

Alleging Fraud In Withholding Knowledge of Malpractice

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Plaintiff Ferdinand sued lawyers Crecca & Blair on account of their services in connection with a landlord/tenant action which resulted in Plaintiff's eviction from the contested premises. In her complaint, Plaintiff set forth nine causes of action. Two of these were withdrawn voluntarily. Two of the remaining causes alleged fraud by the defendants consisting of "failure of Crecca and Blair to mention to plaintiff that they permitted the stay of eviction to lapse in the District Court [landlord/tenant] action..." and fraudulently deceiving plaintiff by "failing to advise plaintiff that they allowed the stay to lapse in the District Court action."

In *Ferdinand v. Crecca & Blair*, NYLJ December 30, 2002, Suffolk County Supreme Court Judge Robert W. Doyle held that allegations of fraud in the concealment of malpractice do not support a cause of action distinct from the malpractice itself. "...an attorney's failure to disclose a malpractice does not give rise to claims for fraud and deceit separate from the underlying malpractice cause of action (*Weiss v. Manfredi*, 616 N.Y.S.2d 325, 83 NY2d 974). Nondisclosure or concealment of malpractice may affect damages recoverable, but, standing alone, such nondisclosure or concealment will not serve as a basis for a distinct cause of action in fraud."