



Nicholas Cardascia Successfully Obtained Summary Judgement Dismissing Plaintiff's Complaint Against the Firm's Retail Client in a Premises Liability Case

June 8, 2023

Nicholas Cardascia, a partner in the firm's General Liability, Tort and Insurance Defense Department, successfully defeated plaintiff's appeal from the order that granted summary judgment and dismissed the complaint against the firm's retail client in a premises liability case because the allegedly defective condition was trivial and not actionable.

Plaintiff tripped and fell due to a height differential between a curb and a sidewalk in front of our client's retail store. Relying on plaintiff's deposition testimony and plaintiff's photographs that showed a quarter placed on the sidewalk and leaning against the raised curb, Cullen and Dykman established that the height differential between the curb and the sidewalk was physically insignificant, by requesting the court to take judicial notice that, according to the US mint, the diameter of a quarter is .955 inch. (See, <https://www.usmint.gov/learn/coin-and-medal-programs/coin-specifications>). Moreover, the characteristics of the defect or the surrounding circumstances did not increase the risks it posed. Based on the foregoing, the Appellate Division, Second Department affirmed that trial court's decision that granted our client summary judgment and dismissed plaintiff's complaint.

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) 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 Mid Atlantic regions, Cullen and Dykman is strategically positioned to meet the changing needs and demands of our clients.

Practices

- General Liability, Tort and Insurance Defense

Attorneys

- Nicholas M. Cardascia