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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

RAMIN R. YOUNESSI et al.,

Plaintiffs and Appellants,

v.

VERONICA MUNOZ,

Defendant and Respondent.

B265750

(Los Angeles County  
Super. Ct. No. BC555058)

APPEAL from a judgment of the Superior Court of Los Angeles County, Steven J. Kleifield, Judge. Affirmed in part, reversed in part, and remanded.

Law Offices of Ramin R. Younessi, Ramin R. Younessi, Debra J. Tauger, and Christina M. Coleman, for Plaintiffs and Appellants.

Killackey Law Offices, Michael A. Killackey and Albert R. Killackey, for Defendant and Respondent.

Defendant and respondent Veronica Munoz (Munoz) retained the Law Offices of Ramin R. Younessi, a Professional Law Corporation (the Younessi Firm) to represent her on a contingency basis in a personal injury action. A little over a year later, Munoz discharged the Younessi Firm and retained new counsel. After Munoz's new attorneys settled her case, Ramin R. Younessi (Younessi) and the Younessi Firm (collectively, plaintiffs) sought to recover a share of the settlement proceeds through separate lawsuits against Munoz and the attorneys who settled the case. We consider whether the trial court erred in sustaining Munoz's demurrer to plaintiffs' declaratory judgment action because Younessi, as an individual, lacked standing to sue and because the Younessi Firm's claim was barred by the statute of limitations.

## I. BACKGROUND

### A. *The Personal Injury Lawsuit*

In April 2010, Munoz retained the Younessi Firm to represent her in connection with a personal injury action against James Sheridan (hereafter the Personal Injury Lawsuit). Munoz (as the "Client") and the Younessi Firm (as the "Attorney") entered into a written contingency fee agreement obligating Munoz to pay the Younessi Firm 33.33 percent of any gross recovery obtained before a lawsuit was filed, and 40 percent of any recovery obtained after a lawsuit was filed. Paragraph 8 of the agreement between Munoz and the Younessi Firm is entitled "ATTORNEY'S LIEN" and states: "Client hereby grants Attorney a lien on Client's claim and any cause of action filed thereon to secure payment to Attorney all sums due under this Agreement for legal services rendered and costs advanced, if

any.” When Munoz hired the Younessi Firm, and throughout its representation of Munoz, the firm was not registered as a law corporation with The State Bar of California and its corporate status had been suspended by the Secretary of State.<sup>1</sup>

In June 2011, approximately 14 months after executing the contingency fee agreement with the Younessi Firm, Munoz discharged the Younessi Firm and engaged Killackey Law Offices, LLP and Michael Killackey (the Killackey Defendants) to represent her. Roughly six months after that, the Killackey Defendants and Johnston & Hutchinson, LLP (J&H), another firm representing Munoz, settled the Personal Injury Lawsuit on Munoz’s behalf. Killackey Law Offices deposited the final payment of settlement funds into its client trust account on April 23, 2012.

*B. The Action Against the Killackey Defendants*

Younessi sued the Killackey Defendants (the Killackey Action) in October 2012 to recover a portion of the attorney fees those defendants collected as a result of settling the Personal Injury Lawsuit. Younessi’s second amended complaint, which he filed in July 2013, alleged he was entitled to \$640,000 under theories of compensation for services rendered, breach of lien, and conversion. The Younessi Firm was not a party to the

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<sup>1</sup> The State Bar revoked the Younessi Firm’s Certificate of Registration as of December 31, 2009. The revocation was made pursuant to Rule V-B of the Law Corporation Rules of the State Bar of California (now Rule 3.159), which indicates it was done voluntarily at the Younessi Firm’s request. The Younessi Firm’s corporate status was revived and it obtained a new certificate of registration as of July 7, 2014.

Killackey Action, but Younessi alleged he was the “principal” of that firm and “acting within the course and scope of his agency” at all relevant times.

