The Legal Corner

October 2014

ARTHUR CHAPMAN
KETTERING SMETAK & PIKALA, P.A.
ATTORNEYS AT LAW

We would like to thank everyone who took the time to stop by our booth at the Expo, especially those who wore the "I Love Lawyers" stickers! We had a lot of fun and received some great questions from members. To address a few of those questions, this month's "legal corner" will discuss Minnesota's statute of limitations and statute of repose applicable to construction related claims.

Statute of Limitations

A statute of limitations creates a period of time after which a lawsuit cannot be brought in court. The limitations period begins to run ("the clock starts ticking") at the time that the cause of action accrues. Minnesota's statute creates a two-year limitations period, and follows a "discovery rule" of accrual. This means that a plaintiff's two-year clock starts to "tick" at the moment that they discovered or should have discovered the injury (non-warranty claims) or breach (warranty claims).

Statute of Repose

Similarly, a statute of repose also creates a period of time, after which a lawsuit cannot be brought. However, the repose period applies regardless of whether an injury or breach ever occurs. Minnesota has a ten-year repose period that starts to run at the date of substantial completion. Thus, with some exceptions, a homeowner cannot bring a lawsuit more than ten years after the project has been substantially completed, regardless of whether there has been an injury or a breach.

Exception: Discovery during the Ninth or Tenth Year

If a homeowner discovers an injury or breach during the ninth or tenth year after substantial completion, Minnesota law allows an additional two years to bring a lawsuit. Thus, under these circumstances, a lawsuit could still be brought up to a total of twelve years after substantial completion. However, if the plaintiff discovers the injury or breach ten years and one day after the date of substantial completion, then the claim is barred by the statute of repose.

Exception: Additional Two years for Contribution and Indemnity Claims

Under this exception, a party (typically a general contractor against subcontractors) bringing a contribution or indemnity claim has an additional two years to file suit. This two-year period begins to run from the earlier of: (1) the date that the underlying suit was commenced; or (2) the date that the party seeking contribution or indemnity paid a final judgment, arbition award, or settlement arising out of the underlying suit. Thus, under some rare circumstances, a lawsuit could be brought up to fourteen years after substantial completion.

For example, suppose Homeowner sues General Contractor for defective windows that were installed by Subcontractor. General Contractor settles the case and then seeks contribution and indemnity from Subcontractor. General Contractor has an additional two years to sue Subcontractor from the earlier of (1) the date Homeowner commenced the suit against General Contractor or (2) the date General Contractor paid the settlement to Homeowner.

If you have a construction law related question, please email it to csbronczyk@arthurchapman.com, or call (612) 375-5972. Every question will be addressed, whether or not it is included in an article.

This column is intended as a report of legal developments in the construction industry. It is not intended as legal advice. Readers of this column are encouraged to contact Arthur, Chapman, Kettering, Smetak & Pikala, P.A. with any questions or comments.


Jon Zentner


Juan Avila


Corey Bronczyk

612-339-3500
www.ArthurChapman.com