

The Saiber Construction Law Column: April 2023

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Under New Jersey law, parties who hire an independent contractor are not responsible for harm that occurs to the contractor's employees as a result of the very work that the employee was hired to perform. In September 2022, the Court of Appeals of Maryland applied principles similar to the law of New Jersey in the context of a wrongful death action brought against, among others, the City of Baltimore after an employee of an independent contractor hired by the City was killed at the job site where he was working.

In *Hancock v. Mayor of Baltimore*, the City had retained an excavating company to repair a clog caused by a collapsed pipe. One of the contractor's employees died when the trench in which he worked collapsed and he was buried under tons of dirt and debris. The family of the deceased employee sued, claiming that the city was negligent in hiring the independent excavating contractor, which had violated numerous laws, regulations and industry standards in connection with the performance of the excavation work. Two lower courts in Maryland as well as the Court of Appeals (which became the Supreme Court of Maryland in December 2022), however, ruled that Baltimore was not liable. The Court stated that "one who hires an independent contractor is not liable to an employee of that contractor for injuries caused by the contractor's negligence in performing the work for which it was hired."

The courts of New Jersey would likely have reached a similar decision if the case had occurred here. Indeed, New Jersey's courts have already held in other cases that parties who hire independent contractors are not responsible for the harm that occurs to the contractor's employee as a result of the very work that the contractor was hired to perform. The courts' reasoning is that, with certain very limited exceptions, the party hiring the independent contractor "may assume that the independent contractor and its employees are sufficiently skilled to recognize the dangers associated with their tasks and adjust their methods accordingly to ensure their own safety."

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Each issue's Saiber Construction Law Column will discuss a recent decision by New Jersey courts or, like here, courts from other states which may be of interest to people in the construction industry. The information in each article is not intended to be legal advice and may not be used as legal advice. Legal advice must be tailored to the specific circumstances of each case. Every effort has been made to assure this information is up-to-date. The article is not intended to be a full and exhaustive explanation of the law in any area, nor should it be used to replace the advice of your own legal counsel.



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