserted claims for professional negligence and breach of fiduciary duty.[2] The complaint alleged,

> 19. In or around April 2021, [Sweet] hired [Attorney] Kaufman.
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> 20. [Attorney] Kaufman failed to timely and properly value [Sweet]'s assets prior to trial.

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[1] The court granted summary judgment in favor of the additional defendants that Sweet initially named in the suit.

[2] A third count, for breach of contract, was dismissed during preliminary objections.

21. Additionally, [Attorney] Kaufman failed to submit some of [Sweet]'s debts and assets prior to trial.

22. Moreover, [Kaufman] neglected to hire the appropriate economic expert to value [Sweet]'s assets. Specifically, upon information and belief, [Sweet]'s ex-husband had:

a. Submitted spreadsheets with false banking information.

b. Hid and updated several retirement plans.

c. Submitted irrelevant account information.

23. [Attorney] Kaufman never engaged the proper expert to look into and evaluate the aforementioned fraud.

24. Furthermore, [Attorney] Kaufman failed to:

a. Investigate a potential business that [Sweet]'s ex-husband was running from his home.

b. Refused to subpoena Ardent Credit Union, where [Sweet]'s ex-husband was believed to have opened secret accounts.

c. Neglected to research the three home equity loans taken by [Sweet]'s ex-husband.

d. Neglected to research the home loan [Sweet]'s ex-husband allegedly took out for his mother.

25. Upon information and belief, the aforementioned caused [Sweet] to lose several million dollars in assets.

26. In or around August 2021, [Sweet] realized Kaufman's errors.

27. In or around August 2021, [Sweet] terminated Kaufman's services. [Sweet] was forced to work on her case pro se, without the assistance of counsel.

28. [Attorney] Kaufman breached her fiduciary duty to [Sweet] by her failure to value [Sweet]'s assets and investigate the alleged fraud of [Sweet]'s ex-husband.

29. The aforementioned acts caused [Sweet] to suffer severe emotional and financial distress.

> 30. As a result of [Kaufman]'s negligence, [Sweet] has suffered and continues to suffer significant financial damages and emotional distress.
>
> 31. But for [Kaufman]'s negligence, [Sweet] has suffered and continues to suffer significant financial strain and emotional distress.

Trial Ct. Op. at 1-2 (quoting Complaint at ¶¶ 19-31).

Defendants filed a motion for summary judgment. In relevant part, Defendants argued Sweet's legal malpractice claim failed as a matter of law "because she had failed to serve an expert report for purposes of demonstrating that Attorney Kaufman breached the standard of care[.]" Motion for Summary Judgment, Oct. 16, 2025, at ¶ 27; ***see also id.*** at 30. They also asserted Sweet failed to establish that Attorney Kaufman's alleged negligence negatively affected the outcome of Sweet's equitable distribution case. Defendants asserted that expert testimony is required to establish the standard of professional care in a legal malpractice case and whether the defendant attorney's deviation from that standard of care caused the plaintiff damages. ***Id.*** at ¶¶ 28, 29.

Defendants also argued Sweet's breach of fiduciary duty claim failed as a matter of law because Sweet did not allege that Attorney Kaufman "was disloyal to her, or put the interests of herself or another before the interests of Sweet." ***Id.*** at ¶ 39. Defendants further argued that Sweet was also required to offer expert testimony to support that Attorney Kaufman breached a fiduciary duty and that the breach was the cause of Sweet's damages. ***Id.*** at ¶¶ 40-43.

Following argument, the trial court granted the motion. It found Sweet's legal malpractice claim failed as a matter of law because she "failed to obtain an expert to support her claim that [Attorney] Kaufman's conduct fell below the standard of care." Trial Ct. Op. at 5 (footnote omitted). The court observed that "[t]he standard of care in a legal malpractice action must be established by expert testimony," and that "an attorney's conduct in discovering, analyzing, and applying equitable distribution factors to assets, credits, debts, and liabilities is not within the knowledge of the average layperson." ***Id.*** at 5-6. The court also found that expert testimony would be required to prove damages, because "[e]valuating, weighing, and applying the [23 Pa.C.S.A. § 3502] factors to [Sweet]'s equitable distribution claim is well beyond the scope of a layperson's knowledge." ***Id.*** at 9. The court noted Sweet even acknowledged, in filing her certificate of merit, that expert testimony would be required to prove her claims. ***Id.*** at 6 (citing Pa.R.Civ.P. 1042.3(a)(1)).[3]

