



Ohio Supreme Court Clarifies Statute of Repose

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On July 17, 2019, the Ohio Supreme Court issued a decision that has a dramatic impact on the risks faced by owners, contractors, construction managers, subcontractors, suppliers and design professionals on Ohio construction projects. In [*New Riegel Local School District Board of Education v. Buehrer Group Architecture & Engineering, Inc.*](#), 2019 Ohio 2851, the Court held that Ohio's construction statute of repose (R.C. 2305.131) applies to all causes of action, whether contract or tort claims, that seek recovery for damages against any who furnished the: (1) design, (2) planning, (3) supervision of construction, or (4) construction of the improvement to real property. The Court noted the purpose of the statute of repose is to "protect defendants from having to defend against stale claims."

The plaintiff school district asserted claims for breach of contract, breach of express warranty, performance bond claims and failure to perform in a workmanlike manner. Significantly, all of the claims were asserted more than ten years after substantial completion of the project. Ohio's statute of repose, R.C. 2305.131, establishes ten years as the absolute last deadline a claim may be asserted. The Court noted the ten-year-limitation starts to run upon substantial completion of the project. The statutory time limit begins, regardless of whether a cause of action has accrued or whether an injury has resulted. "The discovery rule" does not apply for tort claims on construction projects in Ohio.

In conclusion, owners, contractors, construction managers, subcontractors, suppliers and design professionals now know the time-limit for any risk related to the construction of a project. All claims asserted more than ten years after substantial completion are barred.

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