The Killackey Defendants moved for summary judgment. They contended Younessi had no right to any portion of the fees they obtained because (1) he had performed no services for the Killackey Defendants and he had not established, in an action directly against Munoz, the value of any legal services he had provided to her; (2) he lacked standing because Munoz had hired the Younessi Firm, not Younessi individually, to represent her; and (3) his causes of action were time-barred by the two-year statute of limitations that applies to claims not founded on a written agreement. J&H intervened in the Killackey Action and joined in the Killackey Defendants’ motion for summary judgment.

The trial court treated the summary judgment motion as a motion for judgment on the pleadings, which it granted with leave to amend in order to provide Younessi with an opportunity to add the Younessi Firm as a plaintiff and to demonstrate the existence of an enforceable lien established by a declaratory judgment action against Munoz, as required by *Mojtahedi v. Vargas* (2014) 228 Cal.App.4th 974 (*Mojtahedi*). Younessi filed a third amended complaint in September 2014 adding the Younessi Firm as a plaintiff and alleging he and the firm were “currently in the process of establishing the existence, amount, and enforceability of their lien on the settlement money by virtue of a declaratory relief action that was filed against VERONICA MUNOZ on August 18, 2014” (i.e., the action now before us on appeal).

After another hearing, the trial court concluded plaintiffs' mere filing of an as-then unresolved declaratory action against Munoz did not adequately establish a right of recovery against the Killackey Defendants or J&H. The court therefore granted judgment on the pleadings for the defendants on all of plaintiffs' causes of action, without further leave to amend. The court also ruled Younessi individually lacked standing to enforce the contingency fee agreement's attorney lien because he was not a party to the retainer agreement that created it.

Plaintiffs thereafter appealed various decisions of the trial court in the Killackey Action, specifically, the court's resolution of motions to continue the trial date, the court's rejection of plaintiffs' request for additional time to file the third amended complaint, and the court's decision to vacate plaintiffs' voluntary dismissal of their conversion cause of action, which plaintiffs had filed in the time between the two hearings on the motions for judgment on the pleadings. We affirmed the trial court's judgment in full. (*Younessi v. Killackey* (June 29, 2016, B260308) [nonpub. opn.] )

### *C. This Declaratory Judgment Suit Against Munoz*

Plaintiffs continued to prosecute this action (i.e., the suit they filed against Munoz in August 2014 to seek a declaration of the value of legal services provided) after the trial court's rulings in the Killackey Action. In February 2015, they filed a first amended complaint alleging that by the time Munoz opted for new counsel in the Personal Injury Lawsuit, plaintiffs had already incurred costs of \$2,413.96 and performed substantial work on her case, i.e., filing a complaint, taking and defending depositions, performing research and written discovery,

negotiating with insurers and opposing counsel to settle the claim, and performing additional acts.

Anticipating a statute of limitations defense, plaintiffs further alleged Munoz had timely notice of the issues their lawsuit presented by virtue of her knowledge, gained no later than November 2012, of the Killackey Action. Plaintiffs further alleged the essential facts of both the Killackey Action and the declaratory judgment claim against Munoz in this case were the same, and that the Killackey Defendants had received during discovery in that case all of the evidence Munoz needed to oppose plaintiffs' claim in this action.

Munoz demurred to plaintiffs' first amended complaint on several grounds. She contended that the two-year statute of limitations applicable to quantum meruit claims barred plaintiffs' suit against her. Munoz additionally argued, as the trial court found in resolving the Killackey Action, that Younessi lacked standing to sue on the basis of the contingency fee agreement with Munoz because only the Younessi Firm (not Younessi individually) was a party to that agreement. Munoz further asserted the Younessi Firm's representation of her while unregistered with the State Bar (and while a suspended corporation under the Corporations Code) should prevent the firm from recovering attorney fees.

