

IN THE SUPREME COURT OF THE STATE OF NEVADA

<p>ARCHON CORPORATION, PAUL W. LOWDEN, and SUZANNE LOWDEN,</p> <p>Petitioners,</p> <p>vs.</p> <p>THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE</p> <p>Respondents.</p> <p><i>and</i></p> <p>STEPHEN HABERKORN, an individual,</p> <p>Real Parties in Interest,</p>	<p>Supreme Court No. 71802</p> <p>State Court Case No. A-16-732619-B</p> <p>Electronically Filed Mar 29 2017 03:56 p.m. Elizabeth A. Brown Clerk of Supreme Court</p>
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PETITIONERS' APPENDIX TO REPLY IN SUPPORT OF PETITION
FOR WRIT OF PROHIBITION OR MANDAMUS
VOL. III – PRA0457-PRA0503

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CHRONOLOGICAL INDEX

Document	Date	Volume	Bates Range
Joyce Rabouin v. Metropolitan Life Insurance Company, Class Action Complaint	6/24/1998	I	PRA 0001- PRA 0006
Joyce Rabouin v. Metropolitan Life Insurance Company, Plaintiff's Memorandum of Law in Opposition	11/12/1999	I	PRA 0007- PRA 0026
D.E. Shaw Laminar Portfolios, LLC, et al v. Archon Corporation, Order	8/6/2008	I	PRA 0027- PRA 0042
Leeward Capital, L.P. v. Archon Corporation, Order	12/22/2010	I	PRA 0043- PRA 0066
D.E. Shaw Laminar Portfolios, LLC, et al v. Archon Corporation, Order	12/22/2010	I	PRA 0067- PRA 0077
Archon Corporation, Paul W. Lowden, and Suzanne Lowden, v. The Eighth Judicial District Court of the State of Nevada, in, and for the County of Clark; and the Honorable Mark. R. Denton, District Court Judge and Dan Raider, Petitioners' Petition For Writ Of Prohibition, Mandamus, And/Or Certiorari	10/14/2015	I	PRA 0078- PRA 0130
Annual Report of Nevada Judiciary Fiscal Year 2016	6/30/2016	I	PRA 0131- PRA 0133
Dan Raider v. Archon Corporation, Paul W. Lowden, and Suzanne Lowden, Raider's Reply in Support of Motion for Partial Summary Judgment and Opposition to Defendants' Counter-Motion for Summary Judgment with Exhibits 1-4	2/1/2017	I	PRA 0134- PRA 0237

Document	Date	Volume	Bates Range
Exhibits 5-20 of Dan Raider v. Archon Corporation, Paul W. Lowden, and Suzanne Lowden, Raider's Reply in Support of Motion for Partial Summary Judgment and Opposition to Defendants' Counter-Motion for Summary Judgment	2/1/2017	II	PRA 0238- PRA 0456
Westlaw List of 194 Results for Adverse Claims	2/9/2017	III	PRA 0457- PRA 0503
Dan Raider v. Archon Corporation, Paul W. Lowden, and Suzanne Lowden, Defendants' Reply in Support of Defendants' Counter-Motion for Summary Judgment	2/23/2017	IV	PRA 0504- PRA 0725

ALPHABETICAL INDEX

Document	Date	Volume	Bates Range
Annual Report of Nevada Judiciary Fiscal Year 2016	6/30/2016	I	PRA 0131- PRA 0133
Archon Corporation, Paul W. Lowden, and Suzanne Lowden, v. The Eighth Judicial District Court of the State of Nevada, in, and for the County of Clark; and the Honorable Mark. R. Denton, District Court Judge and Dan Raider, Petitioners' Petition For Writ Of Prohibition, Mandamus, And/Or Certiorari	10/14/2015	I	PRA 0078- PRA 0130
D.E. Shaw Laminar Portfolios, LLC, et al v. Archon Corporation, Order	8/6/2008	I	PRA 0027- PRA 0042
D.E. Shaw Laminar Portfolios, LLC, et al v. Archon Corporation, Order	12/22/2010	I	PRA 0067- PRA 0077

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Dan Raider v. Archon Corporation, Paul W. Lowden, and Suzanne Lowden, Raider's Reply in Support of Motion for Partial Summary Judgment and Opposition to Defendants' Counter-Motion for Summary Judgment with Exhibits 1-4	2/1/2017	I	PRA 0134- PRA 0237
Dan Raider v. Archon Corporation, Paul W. Lowden, and Suzanne Lowden, Defendants' Reply in Support of Defendants' Counter-Motion for Summary Judgment	2/23/2017	IV	PRA 0504- PRA 0725
Exhibits 5-20 of Dan Raider v. Archon Corporation, Paul W. Lowden, and Suzanne Lowden, Raider's Reply in Support of Motion for Partial Summary Judgment and Opposition to Defendants' Counter-Motion for Summary Judgment	2/1/2017	II	PRA 0238- PRA 0456
Joyce Rabouin v. Metropolitan Life Insurance Company, Class Action Complaint	6/24/1998	I	PRA 0001- PRA 0006
Joyce Rabouin v. Metropolitan Life Insurance Company, Plaintiff's Memorandum of Law in Opposition	11/12/1999	I	PRA 0007- PRA 0026
Leeward Capital, L.P. v. Archon Corporation, Order	12/22/2010	I	PRA 0043- PRA 0066
Westlaw List of 194 Results for Adverse Claims	2/9/2017	III	PRA 0457- PRA 0503

1. First D.M.V., Inc. v. Blaya

District Court of Appeal of Florida, Third District. December 21, 1993 630 So.2d 206 1993 WL 530846

Advanced Rent. Upon breach and termination of leasehold interest, advanced rent belonged to lessor.

...to the determination that the lessor could not maintain a claim for rent accruing after the March 1, 1988 date of sale, we affirm on authority of Gray v. Callahan, 143 Fla. 673, 197...

2. Parkridge Associates, Ltd v. Leducor Industries, Inc.

Court of Appeals of Washington, Division 1. September 23, 2002 113 Wash.App. 592 54 P.3d 225

REAL PROPERTY - Contractors and Developers. Controlling date for statute of repose was date subcontractor terminated services, not substantial completion date.

