

The Saiber Construction Law Column: June 2023

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A statute of limitations is a law that sets the maximum amount of time that parties to a dispute have to file a formal legal proceeding to resolve the dispute. In New Jersey, the statute of limitations for bringing a professional negligence action which does not involve personal injuries is six years. Under most circumstances, a court will dismiss an action filed after the expiration of the statute of limitations. These principles were illustrated in two related construction actions recently decided by the Supreme Court of Idaho.

In *Brunobuilt, Inc. v. Briggs Eng'g, Inc.* and *Brunobuilt, Inc. v. Erstad Architects, PA*, the Idaho Court upheld the dismissal of professional negligence claims filed against an engineering firm and architectural firm, respectively. In Idaho, claims of professional negligence are subject to a two-year statute of limitations. The two cases stemmed from a landslide on property being developed by plaintiff, a custom home builder. The landslide occurred in March/April 2016 and the builder filed suit against various parties on December 16, 2016, but, significantly, did not sue the engineering or architectural firm at that time. More than two years after the landslide occurred, in September 2018, the builder filed suit against the engineering and architectural firms. Both parties moved for summary judgment to dismiss the builder's claims for various reasons, including that the actions were barred by the two-year statute of limitations.

The trial courts found that the builder was aware of its actual damage from the landslide as early as April 2016 but did not assert its claims for professional negligence until September 2018. The court held that because "BrunoBuilt failed to bring suit . . . within two years of being made aware of earth movement damage to its real property, the claim is time-barred." The Idaho Supreme Court affirmed the trial court's decisions in both case, that the statute of limitations had fully accrued and barred the builder's claims.

Plaintiffs in New Jersey should be mindful of the six year statute of limitations for commencing actions "for trespass to real property" or "for any tortious injury to real or personal property." In most instances, statutes of limitations act as lines in the sand so claims filed after the expiration of a statute of limitations may be deemed time barred. Similarly, litigants in New Jersey should also be mindful of the time for filing an appeal from a final decision (within 45 days of the entry of a final judgment) and the time for seeking reconsider of a lower court's order (not later than 20 days after being served with the order).

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 ensure 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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