In opposition to the demurrer, plaintiffs maintained the suit against Munoz was timely filed because the lien they sought to enforce was based on a written contract (the contingency fee agreement Munoz signed) such that a four-year rather than a two-year statute of limitations applied. Alternatively, plaintiffs asserted the action was timely even if the two-year statute of limitations applied because that two-year period either began to

run in September 2014 when Munoz first refused to pay plaintiffs, or was equitably tolled during the pendency of the Killackey lawsuit. Plaintiffs further argued the Younessi Firm's unregistered status did not divest them of their entitlement to attorney fees and Younessi individually had standing to pursue the declaratory action as the sole principal of the Younessi Firm.

The trial court sustained Munoz's demurrer. The court ruled Younessi had no basis to enforce a lien against Munoz because he was not a party to the contingency fee agreement between her and the Younessi Firm; the court further found its prior determination to this effect in the Killackey Action collaterally estopped Younessi from arguing otherwise. Regarding the Younessi Firm, the court ruled its underlying claim for recovery against Munoz was based on quantum meruit, not contract, and thus, the two-year statute of limitations for actions that are not predicated on a written instrument applied. The court found that two-year limitations period had expired on April 23, 2014, several months before plaintiffs filed this action against Munoz in August of that year. The trial court further found no reason to equitably toll the statute of limitations during the time the Killackey Action was pending. The court declined to address Munoz's arguments relating to the Younessi Firm's defunct corporate status, declaring the issue moot in light of its statute of limitations ruling.

The trial court also denied plaintiffs' request for further leave to amend the complaint. At the demurrer hearing, the court inquired as to "what allegations could be added to the complaint as it [then stood]" and "would there be any facts, factual allegations, or would it just be pleading a different legal theory?" Plaintiffs' attorney responded he "[could not] envision

pleading any other fact” and amending the complaint would merely be a matter of changing the legal theory of liability. The court agreed “the factual allegations [were] clear” and stated it “[didn’t] see really how [plaintiffs’] complaint [could] be amended to state a cause of action,” including a claim for quantum meruit brought by Younessi individually.

The trial court thereafter entered a judgment of dismissal, from which plaintiffs now appeal.

## II. DISCUSSION

Plaintiffs contend they each established a right to recover against Munoz and the statute of limitations poses no bar to their suit. The contention fails as to Younessi, who has no standing to sue to enforce the obligations of the written contingency fee agreement to which he was not a party and who has no viable claim independent of the written contract. The contention is correct, however, as to the Younessi Firm. The firm unquestionably has standing to sue to obtain a declaration of its lien rights under the written agreement, and a four-year statute of limitations applies to such a claim—making this action timely as to that plaintiff. We further hold that the Younessi Firm’s unregistered status during its representation of Munoz does not prohibit the firm from seeking compensation for work performed on her behalf. Thus, while we express no view on whether a future action against the Killackey Defendants would be viable, reversal of the demurrer ruling in this case is required.

### A. *Standard of Review*

We review de novo a trial court’s judgment of dismissal after sustaining a demurrer without leave to amend. (*Morales v.*



*22nd Dist. Agricultural Assn.* (2016) 1 Cal.App.5th 504, 537.) “[W]e accept the truth of material facts properly pleaded in the operative complaint, but not contentions, deductions, or conclusions of fact or law. We may also consider matters subject to judicial notice. (*Evans v. City of Berkeley* (2006) 38 Cal.4th 1, 6.) To determine whether the trial court should, in sustaining the demurrer, have granted the plaintiff leave to amend, we consider whether on the pleaded and noticeable facts there is a reasonable possibility of an amendment that would cure the complaint’s legal defect or defects. (*Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1081.)” (*Yvanova v. New Century Mortgage Corp.* (2016) 62 Cal.4th 919, 924, fn. omitted.)

*B. As to Younessi, the Trial Court Was Correct to Grant Munoz’s Demurrer without Leave to Amend*

*1. Younessi has no standing to sue*

Issue preclusion, sometimes referred to as collateral estoppel, bars a party from relitigating an issue conclusively determined in a prior action. It applies “(1) after final adjudication (2) of an identical issue (3) actually litigated and necessarily decided in the first suit and (4) asserted against one who was a party in the first suit or one in privity with that party. [Citations.]” (*DKN Holdings LLC v. Faerber* (2015) 61 Cal.4th 813, 825.)