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[3] This provision states,

> (a) In any action based upon an allegation that a licensed professional deviated from an acceptable professional standard, the attorney for the plaintiff, or the plaintiff if not represented, shall file with the complaint or within sixty days after the filing of the complaint, a certificate of merit signed by the attorney or party that . . .
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> > (1) an appropriate licensed professional has supplied a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards

(Footnote Continued Next Page)

The court also found that Sweet's allegations failed to establish that Attorney Kaufman's alleged breaches – in failing to properly prepare and present Sweet's equitable distribution case – proximately caused Sweet's damages. The court noted that after the alleged breaches, Sweet represented herself at the *de novo* hearing before Judge Liller and thus had had another opportunity to present and dispute the assets and liabilities of the parties. ***Id.*** at 6. The court found, "[Sweet's] causation claim fails where the record demonstrates she had the opportunity to present the very same evidence she claims Kaufman failed to present." ***Id.*** at 7.[4]

The court likewise found Sweet could not prove her breach of fiduciary duty claim without expert testimony, because she could not establish Attorney Kaufman breached a fiduciary duty or that any such breach caused Sweet's damages. ***Id.*** at 10.

The court issued an order granting summary judgment in favor of Defendants. Sweet appealed. She complied with the trial court's order

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> and that such conduct was a cause in bringing about the harm[.]

Pa.R.C.P. No. 1042.3(a)(1).

[4] The court also found Defendants were not the proximate cause of the alleged damages because "the equitable distribution hearing before Judge Liller unequivocally demonstrates that [Sweet] and her ex-husband agreed to the resolution of all disputed assets and liabilities before the *de novo* hearing before Judge Liller." Trial Ct. Op. at 7. Sweet argues whether she agreed to the stipulations is a disputed issue of material fact, and that the transcript proves she did not agree to the stipulations. Because we find Sweet's claims fail as a matter of law for other reasons, we will not reach this specific finding by the court, or address Sweet's arguments relating to it.

directing her to file a Pa.R.A.P. 1925(b) statement, and filed one listing the following issues:

> 1. The trial court erred in granting summary judgment where genuine issues of material fact existed regarding Defendant's alleged omissions and failures during her representation of Plaintiff.
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> 2. The trial court erred by resolving disputed issues of material fact and credibility in favor of Defendant, the moving party, in violation of the summary judgment standard.
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> 3. The trial court erred in concluding, as a matter of law, that Defendant's alleged conduct could not be the proximate cause of Plaintiffs damages.
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> 4. The trial court erred by relying on Plaintiffs later pro se participation in a De Novo equitable distribution hearing to negate causation, where Defendant's alleged malpractice occurred prior to Plaintiffs termination of Defendant and materially affected the proceedings.
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> 5. The trial court erred in holding that expert testimony was required to establish breach and causation where the alleged malpractice involved documentary omissions and failures within the understanding of a layperson.
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> 6. The trial court erred in granting summary judgment on Plaintiffs breach of fiduciary duty claim for the same reasons it erred on the legal malpractice claim.

Pa.R.A.P. 1925(b) Statement, 2/10/26, at 1.

However, Sweet's brief contains what she terms a "Statement of the Issue" listing a single issue: "Whether the trial court erred in granting summary judgment where expert testimony was not required because the alleged misconduct falls within the understanding of a layperson." Sweet's Br. at 2 (unpaginated). Sweet's brief lacks many other obligatory elements,

including a Statement of Jurisdiction and a Statement of the Case. ***See*** Pa.R.A.P. 2111 (listing matters required in an appellant's brief). Other required elements are in effect present but misnamed and not fully in compliance with the appellate rules. ***Compare*** Sweet's Br. at 2 (unpaginated) (containing "Introduction" that gives Sweet's characterization of the order at issue) ***with*** Pa.R.A.P. 2115(a) (requiring the text of the order from which the appeal was taken to be "set forth verbatim"). Furthermore, Sweet's brief is disorganized and difficult to follow. She has not divided her argument into sections that meaningfully correspond to the issues listed in her Pa.R.A.P. 1925(b) statement.

The failure to include all issues in her Rule 1925(b) statement in her Statement of the Issue" constitutes waiver of the omitted issues. ***See Commonwealth v. Fremd***, 860 A.2d 515, 523-24 (Pa.Super. 2004). "No question will be considered unless it is stated in the statement of questions involved or is fairly suggested thereby." Pa.R.A.P. 2116(a). To the extent that the substantial defects in Sweet's brief have prevented us from understanding her arguments, they are waived. ***See Gould v. Wagner***, 316 A.3d 634, 639 (Pa.Super. 2024) ("If a deficient brief hinders this Court's ability to address any issue on review, the issue will be regarded as waived"). We will confine our review to Sweet's arguments addressing whether the court erred in entering summary judgment.

