

## The Saiber Construction Law Column: May 2025

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*Source: MetroBuilders' Construction Law Column*

Court rules typically govern, among other things, court procedures, filing requirements, and timelines/deadlines for filing papers. Failing to comply with court rules and procedures can lead to serious and potentially costly consequences which can affect the outcome of a case. A recent case decided by the Supreme Court of Nebraska demonstrated how serious failing to comply with procedural court rules can be for a litigant.

In *Peterson v. Brandon Coverdell Constr., Inc.*, a case decided by the Supreme Court of Nebraska in January 2025, homeowners hired a contractor to perform work on their home after a hailstorm. The homeowners eventually sued the contractor for failing to perform the job in a workmanlike manner and the contractor filed a counterclaim based on the homeowners' failure to pay the contract price. Following the trial, the court ruled for the contractor after finding that the homeowner committed the first material breach of the parties' contract. The homeowners appealed.

At the appellate level, the court reversed the trial judge's decision and entered judgment for the homeowners, prompting the contractor to appeal to the state supreme court. The Nebraska Supreme Court reviewed the record and found that the homeowners failed to comply with several procedural rules when they filed their appeal and, as a result, certain issues raised on the appeal were not properly part of the record on appeal. The Supreme Court found that those issues, therefore, should not have been considered by the appeals court. Accordingly, for these and other reasons, the Supreme Court of Nebraska reversed the decision on appeal and affirmed the trial judge's ruling in favor of the contractor.

Although New Jersey courts often frown upon cases being resolved on procedural grounds rather than on the substantive merits of a case, the Rules of Court, especially when appeals are involved, tend to be rigorously enforced. Deadlines are meaningful and important rights can be lost for failing to meet the deadlines set by the court rules or for failing to follow rules of procedure related to the appeal. Litigants and their attorneys should both be mindful of the New Jersey Court Rules' requirements and make every effort to comply with them, particularly when an appeal is involved.

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Each issue's Saiber Construction Law Column will discuss a recent decision by New Jersey courts (or courts from other states) or other legal topics 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.

For any question relating to this article, please contact Robert B. Nussbaum, Esq. at Saiber LLC at [rnussbaum@saiber.com](mailto:rnussbaum@saiber.com).