

## FROM THE COURTS

# West Virginia GOP Chair Defeats Legal Malpractice Claims



STOCK.ADOBE.COM

The Supreme Court of Appeals of West Virginia upheld a lower court order granting summary judgment to attorney and state Republican Party chair Elgine H. McArdle after her former client asserted that McArdle committed legal malpractice.

by Colleen Murphy

The Supreme Court of Appeals of West Virginia has upheld an order granting summary judgment to the chair of the West Virginia Republican Party, attorney Elgine H. McArdle, after a former client from a family law case claimed legal malpractice.

According to the opinion, the client, Karen Coffield, was involved in a three-year relationship with Ronald Neil Robinson II. At the end of their relationship, Coffield became pregnant. Coffield told Robinson that the baby was conceived by artificial insemination and that he was not the father. The baby was born in 2001.

In 2010, Robinson instituted a paternity proceeding in Family Court of Marshall County. After a DNA test revealed that he was the child's father, Robinson announced the news on Facebook on Sept. 11, 2011, the court said.

According to the opinion, "the present appeal is one of three related cases that have been considered by this Court," and "all three cases arise from the same underlying facts."

Robinson then filed a civil complaint on Sept. 27, 2013, in the Circuit Court of Marshall County, at which point Coffield retained McArdle to represent her in the matter, the opinion said. Robinson alleged Coffield "actively, fraudulently, knowingly, and intentionally concealed the fact of his paternity from him," and that she interfered with his ability to establish a relationship with his child, according to the opinion.

McArdle filed a motion to dismiss on behalf of Coffield on Oct. 25, 2013, and argued that the complaint should be dismissed because West Virginia does not recognize the claim of alienation of affection, and because the claims were previously adjudicated by the family court and barred by res judicata. The motion was denied. McArdle then filed an answer on Coffield's behalf asserting multiple affirmative defenses, including that Robinson's claims were barred by the statute of limitations, according to the opinion.

On March 30, 2017, McArdle moved for summary judgment on the basis that Robinson's own actions caused his lack of relationship with his daughter, according to the opinion. This motion, too, was denied.

On Sept. 25, 2017, McArdle filed a counterclaim on Coffield's behalf which alleged Robinson's suit was an "abuse of process in light of the family court's finding that Mr. Robinson's lack of rela-

tionship with the child was the result of his own inaction." The counterclaim was dismissed for improperly filing without leave of court and failure to set forth a claim on which relief could be granted, and was barred by a one-year statute of limitations, according to the opinion.

After Coffield obtained new counsel in November 2017, her new attorneys took depositions from Robinson and then filed a motion for summary judgment on her behalf which argued Robinson's claims were time barred.

The circuit court concluded that Coffield "had slumbered on her rights to have the case dismissed pursuant to the statute of limitation."

In the current action, Coffield filed a civil complaint against McArdle on May 13, 2019, which alleged that McArdle, "failed to act as a reasonably prudent lawyer" and that she failed to take Robinson's deposition which would have shown his action was time barred.

Meanwhile, Robinson's case proceeded to a jury trial in December 2019. The jury returned a verdict in favor of Robinson for \$2,747 in costs in establishing paternity and \$12,252.50 in punitive damages for intentional misrepresentation fraudulent concealment. The circuit court instead ordered Coffield to pay Robinson \$8,486.20 and stated that the "prevailing fraud claim could have easily been dismissed" and that he filed his claim "over two weeks too late."

"But for the petitioner's neglect," stated the circuit court, "the fraud claim may have been barred completely."

According to the appeals court's opinion, the court has held that "generally, in a suit against an attorney for negligence, the plaintiff must prove three things in order to recover: (1) the attorney's employment; (2) his/her neglect of a reasonable duty; and (3) that such negligence resulted in and was the proximate cause of loss to the plaintiff."

"Our analysis turns on the third element: proximate cause," stated the opinion. "Petitioner disputes the circuit court's determination that her damages were proximately caused by the circuit court's error in ruling on the 2018 summary judgment motion."

The appeals court agreed with the circuit court's conclusion below that Coffield cannot show her damages were proximately caused by McArdle's conduct.

**Colleen Murphy reports for Law.com, an ALM affiliate of the Daily Business Review. Contact her at cmurphy@alm.com.**



## CITY OF DORAL NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **COUNCIL ZONING MEETING** on **September 28, 2022 beginning at 6:00 PM** to consider a large-scale land use amendment to the City's Comprehensive Plan, Future Land Use Map (FLUM) designation on the Property from Community Mixed Use (CMU) to Downtown Mixed Use (DMU). The City Council will consider this item for **FIRST READING**. The meeting will be held at the **City of Doral, Government Center, Council Chambers** located at **8401 NW 53rd Terrace, Doral, Florida, 33166**.