...statute of repose applies to Leducor Industries, Inc.'s equitable indemnity claim and that claim accrued more than six years after both the substantial completion date of the project and the...

...Inc., d/b/a Roy Freeman Roofing Co. (Freeman), we affirm the trial court's summary dismissal of that claim. We affirm...

3. Gale v. First Franklin Loan Services

United States Court of Appeals, Ninth Circuit. July 12, 2012 701 F.3d 1240 2012 WL 3764700

REAL PROPERTY - Mortgages and Deeds of Trust. Liability for not responding to borrower's correspondence attached only to those servicers who were also assignees of loan.

...his abode. Although Congress recognized the importance of such information after Gale's claim accrued, see Dodd-Frank Wall Street Reform and Consumer Protection Act...

...information), Gale cannot claim liability under this provision and we affirm dismissal of his claims arising from Franklin's failure to respond...

4. Brown v. Latin American Music Co., Inc.

United States Court of Appeals, First Circuit. August 07, 2007 498 F.3d 18 2007 WL 2253543

COPYRIGHTS - Music. Music company did not establish requisite threshold elements for proceeding with suit for copyright infringement.

...of this title unless it is commenced within three years after the claim accrued." see generally Otero v. P.R. Indus. Comm'n, 441 F.3d 18, 20 (1st Cir.2006) (the appellate court may affirm the judgment on any basis supported by the record). Ill...

5. Baillie Lumber Co. v. A.L. Burke, Inc.

Supreme Court, Erie County, New York. February 08, 2006 11 Misc.3d 1082(A) (Table, Text in WESTLAW), Unreported Disposition 819 N.Y.S.2d 846

This matter comes before the Court upon the motion of Defendants, Robertson-Ceco Corporation and Star Building Systems, for an order granting summary judgment and dismissing Plaintiff, Baillie Lumber Co.'s complaint and all pending cross-claims. Defendant and Third-Party Plaintiff, A.L. Burke, Inc., moves for

Ching, Kenneth 2/9/17
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List of 194 results for adv: claim /5 accrul /s #after +s appeal affirm

summary judgment dismissing the claims...

...not filed and served until 2003, more than six years after accrual of the claims (some of which had a three year statute of limitations...
...must be dismissed as time-barred (see CPLR 214 ; Gandy Affirm. Exhibit K [Order & Judgment, with attached Decision of Makowski, J...]

6. Ashley v. Lamar

District Court of Appeal of Florida, Fifth District. May 02, 1985 468 So.2d 433 10 Fla. L. Weekly 1084

Individual filed a complaint against sheriffs and deputy sheriffs of two counties, alleging that they had used excessive force in effecting her arrest. The Circuit Court, Orange County, Frank N. Kaney, J., dismissed the complaint. Individual appealed. The District Court of Appeal, Sharp, J., held that complaint, which alleged...

...in writing to the Department of Insurance, within 3 years after such claim accrues and the Department of Insurance or the appropriate agency denies...
...768.31, it shall be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such...

7. Shoshone Indian Tribe of Wind River Reservation v. U.S.

United States Court of Appeals, Federal Circuit. April 07, 2004 364 F.3d 1339 2004 WL 736687

NATIVE AMERICANS - Mineral Rights. Indian tribes' action for mismanagement of resources was not subject to statute of limitations.

...7 , permits the Tribes to bring their trust management claims after they receive an accounting—regardless of when such claims accrued —this court affirms the Court of Federal Claims' decision on direct appeal. We limit, however, the claims that may be brought to...

8. Pettigrew v. Zavaras

United States Court of Appeals, Tenth Circuit. July 30, 2014 574 Fed.Appx. 801 2014 WL 3733975

CIVIL RIGHTS - Prisons. Prison officials were not deliberately indifferent to prisoner's mental health in violation of Eighth Amendment.

...if we were to agree with Mr. Pettigrew that his claim did not accrue until after August 2009 (when his confinement conditions changed), and thus the...
...claim was not time-barred, we would be obliged to affirm on the alternative ground of qualified immunity. See, e.g., United...

9. Andrews v. Freemantlemedia N.A., Inc.

United States District Court, S.D. New York. November 20, 2014 Not Reported in F.Supp.3d 2014 WL 6686590

Plaintiffs, former contestants on the "American Idol" talent competition, bring this action against American Idol's production companies, broadcasting companies, and certain of its executive producers and sponsors. Plaintiffs allege violations of 42 U.S.C. § 1981, 42 U.S.C. § 1985, and Title VII, as well as four causes of...

...diligence-discovery rule governs. Thus, Second Circuit precedent—notably decided after City of Pontiac—expressly affirms that discrimination claims accrue at the time of the discriminatory conduct, not when plaintiffs...

10. De Yaranon v. U.S.

United States District Court District of Columbia, May 22, 1957 152 F.Supp. 644

<https://www.westlaw.com/Search/Results.html?query=fi%3A&transitionType=Search&contextData=%28sc.Default%29&VR=3.0&RS=cblt1.0>

Action by mother of soldier, who died while in service of United States Army during World War II, to recover gratuitous National Service Life Insurance benefits. The District Court, Keech, J., held that under statutes providing that no application for insurance payments under statute providing that soldiers who die in line of duty shall be deemed...

...for insurance, unless filed in veterans' administration within seven years after date of death and that no suit shall be allowed unless brought within six years after right accrued for which claim is made, complaint filed May 23, 1955, by mother for benefits after final denial by board of veterans' appeals on December 23, 1952, of her claim filed with veterans...

...National Service Life Insurance, to be filed within seven years after date of death and providing that no suit shall be allowed unless brought within six years after right accrued for which claim is made, complaint filed May 23, 1955, by mother after final denial by board of veterans' appeals on December 23, 1952, of her claim filed with Veterans...

11. Smith v. Campbell

United States Court of Appeals, Second Circuit, April 01, 2015 782 F.3d 93 2015 WL 1449499

CIVIL RIGHTS - Limitations. Accrual of motorist's retaliatory prosecution claim was not delayed until after her trial or appeal.

...violation of his constitutional rights; (2) motorist's retaliatory prosecution claim accrued when she was served with traffic tickets; and (3) accrual of motorist's retaliatory prosecution claim was not delayed until after her trial or appeal. Affirmed in part, vacated in part, and remanded. West Headnotes...

