



# Construction Litigation Team Secures Another Victory: Third-Party Complaint Dismissed Based on New Jersey's Statute of Repose

January 3, 2023

David T. Kuk and John E. Sparling of the Cullen and Dykman Construction Litigation Team recently won a pre-answer motion to dismiss for its client. This action involved an incident wherein a plaintiff allegedly sustained serious bodily injuries (including claim for traumatic brain injury) with surgical intervention (nerve decompression/brachial plexus surgery). Plaintiff claimed that she sustained her injuries as a result of a defective/dangerous condition in connection with a railing in a movie theatre. The owner/operator of the movie theatre filed a Third-Party Complaint against the client (the general contractor for the construction of the movie theatre).

The Pre-Answer Motion to Dismiss sought to dismiss the Third-Party Complaint against the client on the basis that the claims were untimely under N.J.S.A. 2A:14-1.1 (Statute of Repose). Despite not having any definitive documentary evidence showing substantial completion of the construction project, we were able to provide sufficient circumstantial evidence obtained through pre-answer investigations to show that Statute of Repose was applicable.

David T. Kuk drafted and argued the motion, along with Construction Litigation Department head partner, John E. Sparling.

## Practices

- Construction Litigation

## Attorneys

- David T. Kuk
- John Sparling