



# John J. Gabriel, Jr. Successfully Obtained a Dismissal of the Plaintiff's Complaint Against the Firm's Retail Client in a Premises Liability Case

December 14, 2022

John J. Gabriel, Jr., an associate in the firm's General, Tort, and Insurance Litigation Department, successfully obtained a dismissal of the plaintiff's Complaint against the firm's retail client in a premises liability case. The plaintiff's accident arose from an incident that occurred inside of a retail premises. During the litigation, plaintiff passed away, and an administrator for the plaintiff's estate was not timely appointed. Our firm moved pursuant to CPLR § 1021 to dismiss the plaintiff's Complaint as a result of an unreasonable and improper delay in the substitution of an administrator for the plaintiff's estate following plaintiff's death. In its decision on the motion, the Court agreed with our position and held that there was an unreasonable delay on behalf of the decedent's sons in substituting a representative of the decedent's estate and dismissed the action in its entirety.

## About Cullen and Dykman's General Liability, Tort and Insurance Defense Department

Our litigation attorneys represent individuals and corporations in general liability, tort and insurance defense matters ranging from personal injury and insurance coverage disputes to large-scale commercial litigation. Clients frequently engage our litigators to act as trial counsel in high-exposure cases, and we have extensive experience in appellate litigation involving liability and insurance matters.

## About Cullen and Dykman

Cullen and Dykman ([www.cullenllp.com](http://www.cullenllp.com)) has been providing legal services to institutional clients since 1850. The firm represents a wide range of clients, including banks and other financial institutions, energy, telecommunications and water companies, construction companies, insurers, educational institutions, religious organizations, and not-for-profits. With over 190 attorneys in seven offices located throughout the Northeast and MidAtlantic regions, Cullen and Dykman is strategically positioned to meet the changing needs and demands of our clients.

## Practices

- General Liability, Tort and Insurance Defense