...state police department, arising out of trooper's alleged harassing conduct after traffic stop and issuance of traffic tickets after she complained of his conduct, was not delayed until after her trial or appeal; the claim accrued prior to any conviction, and rule of Heck v. Humphrey...

12. Wagatha v. City of Satellite Beach

District Court of Appeal of Florida, Fifth District, January 23, 2004 865 So.2d 620 2004 WL 119356

GOVERNMENT - Tort Claims. Plaintiff failed demonstrate that she provided required pre-suit notice of claim against city.

...writing to the Department of Financial Services, within 3 years after such claim accrues and the Department of Financial Services or the appropriate agency...

...768.31, it must be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such...

13. Ferguson v. Ferguson

Supreme Court of Appeals of Virginia September 23, 1937 169 Va. 77 192 S.E. 774

Appeal from Circuit Court, Scott County; E. T. Carter, Judge. Suit by C. M. Ferguson and others against H. B. Ferguson and others to contest the will of Ida J. Ferguson, deceased. From a decree setting the will aside,

named defendant appeals. **Affirmed.**

...of limitations applies to all rights or causes of action after its passage, leaving all rights or causes of action existing...
...the operation of prior limitations, unless otherwise provided. Therefore, rights accrued, claims arising, proceedings
instituted, orders made under the former law, or...

14. Majette v. O'Connor

United States Court of Appeals, Eleventh Circuit. March 06, 1987 811 F.2d 1416

<https://www.westlaw.com/Search/Results.html?query=fi%3A&transitionType=Search&contextData=%28sc.Default%29&VR=3.0&RS=cblt1.0>

Arrestee brought §1983 civil rights action seeking damages for alleged acts of police brutality against city, three members of city police department, deputy sheriff of county, chief of police of city, and sheriff of county. Sheriff filed motion to dismiss complaint for failure to comply with notice provisions of Florida law....

...in writing to the Department of Insurance, within 3 years after such claim accrues and the Department of Insurance or the appropriate agency denies...

...768.31, it shall be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such...

15. Laconti v. Principi

United States Court of Veterans Appeals. December 22, 1992 3 Vet.App. 550 1992 WL 381743

JURISDICTION. veteran's son's claim for accrued benefits had not been subject of prior valid notice of disagreement so as to preclude jurisdiction.

...Steinberg, J., held that court had jurisdiction over a son's claim for accrued benefits based on veteran's claim for service-connected disability benefits, which remained pending at the...

...accrued benefits was predicated upon an accrued benefits application filed after the veteran's death, and thus the claim had not been...

16. Orange County v. Gipson

Supreme Court of Florida. September 07, 1989 548 So.2d 658 1989 WL 104500

City cross-claimed against county and school board when county failed to contribute to two \$100,000 settlements in wrongful death action brought by estates of two children who drowned on county property. At trial, county was found 25% negligent and city was found 75% negligent. The Circuit Court, Orange County, Emerson R. Thompson, Jr., J., entered...

...in writing to the Department of Insurance, within 3 years after such claim accrues and the Department of Insurance or the appropriate agency denies...

...768.31, it shall be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such...

17. Kahyaoglu v. Caritas Carney Hosp.

Appeals Court of Massachusetts. August 16, 2013 84 Mass.App.Ct. 1107 (Table, Text in WESTLAW), Unpublished Disposition 992 N.E.2d 401

The plaintiff appeals from the dismissal of her amended complaint, which asserts various causes of action arising from her termination as a medical resident. Largely on statute of limitations grounds, a Superior Court judge allowed the defendants' motion to dismiss, and we affirm. "We review the allowance of a motion to dismiss de novo,...

...defendants informed Dr. Kahyaoglu that she was being denied reinstatement, **after appeal**, in February 2004" is sufficient to take this case outside the general rule that a breach of contract claim accrues at the time of the breach, see *Berkshire Mut. Ins.*...

18. **Owens v. White**

United States Court of Appeals Ninth Circuit. March 12, 1965 342 F.2d 817

<https://www.westlaw.com/Search/Results.html?query=fi%3A&transitionType=Search&contextData=%28sc.Default%29&VR=3.0&RS=cblt1.0>

Action by patient against physicians and hospital for alleged malpractice arising from removal of patient's breast and surrounding tissue following defendants' alleged negligence in diagnosing a benign tumor as being cancerous. The United States District Court for the District of Idaho, Southern Division, Chase A. Clark, J., dismissed patient's...

...State had not had occasion to consider the question. Shortly **after this appeal** was taken, however, the Idaho court, in the case of...

...contention urged upon it by the defendant that such a claim accrues at the time of the negligent act, regardless of the...

19. **Villa Maria Nursing and Rehabilitation Center, Inc. v. South Broward Hosp. Dist.**

District Court of Appeal of Florida, Fourth District. April 08, 2009 8 So.3d 1167 2009 WL 928461

LITIGATION - Dismissal. Equitable subrogation claim should not have been dismissed with prejudice.

...writing to the Department of Financial Services, within 3 years **after such claim accrues** and the Department of Financial Services or the appropriate agency...

...768.31, it must be so presented within 6 months **after the judgment** against the tortfeasor seeking contribution has become final by lapse of time for **appeal** or after appellate review or, if there is no such...

20. **Vig v. New York Hairspray Co., L.P.**

Supreme Court, Appellate Division, First Department, New York. March 22, 2012 93 A.D.3d 565 940 N.Y.S.2d 615

LABOR AND EMPLOYMENT - Limitations. Discrimination claims accrued when employee was informed that his employment would be terminated as of specified date.

...N.Y. §8-502(d)). [2] Plaintiff's contention that his claims did not accrue until November 16, 2004, when he reported back to the theater **after** being medically approved to return to work, is unavailing (see...

...216 A.D.2d 469, 470, 628 N.Y.S.2d 379 [1995], appeal dismissed 87 N.Y.2d 893, 640 N.Y.S.2d 873, 663...