The City of Doral proposes to adopt the following Ordinance:

**ORDINANCE No. 2022-20**

**AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING A LARGE-SCALE LAND USE AMENDMENT TO THE CITY OF DORAL COMPREHENSIVE PLAN FUTURE LAND USE MAP, TO CHANGE THE LAND USE DESIGNATION FROM COMMUNITY MIXED USE (CMU) TO DOWNTOWN MIXED USE (DMU) FOR ±56.4 ACRES FOR THE PROPERTY LOCATED AT 4400 NW 87 AVENUE; AUTHORIZING THE TRANSMITTAL OF THE FLUM AMENDMENT ADOPTION PACKAGE TO THE STATE LAND PLANNING AGENCY IN THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY AND OTHER REQUIRED GOVERNMENTAL REVIEWING AGENCIES PURSUANT TO THE PROVISIONS OF SECTION 163.3184, FLORIDA STATUTES PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE**

**HEARING NO.:** 22-09-DOR-05

**APPLICANT:** Trump Endeavor 12 LLC (the "Applicant") c/o Felix M. Lasarte, Esq.

**PROJECT NAME:** Doral International Towers

**PROPERTY OWNER:** Trump Endeavor 12 LLC

**LOCATION:** 4400 NW 87 Avenue, Doral, Florida 33178

**FOLIO NUMBER:** A Portion of 35-3021-001-0010; 35-3028-000-0050; 35-3021-008-0010; 35-3028-029-0020; 35-3028-029-0010; 35-3022-010-0010

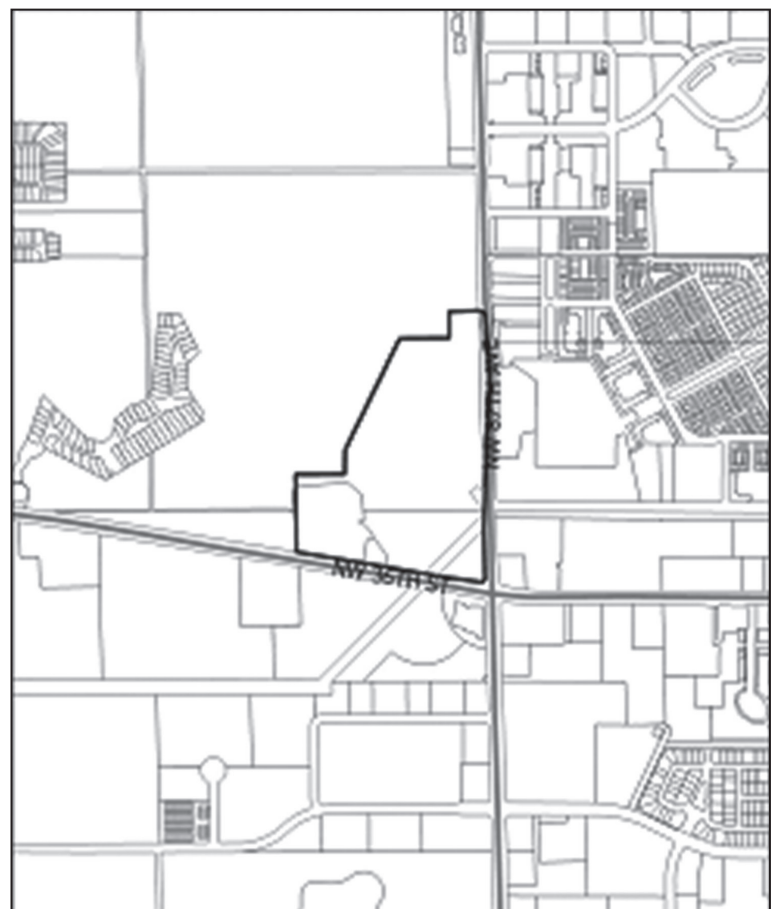
**SIZE OF PROPERTY:** ±56.4 acres

**FUTURE LAND USE MAP DESIGNATION:** Community Mixed Use (CMU)

**ZONING DESIGNATION:** Multi Family Residential-4 District (MF-4) and Industrial Commercial District (IC)

**REQUEST:** The Applicant is seeking to amend the Comprehensive Plan Future Land Use Map designation on the Property from Community Mixed Use (CMU) to Downtown Mixed Use (DMU).

**Location Map**



Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL. The application file may be examined at the City of Doral Planning and Zoning Department located at 8401 NW 53 Terrace, Doral, FL 33166.

Pursuant to Section 286.0105, Florida Statutes If a person decides to appeal any decisions made by the City Council with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, any person who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

Connie Diaz, MMC  
City Clerk  
City of Doral

9/14

22-03/0000618837M