

Spittler v. Porter Simon, No. 65499, Order of Reversal and Remand (Unpublished Disposition, Apr. 4, 2016)
SC UNPUB

The statute of limitations in a malpractice action against an attorney does not begin to run until after an appeal has been resolved.

Specifically, an action for malpractice must be commenced within 4 years after the plaintiff sustains damage or within 2 years after the plaintiff discovers or through the use of reasonable diligence should have discovered the material facts which constitute the cause of action, whichever occurs earlier. However, an appeal acts as a tolling action that suspends the statute of limitations until the appeal is resolved.

Side note of caution for domestic relations attorneys: Failure to complete pension paperwork -- such as a QDRO or military benefits order -- may not become actionable until the member of the plan actually retires. The statute of limitations would not begin to run until that time, which may be decades in the future.