21. **Zaldivar v. United States Department of Veterans Affairs**

United States District Court, D. Arizona. October 27, 2015 Not Reported in F.Supp.3d 2015 WL 6468207

Plaintiff Jose Adalberto Zaldivar, Sr., who is currently confined in Arizona State Prison Complex-Eyman, brought

this pro se civil rights case pursuant to 42 U.S.C. §§ 1981, 1982, 1983, 1985, and 1986, as well as *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and the Freedom of Information Act...

...Id. § 552(a)(6)(A)(ii) Thus, a FOIA claim accrues either (1) when an agency fails to meet the 20-day deadline after receiving a FOIA request or an appeal from a denial of a FOIA request, or (2) when an agency makes a timely response to an appeal from a timely adverse determination of an initial FOIA request...

...OGC argue that the cause of action on this FOIA claim accrued on or about April 1, 2008, 20 business days after OGC acknowledged receipt of the appeal on March 4, 2008. (Doc. 21 at 4.) C. Discussion...

22. O'Donnell v. Metropolitan Life Ins. Co.

United States District Court, S.D. New York. February 20, 2009 Not Reported in F.Supp.2d 2009 WL 884699

TO THE HONORABLE CATHY SEIBEL, United States District Judge: On February 4, 2008, plaintiff Barbara D. O'Donnell commenced this pro se action seeking relief pursuant to the Employee Retirement Income Security Act of 1974, ("ERISA"), as amended, 29 U.S.C. § 1001, et seq. Plaintiff alleges that defendants Metropolitan Life Insurance...

...discord throughout the Second Circuit as to whether an ERISA claim accrues at the first denial of benefits or after the appeals process is completed. See *Burke v. PriceWaterhouseCoopers LLP Long Term...*

23. Pirez v. Brescher

Supreme Court of Florida. August 29, 1991 584 So.2d 993 1991 WL 165229

Suit was brought against county sheriff's office. The Circuit Court, Broward County, Robert C. Abel, Jr., J., dismissed for failure to give proper notice, and appeal was taken. The District Court of Appeal, 566 So.2d 577, affirmed, and certified question. The Supreme Court, McDonald, J., held that notice of claim against...

...in writing to the Department of Insurance, within 3 years after such claim accrues and the Department of Insurance or the appropriate agency denies...

...768.31, it shall be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such...

24. Hupp v. Shinseki

United States Court of Appeals for Veterans Claims. August 31, 2009 23 Vet.App. 242 2009 WL 3297818

Before the Court is Sandra K. Hupp's appeal, through counsel, of a July 14, 2003, Board of Veterans' Appeals (Board) decision that denied her claims for accrued benefits under 38 U.S.C. § 5121 and service connection for the cause of her veteran-husband's death for the purpose of 38 U.S.C. § 1310 dependency and indemnity...

...2007, the Court affirmed the Board's denial of Mrs. Hupp's accrued benefits claim after concluding that Mrs. Hupp had abandoned her appeal of that claim because she had raised no specific assertion...

25. McCreedy v. Local Union No. 971, UAW

United States Court of Appeals, Sixth Circuit. January 23, 1987 809 F.2d 1232 124 L.R.R.M. (BNA) 2508

Former employees filed "hybrid section 301" cause of action alleging that employer had breached collective bargaining agreement and that union had breached duty of fair representation. Union filed cross claim against

employer seeking to compel arbitration. Employer moved for summary judgment on both claims. Union moved for summary judgment on its...

...that (1) employees' hybrid cause of action arose seven days after receipt of employer's letter responding to employees' grievances, when union failed to appeal unsettled grievance or seek arbitration; (2) limitation period of six...
...and (3) union's claim against employer, seeking to compel arbitration, accrued seven days after employees' claims were denied, where union took no appeal from employer's denial of employee's grievances. Affirmed in part; reversed...

26. Lopez v. Prager

District Court of Appeal of Florida, Third District. August 31, 1993 625 So.2d 1240 1993 WL 331422

Notice. Plaintiff failed to notify Department of Insurance of claim against county.

...in writing to the Department of Insurance, within 3 years after such claim accrues and the Department of Insurance or the appropriate agency denies...
...768.31, it must be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such...

27. Colman v. Wendover Funding, Inc.

United States Court of Appeals, Tenth Circuit. June 12, 1996 89 F.3d 849 (Table, Text in WESTLAW), Unpublished Disposition 1996 WL 316460

Plaintiffs Earl and Dorothy Colman appeal the summary judgment entered in favor of defendant Wendover Funding, Inc. (Wendover). Plaintiffs originally filed this action in state court seeking a declaratory judgment to declare the terms of the mortgage and loan modification agreement which Wendover is allegedly responsible for servicing. Plaintiffs...

...RTC in late 1990. Further, it is arguable that the claim did not actually accrue until after Earl Colman's discharge in bankruptcy, at which time his retention...

...RTC. Although we find it unnecessary to conclusively determine on appeal when the claim for declaratory relief accrued, we have little doubt that it did so after the...

28. Mills v. Brown

United States Court of Veterans Appeals. December 02, 1996 15 Vet.App. 159 (Table, Text in WESTLAW), Unpublished Disposition 1996 WL 695233

On April 16, 1996, the appellant filed a Notice of Appeal (NOA) from a February 8, 1996, Board of Veterans' Appeal (BVA or Board) decision finding that new and material evidence had not been submitted to reopen the appellant's deceased veteran husband's claim for service connection for coronary artery disease; and that entitlement to service...

...to decide the merits of a veteran's disability-compensation claim after the death of the veteran; and (3) to adjudicate an accrued-benefits claim as part of an appeal relating to a compensation claim. Landicho, 7 Vet.App. at 44...

29. Orange County v. Gipson

District Court of Appeal of Florida, Fifth District. March 02, 1989 539 So.2d 526 1989 WL 16630

Decedents' estates brought action against city and county after one decedent drowned in county's drainage

Ching, Kenneth 2/9/17
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List of 194 results for adv: claim /s accrul /s #after +s appeal affirm

canal after falling from city's sewer pipes, and other decedent drowned while attempting to rescue. After city and its insurer settled with estates, city and its insurer filed cross claim for contribution against county and school board. The...

...in writing to the Department of Insurance, within 3 years after such claim accrues and the Department of Insurance or the appropriate agency denies...