Sweet first argues the allegations in this case are understandable to a lay jury and do not require the testimony of an expert. Sweet's Br. at 2-3

(unpaginated). She asserts, "This case does not involve complex financial valuation or technical accounting principles. Rather, it concerns clear instances of concealment, omission, and misrepresentation, which a jury can readily understand without expert assistance." ***Id.*** at 3 (unpaginated). Sweet also argues that expert testimony is unnecessary because her own "summaries and supporting documentation" presented in the exhibits to her pretrial statement "exceed[] the level of factual development that would typically be provided through expert testimony" by a forensic accountant. ***Id.***

Sweet next claims the court erred in finding she did not plead all the elements of her claims, when the transcript of the *de novo* hearing shows Attorney Kaufman breached her "continuing duties to [Sweet] as a former client[.]" ***Id.*** at 15 (unpaginated). She alleges Attorney Kaufman did so by "her unauthorized presence at the De Novo hearing alongside [Sweet]'s adversary, which contributed to confusion and disruption of [Sweet]'s ability to participate meaningfully in the proceeding." ***Id.***

Sweet ultimately contends summary judgment was inappropriate because she raised a material issue of fact. She maintains that there was a genuine issue of material fact as to whether she "was [c]apable of meaningfully presenting her case after unexpectedly encountering her former attorney [i]mmediately before the hearing while simultaneously experiencing the confusion, emotional distress, and inability to effectively advocate for herself reflected through the transcript." Sweet's Amended Reply Br. at 3

(unpaginated).[5] Sweet argues, "Viewing the evidence in the light most favorable to [the a]ppellant, as Pennsylvania law requires, a reasonable jury could conclude that Attorney Kaufman's conduct before and during the De Novo Proceedings materially impaired [Sweet]'s ability to present her divorce case and contributed to the adverse financial outcome." ***Id.*** at 6 (unpaginated).

We employ the following standard of review.

> Our review on an appeal from the grant of a motion for summary judgment is well-settled. A reviewing court may disturb the order of the trial court only where it is established that the court committed an error of law or abused its discretion. As with all questions of law, our review is plenary.
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> In evaluating the trial court's decision to enter summary judgment, we focus on the legal standard articulated in the summary judgment rule. Pa.R.C.P. 1035.2. The rule states that where there is no genuine issue of material fact and the moving party is entitled to relief as a matter of law, summary judgment may be entered. **Where the non-moving party bears the burden of proof on an issue, he may not merely rely on his pleadings or answers in order to survive summary judgment. Failure of a non-moving party to adduce sufficient evidence on an issue essential to his case and on which it bears the burden of proof . . . establishes the entitlement of the moving party to judgment as a matter of law.** Lastly, we will view the record in the light most favorable to the non-moving party, and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party.

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[5] Sweet filed a "Motion to Amend Appellant Responds [sic] to Appellee's Brief." We hereby grant the motion, and consider Sweet's reply brief, as amended.

Commc'ns Network Int'l, Ltd. v. Mullineaux, 187 A.3d 951, 960 (Pa.Super. 2018) (citation omitted) (emphasis in ***Commc'ns Network Int'l, Ltd.***).

Sweet's failure to produce expert testimony entitled Defendants to judgment as a matter of law. "A claim of legal malpractice requires that the plaintiff plead the following three elements: employment of the attorney or other basis for a duty; the failure of the attorney to exercise ordinary skill and knowledge; and that the attorney's negligence was the proximate cause of damage to the plaintiff." ***412 N. Front St. Assocs., LP v. Spector Gadon & Rosen, P.C.***, 151 A.3d 646, 657 (Pa.Super. 2016). A plaintiff asserting a breach of fiduciary duty must show: "the existence of a fiduciary relationship between [the p]laintiff and [the defendant], that [the defendant] negligently or intentionally failed to act in good faith and solely for [the plaintiff's] benefit, and that [the plaintiff] suffered an injury caused by [the defendant's] breach of [its] fiduciary duty." ***Marion v. Bryn Mawr Tr. Co.***, 288 A.3d 76, 88 (Pa. 2023) (citation omitted) (alterations in original).