When the trial court granted judgment on the pleadings to the defendants in the Killackey Action, it determined Younessi lacked standing to sue those defendants because he was not a party to the contingency fee agreement underlying the obligation he sought to enforce. Younessi did not appeal that determination. Thus, the trial court in this action properly ruled

Younessi could not assert he had standing to maintain the declaratory judgment cause of action against Munoz. The court's determination in the Killackey Action that Younessi lacked standing was a final adjudication of an issue, actually litigated and necessarily decided against him, identical to one present here.<sup>2</sup>

2. *The trial court properly denied leave to amend to allow Younessi to state a non-written-agreement-based claim*

A trial court abuses its discretion by sustaining a demurrer without allowing the plaintiff to amend if “there is a reasonable possibility that the defect can be cured by amendment . . .” (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) The plaintiff bears the burden of proving such a reasonable possibility. (*Ibid.*) “To meet this burden, a plaintiff must submit a proposed amended complaint or, on appeal, enumerate the facts and demonstrate how those facts establish a cause of action. [Citations.] Absent such a showing, the appellate court cannot assess whether or not the trial court abused its discretion by denying leave to amend.” (*Cantu v. Resolution Trust Corp.* (1992) 4 Cal.App.4th 857, 890; accord, *Goodman v. Kennedy* (1976) 18 Cal.3d 335, 349 [“Plaintiff must show in what manner he can amend his complaint and how that amendment will change the legal effect of his pleading”].)

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<sup>2</sup> The trial court's determinations on standing and the statute of limitations in the Killackey Action were not alternative grounds; each finding was independently necessary to the court's judgment. (See *Lucido v. Superior Court* (1990) 51 Cal.3d 335, 342 [issue “necessarily decided” if not “entirely unnecessary” to the earlier judgment].)

Plaintiffs have not shown there is a reasonable possibility Younessi could state a cause of action against Munoz independent of the written contingency fee agreement. Assuming for the sake of argument that an individual attorney like Younessi may sue to recover the value of services he or she performed as an agent of a law firm retained by the client, Younessi's cause of action in that circumstance would not be founded on a written instrument and a two-year statute of limitations would accordingly apply. (Code Civ. Proc., § 339, subd. 1 [two year statute of limitations applies to "[a]n action upon a contract, obligation or liability not founded upon an instrument of writing"].) The statute of limitations to recover attorney fees for work performed in the Personal Injury Lawsuit began running on April 23, 2012, the date on which the Killackey Defendants deposited the final settlement payment (*Fracasse v. Brent* (1972) 6 Cal.3d 784, 792 (*Fracasse*)), and a non-written-agreement-based cause of action would therefore be untimely because this suit was filed on August 18, 2014, more than two years after the limitations period began running.

Younessi protests, however, that even a two-year statute of limitations should not bar his posited cause of action in a further amended complaint because the filing of the Killackey Action should equitably toll the limitations period. Equitable tolling is a judicially created doctrine "designed to prevent unjust and technical forfeitures of the right to a trial on the merits when the purpose of the statute of limitations—timely notice to the defendant of the plaintiff's claims—has been satisfied." [Citation.]” (*McDonald v. Antelope Valley Community College Dist.* (2008) 45 Cal.4th 88, 99.) The doctrine applies when the plaintiff “reasonably and in good faith” pursues one of several

legal remedies. (*Id.* at p. 100.) “Thus, it may apply where one action stands to lessen the harm that is the subject of a potential second action; where administrative remedies must be exhausted before a second action can proceed; or where a first action, embarked upon in good faith, is found to be defective for some reason. [Citation.]” (*Ibid.*) In addition to showing the defendant had timely notice of the plaintiff’s cause of action and the plaintiff acted reasonably and in good faith, the plaintiff must also show lack of prejudice to the defendant. (*Id.* at p. 102.)

