



Nicholas Cardascia Successfully Obtained Summary Judgment Dismissing Plaintiff's Complaint Against the Firm's Client

September 26, 2023

Nicholas Cardascia, a partner in the firm's General Liability, Tort, and Insurance Defense Department, successfully obtained summary judgment dismissing the plaintiff's complaint against the firm's client, a property owner, in a personal-injury case predicated on violations of the Labor Law.

The plaintiff, an assistant manager of a retail clothing store, alleged that he injured his knee and subsequently developed Complex Regional Pain Syndrome. At the time of the incident, plaintiff was working in a basement storage room, moving inventory from a conveyor ramp and onto shelving. As he walked over to the shelving, his foot caught on electrical wires laid across the floor by contractors who were still working on the renovation of the store in advance of the store opening. Plaintiff alleged that the defendants were liable under Labor Law sections 240(1), 241(6), and 200.

The Court agreed with Cullen and Dykman's arguments that plaintiff was not a covered worker entitled to the protections of Labor Law sections 240(1) and 241(6) and dismissed those causes of action. Continuing, the Court agreed that Cullen and Dykman's client was entitled to dismissal of plaintiff's remaining claims based on common-law negligence and Labor Law section 200 because the client was an out-of-possession owner, plaintiff was not injured due to a significant structural or design defect, the client did not have a duty to inspect for the conditions that caused plaintiff's accident, and because the client had no supervision or control over the work performed by plaintiff or by the contractors on site.

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