

The Saiber Construction Law Column: March 2026

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A core legal principle that dates to Roman times provides, “ignorantia juris non excusat” – Ignorance of the law is no excuse! In other words, the law imputes knowledge of all laws to all people in a jurisdiction where a particular law applies. Although no one can be aware of every individual law, those working within certain professions should be aware of one New Jersey law in particular – the New Jersey Affidavit of Merit Statute.

The statute provides that in “any action for personal injuries, wrongful death or property damage resulting from an alleged act of malpractice or negligence by a licensed person in his profession or occupation,” the plaintiff must file within 60 days of the filing of an Answer to the Complaint, an affidavit by an appropriately licensed person “that there exists a reasonable probability that the care, skill or knowledge” of the person being sued “fell outside acceptable professional or occupational standards.”

Under the law, “licensed persons” includes, among others, architects, accountants, attorneys, engineers, licensed site remediation professionals, and land surveyors. If a plaintiff fails to provide the required affidavit in a timely manner, it is deemed “a failure to state a cause of action,” meaning that the licensed person being sued may succeed on a motion to dismiss the action for failure to serve the affidavit of merit. Recognize, however, that the court may grant the plaintiff one additional 60-day period to file the affidavit “upon a finding of good cause.”

Put simply, the Affidavit of Merit Statute matters. For licensed professionals facing a negligence claim, knowing this rule early on can prevent an otherwise defensible case from turning into an expensive and unnecessary fight.

Each issue’s Saiber Construction Law Column will discuss a recent decision by New Jersey courts (or 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. 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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