...768.31, it shall be so presented within 6 months after the judgment against the tort-feasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such...

30. Samaritan Health Center v. Simplicity Health Care Plan

United States District Court, E.D. Wisconsin. September 17, 2007 516 F.Supp.2d 939 2007 WL 2704237

LABOR AND EMPLOYMENT - Benefit Plans. The care provided to a health care plan participant by a skilled nursing facility constituted custodial care.

...for performance of contract. An ERISA benefits cause of action accrues when the claim for benefits is finally denied, such as a denial after appeal. Employee Retirement Income Security Act of 1974, §502(a...

...824 [4] [5] [6] An ERISA benefits cause of action accrues when the claim for benefits is finally denied, such as a denial after appeal. Daill v. Sheet Metal Workers' Local 73 Pension Fund, 100...

31. Best v. Newton

United States District Court, S.D. New York. September 28, 2016 Slip Copy 2016 WL 5416505

Pro se Plaintiff Hilary Best brings this action against Defendants Warden Clarence Newton ("Warden Newton"), Captain Morris ("Morris"), and Captain Martin ("Martin") for alleged violations of his constitutional rights during disciplinary proceedings that took place while Plaintiff was confined at the Otis Bantum...

...was timely because he filed it less than three years after he received a final decision on his grievance); see also...

...S.D.N.Y. June 1, 2015) (finding a prisoner's procedural due process claims accrued no later than the date on which the director confirmed...

32. Bradley v. U.S.

United States District Court, E.D. Michigan, Southern Division. October 02, 2012 Not Reported in F.Supp.2d 2012 WL 4513792

This is a medical malpractice case brought under the Federal Tort Claims Act, 28 U.S.C. § 1346, et seq (FTCA). Plaintiff Beverly Bradley (plaintiff), personal representative of the estate of Milford Douglas Reed (Reed), is suing the defendant United States of America (defendant), claiming that Reed's death was caused by Dr. Ahmer Rehman's...

...begin to run until the autopsy report was released. Id. After Garrett, however, the court of appeals in Chomic clarified that the date of death is not necessarily when a claim accrues. In Chomic, James Gorjup slipped and fractured his hip while...

33. Majette v. Butterworth

United States District Court, S.D. Florida. April 25, 1988 699 F.Supp. 882 1988 WL 122492

Pretrial detainee brought §1983 action against former sheriff with respect to conditions of his detention. Upon sheriff's motion to dismiss, and detainee's motion to strike and motion for default judgment, the District Court,

Ching, Kenneth 2/9/17
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List of 194 results for adv: claim /5 accrual /s #after +s appeal affirm

Paine, J., held that: (1) detainee was not entitled to grant of his motions on basis that...

...in writing to the Department of Insurance, within 3 years after such claim accrues and the Department of Insurance or the appropriate agency denies...

...768.31, it shall be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such...

34. Hall v. Shinseki

United States Court of Appeals for Veterans Claims. July 01, 2013 Not Reported in Vet.App. 2013 WL 3293986

On April 24, 2012, this Court issued a memorandum decision vacating and remanding a July 14, 2010, Board of Veterans' Appeals decision denying the appellant's claim for entitlement to service connection for the death of her husband, a veteran. Judgment issued on June 18, 2012, and this Court's mandate issued on August 17, 2012. On November 21,...

...2013, the Court ordered the appellant's estate, within 45 days after the date of the order, to inform the Court whether Starlette Hall has filed an accrued benefits claim at the regional office or show cause why the July...

...14, 2010, Board decision should not be vacated and this appeal dismissed. The appellant's estate has failed to file a response...

35. Drahaus v. State

Supreme Court of Iowa. September 23, 1998 584 N.W.2d 270 1998 WL 650870

Minor's adoptive parents brought action against state alleging its negligence in failing to properly investigate the alleged prior abuse of minor. The District Court, Polk County, Robert A. Hutchison, J., granted summary judgment in favor of State, on statute of limitations grounds, and parents appealed. The Supreme Court, McGiverin, C.J., held...

...Tort Claims Act is "forever barred, unless within two years after such claim accrued, the claim is made in writing to the state appeal board under this chapter." 3 Thus, before filing a petition...

...this chapter shall be forever barred, unless within two years after such claim accrued, the claim is made in writing to the state appeal board under this chapter. The time to begin a suit...

36. Myers v. County of Orange

Court of Appeal, Fourth District, Division 2, California. April 16, 1970 6 Cal.App.3d 626 86 Cal.Rptr. 198

Action by widow of county employee seeking damages for alleged wrongful discharge. The Superior Court, Orange County, Claude M. Owens, J., dismissed the case, and appeal was taken. The Court of Appeal, Kaufman, J., held that one-year claim period was tolled, in widow's action seeking damages for wrongful discharge of her husband from county...

...year claim period and thus satisfied the purposes of the claims statutes, so that, assuming accrual of causes of action on August 22, 1966, when letter...

...claim filed February 14, 1968 was well within one year after accrual in each instance, as extended by time consumed during hearings before Appeal Board and mandate proceeding, a total of 240 days. Reversed...

37. Tholke v. Unisys Corp.

United States District Court, S.D. New York. April 16, 2002 Not Reported in F.Supp.2d 2002 WL 575650

Plaintiff, Andrea Tholke ("Tholke"), brings this action under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 et seq., challenging the denial of long-term disability benefits under her employer's benefit plan. The parties filed cross-motions for summary judgment. For the following reasons, the plaintiff's motion is...

...is disagreement within the Circuit, however, as to whether a claim accrues on the date of the initial denial of benefits or the date of the final denial of benefits after plaintiff has exhausted the appeals process. See *Yuhas v. Provident Life and Cas. Ins. Co.*...

■ **38. Padgett v. Shinseki**

United States Court of Appeals for Veterans Claims. December 16, 2009 23 Vet.App. 306 2009 WL 4828974

VETERANS - Service Connection. Widow was prevailing party entitled to attorney fee award, under Equal Access to Justice Act, only on behalf of veteran.

...behalf of veteran as prevailing party for service connection and accrued disability benefits claim prior to his death, was not per se unreasonable compared to \$58,525 received on accrued benefits claim, fee request would be reduced to \$27,886.67, under EAJA's...