Younessi cannot satisfy the prerequisites for equitable tolling. The purpose of the doctrine is to alleviate the burdens and inequities that would result if a plaintiff were obligated to file duplicative proceedings in order to assert alternative legal remedies. (See *Elkins v. Derby* (1974) 12 Cal.3d 410, 419-420.) Equitable tolling cannot be invoked here because the Killackey Action was not an alternative legal remedy; it was an erroneous attempt to sue the wrong defendant under an unavailable legal theory. (*Mojtahedi, supra*, 228 Cal.App.4th at pp. 977-978 [citing cases dating back to 1961 that hold a plaintiff in Younessi’s position must establish the existence of a valid lien before initiating an action against subsequently retained counsel].) Plaintiffs’ pursuit of the Killackey action was therefore not “reasonable” for purposes of tolling the statute of limitations. (See *Schoenberg v. County of Los Angeles Assessment Appeals Bd.* (2009) 179 Cal.App.4th 1347, 1356 [filing of mandamus action did not toll limitations period where it was well settled law that mandamus was not an available avenue of review].)

In addition, notice to the defendants in the Killackey Action was insufficient to constitute notice to Munoz, who was not a named defendant in that case. (See, e.g., *Garabedian v. Skochko*

(1991) 232 Cal.App.3d 836, 847 [“equitable tolling does not apply merely because defendant B has obtained timely knowledge of a claim against defendant A for which defendant B knows or believes he may share liability”]; *Sierra Club, Inc. v. California Coastal Com.* (1979) 95 Cal.App.3d 495, 503-504 [equitable tolling inapplicable where defendant in second action was not named in first action despite being an indispensable party in the earlier suit].) One cannot reasonably infer that a lawsuit against Munoz’s attorneys based on a written contract lien theory would have put Munoz on notice of an implied contract or quantum meruit claim, independent of the contingency fee agreement, against her as a defendant.

*C. As to the Younessi Firm, However, Reversal of the Judgment is Required*

*1. Because a four-year statute of limitations applies, the firm’s declaratory judgment cause of action is timely*

The statute of limitations for bringing a declaratory judgment action depends on the underlying right or obligation the plaintiff seeks to enforce. (*Howard Jarvis Taxpayers Assn. v. City of La Habra* (2001) 25 Cal.4th 809, 821; *Maguire v. Hibernia Savings & Loan Soc.* (1944) 23 Cal.2d 719, 734.) The trial court erred in ruling that plaintiffs’ action to determine the validity of an attorney lien is a claim that does not arise from a written obligation or agreement.

The Code of Civil Procedure includes two different statutes of limitations that alternatively apply depending on whether an action is or is not founded upon a written instrument. A four-year statute of limitations applies in case of “[a]n action upon any

contract, obligation or liability founded upon an instrument in writing . . . .” (Code Civ. Proc., § 337, subd. 1.) By contrast, and as we have already seen, a two-year limitations period applies where the contract, obligation, or liability is not founded on a written instrument. (Code Civ. Proc., § 339, subd. 1.) It is section 337 that applies to the Younessi Firm’s declaratory judgment claim for relief.

“In California, an attorney’s lien is created only by contract—either by an express provision in the attorney fee contract (*Cetenko v. United California Bank* (1982) 30 Cal.3d 528, 531 [179 Cal.Rptr. 902, 638 P.2d 1299, 34 A.L.R.4th 657]; *Haupt v. Charlie’s Kosher Market* (1941) 17 Cal.2d 843 [112 P.2d 627]) or by implication where the retainer agreement provides that the attorney is to look to the judgment for payment for legal services rendered. [Citations.] [Fn. omitted.]” (*Carroll v. Interstate Brands Corp.* (2002) 99 Cal.App.4th 1168, 1172 (*Carroll*)); see also *id.* at p. 1172 [“[A]n attorney’s lien is not created by the mere fact that an attorney has performed services in a case”].) The first of these two alternative scenarios is at issue here: the first amended complaint alleges the existence of an attorney lien “by virtue of the[ ] written agreement to perform legal services with [Munoz],” such that plaintiffs are “entitled to a portion of the attorney’s fees obtained in the settlement of the Munoz v. Sheridan personal injury action.” The applicable statute of limitations is therefore four years because the Younessi Firm’s complaint for declaratory relief is founded upon a written instrument. (Code Civ. Proc., § 337, subd. 1.)