As in any other professional liability case, expert testimony is necessary to establish legal malpractice claims "when the subject matter of the inquiry is one involving special skills and training not common to the ordinary lay person." ***Storm v. Golden***, 538 A.2d 61, 64 (Pa.Super. 1988); ***accord 412 N. Front St. Assocs., LP***, 151 A.3d at 661 ("the standard of care applicable to a given profession must be determined from the testimony of experts, unless the conduct involved is within the common knowledge of the ordinary

layperson"). The question is whether the alleged deviation from the standard of care "is sufficiently clear so as to be determinable by laypersons or concluded as a matter of law, or whether the alleged breach of duty involves too complex a legal issue so as to warrant explication by expert evidence." ***Id.*** at 65.

Prior decisions demonstrate the distinction. For example, expert testimony was required to prove a claim of legal malpractice based on allegations that the defendant pursued a declaratory judgment action on plaintiff's behalf, rather than a civil action, in a dispute over a purchase option within a commercial lease agreement. ***See True R.R. Realty, Inc. v. McNees Wallace & Nurick, LLC.***, 275 A.3d 490, 492, 498 (Pa.Super. 2022). Expert testimony was also required to prove legal malpractice when the allegations regarded the handling of a real estate transaction. ***See Storm***, 538 A.2d at 65 ("Whether an attorney failed to exercise a reasonable degree of care and skill related to common professional practice in handling a real estate transaction is a question of fact outside the normal range of the ordinary experience of laypersons"). In contrast, lay testimony was sufficient to prove legal malpractice based on allegations that the defendant failed to investigate and communicate a settlement offer to the plaintiff in a medical malpractice suit, and breached his duty as a fiduciary by engaging in financial transactions with the plaintiff. ***See Rizzo v. Haines***, 555 A.2d 58, 67 (Pa. 1989).

We agree with the trial court that whether Attorney Kaufman breached a duty of care while representing Sweet in the underlying equitable distribution

action is not within the common knowledge of the ordinary layperson. Contrary to Sweet's contentions, such matters as whether a home equity loan constituted marital property subject to equitable distribution are not the sorts of things a non-expert knows.[6] Thus, Sweet was required to present expert testimony to support her professional negligence claim. Her failure to adduce expert evidence in this regard entitled Defendants to judgment as a matter of law. ***See True R.R. Realty, Inc.***, 275 A.3d at 498; ***Storm***, 538 A.2d at 65.

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[6] For example, Sweet claims the jury would not need expert testimony to understand the following:

> - A $922,468 undisclosed home equity loan constitutes marital property subject to equitable distribution. . . .
> - Public records, including Bucks County deed records, contain no record of the alleged PennyMac loan, raising clear issues of nondisclosure.
> - Forged loan applications and the use of an employer's office to transmit fraudulent documents constitute evidence of fraud.
> - Undisclosed bank accounts are marital assets that must be identified and divided.
> - Retirement accounts must be disclosed and valued as of the date of separation (June 21, 2019), which [Attorney Kaufman] acknowledged was not done.
> - False or misleading financial spreadsheets do not constitute competent evidence, particularly where [Sweet] incurred significant expense to obtain accurate records from the SB1 Fraud Department.
> - Marital debt in the amount of $16,400 was omitted from [Sweet's] pretrial statement.

Sweet's Br. at 3 (unpaginated).

We also agree with the trial court that, even if Sweet could establish Attorney Kaufman deviated from the applicable standard of care when representing Sweet, Sweet's allegations fail to establish causation. ***See 412 N. Front St. Assocs., LP***, 151 A.3d at 657. Sweet was self-represented at the *de novo* hearing that gave rise to the equitable distribution order.

We also find the court properly granted summary judgment on Sweet's breach of fiduciary duty claim. In alleging Attorney Kaufman failed to properly present her equitable distribution case, Sweet failed to allege Attorney Kaufman breached any fiduciary duty. ***See Marion***, 288 A.3d at 88.

Finally, while Sweet argues Attorney Kaufman breached a duty through her "unauthorized appearance" at the *de novo* hearing, causing Sweet such emotional distress as to prevent her from presenting her case, Sweet's complaint did not allege Attorney Kaufman's unexpected appearance at the hearing constituted professional negligence or a breach of a fiduciary duty. This argument is waived. ***See*** Pa.R.A.P. 302(a) (arguments cannot be raised for the first time on appeal).

Application to Amend granted. Order affirmed.

Judge Bowes joins the memorandum.

Judge Olson concurs in the result.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/16/2026