...fees award for work on claim in her own capacity after veteran's death, but only for work on behalf of deceased veteran in progression of his appeal. 28 U.S.C.A. §2412(d) Before GREENE, Chief Judge, and...

39. Tautkus v. Saunders

Court of Appeals of Michigan. November 19, 2015 Not Reported in N.W.2d 2015 WL 7370101

Plaintiffs appeal by right the trial court's order granting summary disposition to defendants and dismissing plaintiffs' legal malpractice action. We affirm. This action arose out of the settlement of plaintiff Dennis Tautkus's workers' compensation case. Tautkus had been employed by the City of Albion until he received a duty disability retirement...

...2006) When an attorney fails to send a discontinuation letter after the resolution of the matter for which he was retained...
...Court suggested that the result is that the legal malpractice claim accrues on the expiration of the appeal period for the matter. Id. at 8 n. 2. Some...

40. Diba Family Ltd. Partnership v. Ross

United States Court of Appeals, Second Circuit. June 04, 2015 606 Fed.Appx. 628 2015 WL 3498658

Plaintiffs-Appellants Diba Family Limited Partnership and 170 East 75th LLC (collectively, "Diba") appeal from the October 27, 2014 memorandum opinion and order and October 28, 2014 judgment of the United States District Court for the Southern District of New York (Schofield, J.) granting Defendants-Appellees David Ross and...

...absence of the present proceeding. Second, Diba states that its "claim for legal fees accrued after judgment in the eviction case" (Plaintiffs' brief on appeal at 16), a judgment that was entered on October 15...

41. English v. Shinseki

United States Court of Appeals for Veterans Claims. September 30, 2011 Slip Copy (Table, Text in WESTLAW), Unpublished Disposition 2011 WL 4525990

On June 7, 2010, appellant Isidra D. English, wife of deceased Veteran Alfredo English, filed a Notice of Appeal from a May 3, 2010, Board of Veterans' Appeals (Board) decision. On November 1, 2010, the Court received notice, with an accompanying death certificate, that Ms. English died on September 11, 2010. On December 16, 2010, Ms. English's...

...the Court ordered that Ms. English Padilla, within 20 days after the date of the order: (1) inform the Court whether she has filed an accrued benefits claim at the regional office (RO); (2) submit evidence that she...
...3, 2010, Board decision should not be vacated and this appeal dismissed. On April 19, 2011, the movant's counsel filed a...

42. Lederer v. Orlando Utilities Com'n

District Court of Appeal of Florida, Fifth District. April 18, 2008 981 So.2d 521 2008 WL 1752222

GOVERNMENT - Tort Claims. City utilities commission was not a municipality or a city department for purposes of notice requirement of immunity-waiver statute.

...in writing to the Department of Insurance, within 3 years after such claim accrues and the Department of Insurance or the appropriate agency denies...

...768.31, it must be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such...

43. Maggio v. Florida Dept. of Labor and Employment Security

Supreme Court of Florida. March 24, 2005 899 So.2d 1074 2005 WL 673677

LABOR AND EMPLOYMENT - Public Employment. Civil rights claims were not subject to presuit notice requirements for waiver of sovereign immunity in tort action.

...writing to the Department of Financial Services, within 3 years after such claim accrues and the Department of Financial Services or the appropriate agency...

...768.31, it must be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such...

44. Skiptunas v. State

Supreme Court, Appellate Division, Third Department, New York. January 24, 2002 290 A.D.2d 868 736 N.Y.S.2d 767

EDUCATION - Administrators. Suit against Department of Education was untimely.

...the Panel to dismiss all charges. Accordingly, the Court of Claims found that the claim accrued on November 27, 1996, when the parties received notice of the report five days after its issuance and did not appeal or seek review in the 30 day period thereafter. We...

45. Kaplan v. Shure Bros., Inc.

United States Court of Appeals, Seventh Circuit. August 11, 1998 153 F.3d 413 1998 WL 462861

Illinois land trust beneficiary, to whom real estate purchaser had allegedly assigned its interest, sued vendor and law firm that represented him during purchase and related matters. Beneficiary alleged that vendor breached warranties and representations contained in land sales contract, and that beneficiary was injured when law firm failed to have...

Ching, Kenneth 2/9/17
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...205 The district court determined that Kaplan's failure-to-assign claim accrued after January 1, 1991, and applied the provisions of section 5/13-214.3(b) and (c); on appeal, Kaplan asserts that his claim accrued in 1987, not 1991 (or thereafter), and that the five...

46. Blanco v. American Tel. & Tel. Co.

Court of Appeals of New York. November 25, 1997 90 N.Y.2d 757 689 N.E.2d 506

PRODUCTS LIABILITY - Limitations. Repetitive stress claim against keyboard manufacturer accrues for limitations purposes with onset of symptoms or last use of keyboard, whichever is earlier.

...as modified 223 A.D.2d 156, 646 N.Y.S.2d 99. After permission to appeal was granted, the Court of Appeals Wesley, J., held that: (1) general tort statute of limitations...

...applies to RSI claims against keyboard manufacturers, and (2) RSI claim against keyboard manufacturer accrues for limitations purposes with onset of symptoms or last use...

47. Fern v. U S

United States Court of Appeals, Ninth Circuit. May 18, 1954 15 Alaska 31 213 F.2d 674

Action was brought against the United States under the Contract Settlement Act. The District Court for the Territory of Alaska, Fourth Division, Harry E. Pratt, District Judge, entered an order dismissing the second amended complaint, on ground that cause of action was barred by statute of limitations, and plaintiffs appealed. The Court of Appeals,...

...actions against the United States, running from the date the claim accrues; and Sec. 13(d)(2) of the Act, providing for...

...ninety-day period during which an action may be commenced after unfavorable action by the Appeal Board. Since the claim arose when the Army cancelled the...

48. Barger v. McCoy Hillard & Parks

Court of Appeals of North Carolina. May 07, 1996 122 N.C.App. 391 469 S.E.2d 593

TORTS - Professional Malpractice. Claim against accounting firm sounded in negligent misrepresentation and not in accounting malpractice.

...2d 252, affirmed in part, reversed in part, and remanded. After motion for rehearing was granted, the Court of Appeals John C. Martin, J., held that: (1) claim sounded in...