Relying on *Fracasse, supra*, 6 Cal.3d 784 and its progeny, Munoz argues this cannot be so. She emphasizes she discharged the Younessi Firm, and she believes this terminated the

contingency fee agreement such that the firm's asserted right to recover attorney fees was thereby converted from one founded on an attorney lien established by written agreement to a quantum meruit claim independent of that agreement.<sup>3</sup> Munoz, however, misreads *Fracasse*; it is a decision that establishes the *measure of damages* a discharged attorney may recover, and it says nothing about which statute of limitations should apply to an action by a discharged attorney to recover on a written contractual lien.

The issue in *Fracasse*, as framed by the opinion itself, was whether to “reconsider the rule of damages which allows an attorney who has been discharged without cause by his client to recover as damages the full fee specified in the contract of employment, regardless of the reasonable value of his services or the extent of work performed under that contract.” (*Fracasse*, *supra*, 6 Cal.3d at p. 786.) Our Supreme Court determined reconsideration of the rule was indeed warranted, for it infringed on the absolute right of clients to discharge their attorneys at any time. (*Id.* at p. 790 [prior rule discourages discharging counsel because the client will be loath to give up “73 1/3 percent of a recovered judgment,” i.e., a contractually specified contingency fee percentage for *both* the old and new attorney].) *Fracasse* accordingly holds that a discharged attorney who has a written contingency fee agreement with his or her client “should be limited to a *quantum meruit* recovery for the reasonable value of

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<sup>3</sup> We are not convinced the contingency fee agreement Munoz signed was “terminated”; paragraph 7 of the agreement expressly allowed her to discharge the Younessi Firm at any time. Nevertheless, as we will explain, Munoz’s argument fails even on its own terms.

his services, upon the occurrence of any contingency contemplated by his contract,” i.e., “the reasonable value of his services rendered to the time of discharge.” (*Id.* at pp. 786, 792.)

While the *Fracasse* court limited the extent of the damages a discharged attorney may seek to the reasonable value of the services rendered, the opinion does not, either expressly or by implication, transform the nature of the obligation at issue, or more precisely, the source from whence a lien arises. To be sure, the Supreme Court’s opinion does use the term “quantum meruit,” but only as a shorthand qualifier for the measure of damages a discharged attorney may seek, i.e., “the reasonable value of the services he has rendered up to the time of discharge.” (*Fracasse, supra*, 6 Cal.3d at p. 791.) Both before the *Fracasse* decision and after it, a lien allegedly created by written agreement remains an obligation founded on a written instrument. Indeed, later cases applying *Fracasse* have held an attorney lien survives termination of a written contract and only the measure of damages the discharged attorney may recover is thereafter limited. (See, e.g, *Hansen v. Jacobsen* (1986) 186 Cal.App.3d 350, 355-356 [“When discharge occurs, if a lien exists, it survives, but it is for quantum meruit, the reasonable value of services rendered to the time of discharge, rather than for the full contract fee”]; *Bandy v. Mt. Diablo Unified Sch. Dist.* (1976) 56 Cal.App.3d 230, 235 [“In the case of an attorney who has been granted a lien pursuant to a contingent fee contract . . . but who has been discharged prior to the happening of the contingency stated in the contract, all that remains to be done by him, once the contingency has occurred . . . is to seek an adjudication in an independent action of the reasonable amount of the attorney fees due him for his services . . . . He is also entitled, upon such



determination and in the same action, to seek enforcement of his lien”]; see also *Carroll*, *supra*, 99 Cal.App.4th at p. 1172, fn. 3 [“If a lien is created by contract, the lien survives the discharge of the attorney . . . .”].)

