

Eduardo Ascolese

Associate

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Eduardo is a member of the Professional Liability Department where he focuses his practice on the defense of architects, engineers, owners, developers, general contractors, construction managers, subcontractors and design professionals.

Prior to joining Marshall Dennehey, Eduardo represented clients in a variety of matters including commercial real estate, landlord/tenant disputes, community association law, general civil litigation and alternate dispute resolution.

While attending Widener University Delaware Law School, Eduardo worked for Delaware Governor, John Carney, and served as the staff editor for the *Delaware Journal of Corporate Law*. He also participated in the Delaware Law Civil Clinic, representing survivors of domestic abuse and was awarded the Outstanding Clinical Student Award for his work in the clinic.

Education

- Widener University Delaware Law School (J.D., 2019)
- Kean University (B.S., 2009)

Admissions

- New Jersey, 2021
- U.S. District Court District of New Jersey, 2021

Practices

- Architectural, Engineering & Construction Defect Litigation

Results

Dismissal with Prejudice Obtained in Remediation Case Involving Environmental Violations

We won a motion dismissing all claims with prejudice against our clients in a case involving a major remediation project for environmental violations. We filed a motion for summary judgment to dismiss the plaintiff's complaint based on its failure to provide an affidavit of merit within the prescribed time, and because the agreed upon liability waiver clause precludes litigation against the individual defendants. We argued that public policy recognizes limitation of liability clauses when they are reasonable and when they incentivize the licensed professional to perform. Further, we argued that the affidavit of merit statute's text and legislative purposes require the affidavit to be served within 60 days (extendable for good cause to 120 days) from the date when the licensed professional files its answer, regardless of whether the pleadings are subsequently amended to name other defendants or assert additional claims. Under New Jersey law, the plaintiff's failure to provide an affidavit of merit confirmed that their claims must be dismissed with prejudice. The court agreed that: (1) the agreed upon exculpatory waiver clause was reasonable and not against public policy; and (2) the plaintiff's failure to provide an affidavit of merit was fatal. The court dismissed all claims as to our client and their individual employees with prejudice.