...accountant, and (2) fact issue as to when negligent misrepresentation claim accrued precluded summary judgment.

Affirmed in part, reversed in part, and...

49. Williams v. Shinseki

United States Court of Appeals for Veterans Claims. May 10, 2010 Slip Copy (Table, Text in WESTLAW), Unpublished Disposition 2010 WL 1841941

In an order issued on April 5, 2010, this Court noted that in January 2009, Annice F. Williams, the asserted surviving spouse of the veteran, filed pro se, on behalf of the veteran, a Notice of Appeal (NOA) and advised that the veteran had died on December 15, 2008, a few days after issuance of a decision of the Board of Veterans' Appeals in the...

...is ORDERED that the Secretary, not later than 14 days after the date of this order, file a supplemental response, (1...

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...do not constitute, as a matter of law, an informal claim for accrued benefits based on an intent to carry on the appeal or claims of the deceased veteran; and (2) informing the...

50. Lindsey v. Board of Ed. of Mt. Morris Central School Dist.

Supreme Court, Appellate Division, Fourth Department, New York. July 13, 1978 64 A.D.2d 856 407 N.Y.S.2d 350

Dismissed teacher brought special proceeding seeking reinstatement with tenure to full-time teaching position and back salary. The Livingston Supreme Court, Andrew V. Siracuse, J., ruled in favor of teacher, and appeal was taken. The Supreme Court, Appellate Division, Fourth Department, held that where no verified claim was presented to board of...

...claim was presented to board of education within three months after claim accrued and where, although issue was not specifically raised at special term, there was no indication in briefs on appeal or record that dismissed teacher could have taken legal countersteps...

...be considered by Appellate Division of the Supreme Court on appeal. [2] 141E Education 141EII Public Primary and Secondary Schools 141EII...

51. Wallace v. City of Chicago

United States Court of Appeals, Seventh Circuit. March 08, 2006 440 F.3d 421 2006 WL 549008

CIVIL RIGHTS - Arrest and Detention. Unlawful arrest claim accrued for limitations purposes at time of arrest.

...initially conceded that the claim was time-barred because the claim accrued for limitations purposes at the time of his arrest, where...

...notified the district court that he changed his position immediately after Court of Appeals issued decision in Gauger v. Hendle, that would support accrual of unlawful arrest claim at time conviction was overturned. U.S.C.A. Const.Amend. 4 42 U.S.C.A...

52. Doe v. Cedar Rapids Community School Dist.

Iowa District Court. February 23, 2004 Not Reported in N.W.2d 2004 WL 3361982

Hearing was held on February 20, 2004, on the Defendant's motion for summary judgment. At the time of hearing, the following appeared: Thad Collins for the defendant; Todd Becker and Roxanne Conlin for the plaintiffs. Plaintiffs filed this municipal tort claim against the Cedar Rapids Community School District, seeking damages for abuse allegedly...

...this chapter shall be forever barred, unless within two years after such claim is accrued, the claim is made in writing to the state appeal board under this chapter. The court held "that the tolling...

53. Weingartner v. Township of Deptford

Superior Court of New Jersey, Appellate Division. June 01, 2007 Not Reported in A.2d 2007 WL 1574546

On Wednesday, March 30, 2005, Sarah Weingartner, who was twenty-two years old and nearly eight months pregnant, was driving in Deptford Township (the Township) when she stopped to make a left-hand turn. Her vehicle was struck by a vehicle operated by Deptford Police Officer Michael Taylor, who was responding to a 911 call and was traveling...

...permit a late filing "at any time within one year after the accrual of" the claimant's claim, N.J.S.A. 59:8-9, the grant or denial

of permission...

...discretion of the trial court, and will be sustained on appeal in the absence of a showing of an abuse thereof...

54. Morris v. City of Orlando

United States District Court, M.D. Florida, Orlando Division. November 09, 2010 Not Reported in F.Supp.2d 2010 WL 4646704

This case comes before the Court on the following: 1. Motion to Dismiss Complaint by Defendant City of Orlando (Doc. No. 29, filed Oct. 1, 2010); 2. Objection to Defendant City of Orlando's Motion to Dismiss Complaint by Plaintiff Larry L. Morris, Jr. (Doc. No. 31, filed Oct. 15, 2010); 3. Motion to Dismiss Complaint by Defendant Finley Johnson...

...writing to the Department of Financial Services, within 3 years after such claim accrues and the Department of Financial Services or the appropriate agency...

...768.31, it must be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such...

55. McGruder v. State

Supreme Court of Iowa. March 16, 1988 420 N.W.2d 425 1988 WL 22592

Automobile accident victim brought tort claim against State, and appeal board denied claim. Victim appealed. The District Court for Polk County, Ray Hanrahan, J., sustained State's special appearance, and victim appealed. The Supreme Court, Larson, J., held that claim was not "made" within meaning of state tort claims act until it was filed, and...

...this chapter shall be forever barred, unless within two years after such claim accrued, the claim is made in writing to the state appeal board under this chapter. The issue in this case is...

56. Reeves v. Shinseki

United States Court of Appeals, Federal Circuit. June 14, 2012 682 F.3d 988 2012 WL 2149395

VETERANS - Disability Benefits. Board of Veterans' Appeals' failure to apply statutory combat presumption was clear and unmistakable error.

...a surviving spouse, had standing to be substituted for decedent, after notice of appeal was filed, in action seeking veterans' benefits; even if standing...

...could be established only if a surviving spouse filed an accrued-benefits claim, wife's motion to be substituted for her husband qualified as an informal claim for accrued benefits. F.R.A.P. Rule 43(a)(1), 28 U.S.C.A. [3] 170B Federal...

57. Kontrick v. Ryan

Supreme Court of the United States January 14, 2004 540 U.S. 443 124 S.Ct. 906

BANKRUPTCY - Discharge. Claim that objection to discharge was untimely was forfeited.

...unless presented "to the appropriate Federal agency within two years after [the] claim accrues " or civil action "is begun within six months after notice of final denial of the claim by the agency...

...2107(a) ("Except as otherwise provided in this section, no appeal shall bring any judgment, order or decree in an action...

