

Meet Our Corporate Affiliates! Profile of the Month

Carpathos LLC

Contact: Leonard Fetchko
Phone: (703)595-2662
Email: sales@carpathos.com

The Chapter welcomes Carpathos LLC as a Corporate Affiliate member. With 27 years of exterior envelope sales in the Mid-Atlantic south region, Carpathos provides design and code-compliance to

the principles of drained and back ventilated systems.

Specializing in sustainable building products including rainscreen cladding façade systems, Carpathos' building products include aluminum composite material, stone faced honeycomb, foam, aluminum plate, zinc and zinc composite. In addition, they also provide fully

engineered support framing systems, sunshades and louvers, as well as waterproofing systems.

Educational seminars are offered on the building envelope solutions.

For more information, please visit www.carpathos.com.

The Law's Ticking Clock Statutes of Limitations & Statutes of Repose

The time frame within which a legal claim can be brought is limited. The purpose behind these time limitations is to provide predictability and finality to liability exposure. The time limits also help ensure that claims are brought and can be resolved when evidence related to the legal claim is fresh and reasonably available. These time limitations are most often set forth in a Statute of Limitations and Statute of Repose.

Statutes of Limitations

A "Statute of Limitations" is a law that establishes a time limit for suing in a civil case based on when the claim "accrued." Statutes of Limitations are created by state law, and therefore, differ from state to state, not only in length, but also when the claim accrued. The issue of when a claim "accrues" for purposes of a statute of limitations is important, as once the claim "accrues" the limitations period begins to run. Some statutes follow the "discovery rule" under which a limitations clock does not begin to tick until the plaintiff discovers, or reasonably should have discovered, the alleged injury giving rise to the legal claim. Other statutes follow the "occurrence rule" under which a limitations clock begins to run when the alleged wrongful act or omission occurs.

Statutes of Limitations also differ based on the type of claim the plaintiff is alleging. Below are examples of statutes of limitations for claims common to the construction industry in local jurisdictions:

- District of Columbia
- breach of contract, written or oral – 3 years
- fraud – 3 years
- discovery rule recognized
- Maryland
- breach of written contract – 3 years
- breach of contract, written under seal – 12 years

- fraud – 3 years
- discovery rule recognized
- Virginia
- breach of written contract – 5 years
- breach of oral contract – 3 years
- fraud – 2 years
- discovery rule not recognized

Please note that the above are only examples, and that legal actions often involve more than one cause of action for a single alleged injury, making the determination of which claims may be barred more complex.

Adding to the already complex analysis is the fact that in many jurisdictions, including DC, it is often possible to shorten a statutory limitations period by contract which will be enforceable in court. Further, if a contract provides for arbitration instead of litigation, it is important to note that statute of limitations issues and defenses will still apply.

Statutes of Repose

A "Statute of Repose" is a law that bars a suit for a fixed number of years after a certain act, even if this period ends before the plaintiff suffered any alleged injury. Below are examples of statutes of repose common to the construction industry in local jurisdictions for claims against an architect, professional engineer, or contractor:

- District of Columbia – 10 year period beginning on the date the improvement was substantially completed
- Maryland – 10 year period beginning on the date the entire improvement first became available for its intended use
- Virginia – 5 year period after the performance or furnishing of such services and construction

Conclusion

Keep your eye on the law's ticking clock. Determining the applicable statute of limitations can be tricky but should always be analyzed whether you are considering bringing a claim or defending a claim. The applicable statute of limitations defense most often is a complete bar to a person's right to pursue a legal action seeking money damages or other relief. If you have a claim, you want to ensure suit is timely commenced prior to the expiration of the limitations period. On the other hand, if a claim is brought against you a statute of limitations, or statute of repose, defense may get the case dismissed before the case is even really started saving you lots of money in defense costs.



Alison Mullins with
Rees Broome, PC

Alison Mullins is an associate at Rees Broome, PC, www.reesbroome.com, and is a Professional Affiliate Member of AIA | DC Chapter. She may be reached at amullins@reesbroome.com or by calling 703-790-1911. Alison's practice

focuses on all aspects of commercial dispute resolution. In particular, she often represents architects, engineers, and others involved in the construction industry.

This article is not intended to provide specific legal advice, but instead as general commentary regarding legal matters. You should consult with an attorney regarding your legal issues, as the advice you may receive will depend upon your facts and the laws of your jurisdiction.