

PUBLICATION

Owner's Indemnity Claim for Wrongful Death Barred by Contractor's Statute of Repose

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A United States district court in Alabama recently dismissed an owner's claim for indemnity against a contractor based on Alabama's statute of repose.

The indemnity claim arose out of a 2014 accident on an escalator built in 1997. The owner was sued for wrongful death, and sought indemnity from the original contractor based on the construction contract. The court recognized that parties may execute written indemnity agreements that continue beyond the seven year statute of repose after construction is substantially completed, but only when the "period of time" is "specified in writing."

Here, the court found that the construction contract did not explicitly specify a period of time, and therefore applied the statute of repose to bar the indemnity claim. The case is on appeal, but parties who wish to negotiate broader indemnity provisions should include an explicit period of time for its application if indemnity protection is desired beyond the statute of repose.

See *Sears & Roebuck & Co. v. Hardin Constr. Group*, No. 16-00272, 2016 WL 6395906 (S.D. Ala. Oct. 27, 2016).