TRAUB LIEBERMAN

NEWS & EVENTS

April 1, 2021

Traub Lieberman Partner Lisa M. Rolle Obtains Summary Judgment in Favor of Defendant

Related Attorneys: Lisa M. Rolle

Traub Lieberman Partner Lisa M. Rolle obtained summary judgment in favor of defendant SRI Fire Sprinkler, LLC, a family-owned and operated fire sprinkler company which generally provides fire sprinkler installation, inspection, and maintenance services throughout the Northeast and New England. The judgment was determined pursuant to CPLR 3211(a)(5) on the grounds that Philadelphia Indemnity Insurance Company's (Plaintiff) negligent construction claim accrued on the date when work was completed at the premises, not on the date of the incident as alleged in the Plaintiff's complaint. In the underlying subrogation action, the Plaintiff commenced the action in subrogation of its insured, Bet Am Shalom Synagogue (Bet Am), to recover damages in excess of $173,390.86 which it allegedly paid to Bet Am for water damage cleanup and remodeling after certain sprinkler pipes froze and burst in the recently constructed wing of the Westchester synagogue on January 1, 2019 and January 7, 2019. The Plaintiff alleged that its subrogor, Bet Am, sustained interior water damage on the first floor and basement levels of the premises, including the carpets, drywall, insulation, bathroom, kitchen and appliances, dining room, hallways, closets, basement storage rooms and supplies, and basement classrooms.

In 2003, General Contractor Caldwell Construction Corp. undertook the construction of the additional wing at Bet AM between 2003 and 2006. The Plaintiff named Caldwell and two fire sprinkler subcontractors, including SRI Fire Sprinkler, LLC, as party defendants. The Plaintiff contended that its subrogation action accrued when the property damage was sustained in January 2019. Traub Lieberman moved to dismiss the Plaintiff's Complaint in its entirety, as New York courts have long-held that a cause of action based on an alleged defective construction or design—whether described as negligence, malpractice, or breach of contract—accrues on the date of completion of construction and not on the date of the alleged injury or date of payment. Therefore, a subrogee may have its claim dismissed based upon the action or inaction of its subrogor[1]. The Court agreed that the subrogee Plaintiff's claims for negligent construction accrued upon completion of the construction work at Bet Am in 2006 and dismissed the Plaintiff's complaint in its entirety. Costs were also awarded to insured SRI Fire Sprinkler, LLC.

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[1] Allstate Insurance Co, 1 N.Y.3d 416 at 423 (2004); Winkelmann v. Excelsior Insurance Co., 85 N.Y.2d 577, 650 N.E.2d 841, 626 N.Y.S.2d 994 (1995); Krause v. American Guaranty & Liability Insurance Co., 22 N.Y.2d 147, 239 N.E.2d 175, 292 N.Y.S.2d 67 (1968); Exchange Mutual Indemnity Insurance Co., 243 NY 75 at 79 (1925).

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