

Attorney's failure to disclose terminal illness can lead to liability, ABA LPL eAdvisory

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*A New York appellate court recently sustained a legal malpractice complaint alleging that an attorney failed to timely file a wrongful death lawsuit, even though the attorney died before the statute of limitations on the underlying claim had run. In *Cabrera v. Collazo*, the plaintiff commenced a legal malpractice claim against the estate of her former attorney, Cary Tanzman, predicated on the attorney's failure to timely file a wrongful death action on behalf of the plaintiff. The executor of Tanzman's estate brought a pre-answer motion to dismiss, arguing that the attorney-client relationship had terminated with Tanzman's death — which was prior to the expiration of the statute of limitations on the underlying claim — and, as a result, the attorney could not be liable for any negligence that occurred after his death. The trial court denied the motion to dismiss and Tanzman's estate appealed the ...*