The written contingency fee agreement with Munoz is the basis for the Younessi Firm’s request for a declaratory judgment enforcing an attorney lien. The action asserting the firm’s claim to such a judgment was filed on August 18, 2014, which is within the four-year statute of limitations that began running on April 23, 2012.<sup>4</sup>

2. *The Younessi Firm’s temporary unregistered status does not provide a basis for affirmance*

In her demurrer to plaintiffs’ first amended complaint, Munoz argued the Younessi Firm’s unregistered status during its representation of her constituted the illegal practice of law in violation of the Rules of Professional Conduct, specifically, Rule 1-300 (unauthorized practice of law) and Rule 4-200 (illegal or unconscionable fees). Munoz contended both the contingency fee

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<sup>4</sup> In a further attempt to argue the Younessi Firm’s request for declaratory relief is untimely, Munoz emphasizes the firm was previously suspended by the Secretary of State and cites cases holding an action commenced during a period of suspension is untimely if the statute of limitations runs prior to the corporation’s revival. (See, e.g., *Bourhis v. Lord* (2013) 56 Cal.4th 320, 328-329; *Center for Self-Improvement and Community Development v. Lennar Corp.* (2009) 173 Cal.App.4th 1543, 1554.) These cases are inapposite. The Younessi Firm was a corporation in good standing by the end of July 2014 and this action was filed in August 2014, well within the applicable four-year statute of limitations.

agreement and any fees charged thereunder were therefore illegal, precluding plaintiffs from asserting any rights pertaining thereto. Plaintiffs responded that Munoz had misinterpreted the Rules of Professional Conduct, that the individual attorneys who worked on her case were licensed to practice law, and that the revival of the Younessi Firm's corporate status validated conduct undertaken while it was not registered. Plaintiffs also pointed to case law providing that attorney fees should not be forfeited for a violation of the Rules of Professional Conduct unless the violation was egregious.

The trial court believed Munoz's statute of limitations argument was dispositive, and it therefore did not address whether the Younessi Firm's unregistered status during its representation of Munoz barred it from recovering fees. Insofar as Munoz continues to press this argument on appeal, the argument fails. "[T]he Supreme Court case addressing the issue . . . seems to suggest there must be a serious violation of the attorney's responsibilities before an attorney who violates an ethical rule is required to forfeit fees." (*Pringle v. La Chapelle* (1999) 73 Cal.App.4th 1000, 1006; see also *Clark v. Millsap* (1926) 197 Cal. 765, 785.) The Younessi Firm's unregistered status while representing Munoz is not so serious that the firm is necessarily precluded from recovering fees. (*Olson v. Cohen* (2003) 106 Cal.App.4th 1209, 1215 ["To require disgorgement of fees because of a failure to register the corporation . . . is disproportionate to the wrong."] (*Olson*); see also *Frye v. Tenderloin Housing Clinic, Inc.* (2006) 38 Cal.4th 23, 48; *Steven M. Garber & Associates v. Eskandarian* (2007) 150 Cal.App.4th 813, 820 [*Olson* took into consideration broad questions of policy . . . and concluded that the failure to register as a

professional corporation should not have, and does not have, an impact on attorney fees. Given the purposes of registration as a professional corporation, we think that this conclusion is eminently sound”].)

#### DISPOSITION

The judgment of dismissal as to Younessi is affirmed. The judgment of dismissal as to the Younessi Firm is reversed, and the case is remanded for further proceedings consistent with this opinion. The parties shall bear their own costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BAKER, J.

We concur:

KRIEGLER, Acting P.J.

KIN, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.