

SW

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

KIRSHNER

v.

No. 24 L 005689

HARNACK

ORDER

Defendant Pamela Harnack seeks to dismiss plaintiff Sheldon Kirshner's present suit for unpaid attorney's fees as untimely. She asserts that there is no valid written agreement between the parties and that plaintiff's claim was therefore governed by a five-year limitation period; she argues that this action was brought more than five years after the end of the parties' attorney-client relationship and is thus time-barred.

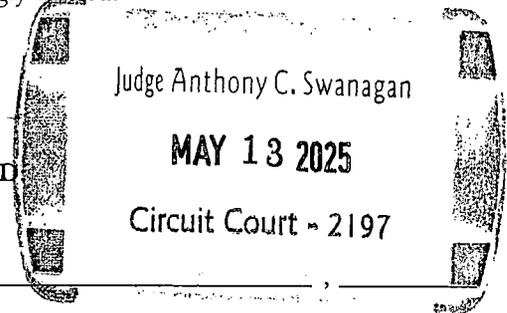
The Code of Civil Procedure, 735 ILCS 5/13-206 extends a ten-year limitation period not only to actions for breach of written contracts, but also for "other evidences of indebtedness in writing." Plaintiff asserts that an affidavit filed by defendant in a proceeding in a separate division of this court constitutes a writing that triggers the application of that provision. The court agrees. The August 10, 2017 affidavit of Pamela Harnack states that her prior counsel "was elevated to the bench" and that "I then, in August 2013, retained Sheldon G. Kirshner, Esq. as my counsel." The affidavit further states: "My July 31, 2017 balance to Sheldon Kirshner that is due and owing is \$395,100." That sum is the amount sought by Kirshner in the present action.

Defendant argues that the writing required for invocation of the ten-year "indebtedness in writing" limitation period must be complete, and contends that her affidavit does not specify Kirshner's hours spent, tasks performed, or billing rate. While those omissions might well render an attorney's fee petition as insufficiently complete for recovery, the affidavit is Harnack's, not Kirshner's. It is a complete, self-contained statement of an amount she owed in fees as of a specific date. It is evidence of indebtedness in writing, the ten-year limitation period is thus applicable, and defendant's motion to dismiss is accordingly denied.

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Attorney No.: \_\_\_\_\_  
Name: \_\_\_\_\_  
Atty. for: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

ENTERED



Dated: \_\_\_\_\_

*A. Swanagan*  
Judge

2197  
Judge's No.