



Related Lawyers

James H. Landgraf

Related Practices

Real Estate

Related Industries

Construction

Media Contact

Peter Dunn
Director of Client
Relations and
Communications
Philadelphia, PA
pdunn@dilworthlaw.com

HOW LONG WILL I BE ON THE HOOK? IMPORTANT INFORMATION FOR THOSE INVOLVED IN NJ CONSTRUCTION PROJECTS

May 15, 2015

NEW JERSEY SUPREME COURT CREATES LIMITS TO THE STATUTE OF REPOSE

In the context of construction projects, in addition to the standard statute of limitations which controls the period of time in which a suit can be brought, there is a secondary limitation period created by the “**Statute of Repose**” (N.J.S.A. 2A:14-1.1(a)). This statute provides an absolute ten-year limitation period for starting a suit for property damage or personal injury on a project involving improvements to property. The Statute of Repose provides protection to contractors, subcontractors and design professionals, and their carriers against claims that are ten years old or more. The standard “discovery” of defect arguments that tend to extend a statute of limitations are not applicable for the Statute of Repose.

Historically, the ten years commenced with the issuance of a certificate of substantial completion, where that process is involved. For subcontractors, the ten years can start running when they are finished, even though the project is still progressing, if they are not involved in the whole of the project.

On April 30, 2015, the New Jersey Supreme Court in the case of State v. Perini Corporation issued a unanimous decision that limited some of the protections of the Statute of Repose.

The Perini case involved a State project which was performed in phases, with each phase having a separate substantial completion date. The defect issues arose out of the installation of a high temperature hot water system that served the individual phased areas as well as the whole of the project. The suit had been brought against the general contractor, the design professionals, the HVAC subcontractor, and a component manufacturer.

Each of the individual phases had substantial completion dates older than ten years from the date of the filing of the lawsuit. However, the court found that the substantial completion date for the entire project had occurred just short of ten years from the date of the filing of the complaint.

In its primary ruling, the Court found that where the system alleged to be defective serves the entirety of the project, interim substantial completion dates for phases of the project (even where occupancy of those phases had occurred) will be controlled by the overall project substantial completion date. In practical application, this would apply typically to such items as HVAC, plumbing, electrical, sprinkler systems, controls, and other project-wide systems that would be included within a building.



E-ALERT

In a separate ruling, the Supreme Court found that the ten-year Statute of Repose did not apply to a product manufacturer who could not seek protection by the Statute of Repose. Notwithstanding the important role of that product in the system, the court determined that it was nonetheless a product and did not constitute an “improvement to the real estate.”

Contractors, subcontractors and design professionals, particularly those involved in the design and installation of project systems, must now be aware that they can have exposure for the project beyond ten years from the time in which they are involved in a project or portion of a project.

If you have questions regarding this recent case or its application, please contact James H. Landgraf, Esq. at Dilworth Paxson’s Cherry Hill office (856) 675-1900 or via email at jlandgraf@dilworthlaw.com.