List of 194 results for adv: claim /5 accrual /s #after +s appeal affirm

58. Commercial Logistics Corp. v. ACF Industries, Inc.

United States Court of Appeals, Seventh Circuit. March 17, 2009 316 Fed.Appx. 499 2009 WL 722618

LITIGATION - Limitations. Statute of limitations on statutory claim did not begin to run until the statute took effect.

...directly on point. See *id.*, at *3. Roughly nine months after the district court's decision, the Indiana Court of Appeals likewise concluded that a claim under the ELA accrued with the preenactment discovery of contamination. *Cooper Indus., LLC v.*

59. International Union of Bricklayers and Allied Craftworkers, Local 5 v. Banta Tile & Marble

United States District Court, M.D. Pennsylvania. December 15, 2009 Not Reported in F.Supp.2d 2009 WL 4906525

LABOR AND EMPLOYMENT - Arbitration. There was no compelling reason to reconsider an arbitrator's award to a health and welfare fund.

...in these principal claims are identified by Local 5 as claims which accrued in November 2008, after the district court upheld the arbitrator's decision, and following Banta's appeal of this ruling. Thus, these additional obligations accrued during the...
...\$89,930.80 in interest are identified by Local 5 as claims which accrued in November 2008, after the district court upheld the arbitrator's decision, and following Banta's appeal of this ruling, a time frame when Banta neglected to...

60. Mallory v. State

Supreme Court, Appellate Division, Third Department, New York. September 23, 1993 196 A.D.2d 925 601 N.Y.S.2d 972

Notice of Intention to File Claim. Claimant's failure to timely provide Attorney General with notice of intention to file claim deprived Court of Claims of jurisdiction over claim.

...a) Because that did not occur until the 91st day after accrual of the claim, the Court of Claims lacked jurisdiction over the case and...
...2d 501, 450 N.Y.S.2d 1023, 435 N.E.2d 679, appeal dismissed 56 N.Y.2d 568, 450 N.Y.S.2d 185, 435...

61. Urban v. Shinseki

United States Court of Appeals for Veterans Claims. January 05, 2011 Slip Copy (Table, Text in WESTLAW), Unpublished Disposition 2011 WL 30760

Mrs. Jennie G. Urban appeals, pro se, a May 14, 2008, Board of Veterans' Appeals (Board) decision that denied her various claims for VA accrued benefits derived from her deceased veteran husband's service-connected disabilities and claims pending at the time of his death. She argues that her husband should have been awarded a 100% schedular rating...

...511-12 (2006) Thus, in view of the foregoing, and after considering the positions of the parties, and the entire record...
...that the Board did not err in denying, all for accrued benefits purposes, the claims presented here on appeal. The Board provided an adequate statement of reasons or bases...

62. Affholder, Inc. v. Preston Carroll Co., Inc.

United States Court of Appeals, Sixth Circuit. June 22, 1994 27 F.3d 232 1994 WL 272484

Subcontractor on waste water treatment project brought action against general contractors for delay costs allegedly incurred as result of deficient plans. General contractors filed third-party complaint against sewer district, engineers who supplied the plans, and others for indemnity. After remand, 866 F.2d 881, the United States...

...J., entered summary judgment for engineers, and general contractors appealed. After certifying questions to the Supreme Court of Kentucky, the Court of Appeals held that: (1) general contractors had claim for indemnity against... subject to five-year statute of limitations, and (3) indemnity claims accrued when subcontractor filed claim. Reversed and remanded. West Headnotes [1] 208 Indemnity 208III Indemnification...

63. Richardson v. Shinseki

United States Court of Appeals for Veterans Claims. June 28, 2013 Not Reported in Vet.App. 2013 WL 3282955

On September 26, 2012, the Board of Veterans' Appeals (Board) issued a decision dismissing George T. Richardson's claim because Mr. Richardson had died earlier that month. In its decision, the Board noted that the appeal was not being adjudicated on the merits and instead was being dismissed for lack of jurisdiction as result of the death of Mr....

...and subsequently granted by the agency of original jurisdiction (AOJ) after the appeal has been dismissed by the Board, the appeal will be reinstated for the purpose of furthering the accrued benefits claim. See VA Fast Letter 10-30 at 3 (Aug. 10...

64. Miller v. McDonald

United States Court of Appeals for Veterans Claims. June 05, 2015 Not Reported in Vet.App. 2015 WL 3541473

On September 22, 2014, Joan S. Miller, spouse of veteran James M. Miller, filed what the Court accepted as a Notice of Appeal (NOA) as to a January 23, 2014, Board of Veterans' Appeals (Board) decision. The Board's decision reflects that the veteran died in December 2013 and that the Board dismissed his appeal without prejudice, noting that its...

...filed and subsequently granted by the agency of original jurisdiction after the appeal has been dismissed by the Board, the appeal will be reinstated for the purpose of furthering the accrued benefits claim. 38 C.F.R. § 20.1302(a) "If the agency of...

65. Harrison v. West

United States Court of Appeals, for Veterans Claims. July 21, 2000 17 Vet.App. 390 (Table, Text in WESTLAW), Unpublished Disposition 2000 WL 1228704

Mrs. Geraldine Harrison appeals, pro se, a December 14, 1998, Board of Veterans' Appeals (Board) decision that determined that she had not filed a timely Substantive Appeal. The Court has jurisdiction under 38 U.S.C. § 7252(a). The Secretary filed a motion for summary affirmance of the Board's decision. Summary disposition is appropriate. See...

...the appeal to the RO was dated February 1, 1996. After issuing a Supplemental SOC, the RO advised Mrs. Harrison that her Substantive Appeal was not timely filed and, consequently, that the RO decision denying her claim for accrued benefits was final. R. at 363. She filed an NOD...

66. Haefner v. Lancaster County

United States District Court, E. D. Pennsylvania. August 11, 1981 520 F.Supp. 131

<https://www.westlaw.com/Search/Results.html?query=fi%3A&transitionType=Search&contextData=%28sc.Default%29&VR=3.0&RS=cblt1.0>

Proceeding was instituted on motion of defendants to dismiss civil rights complaint. The District Court, Troutman, J., held that: (1) claims for unlawful arrest and for physical and mental abuse during police custody most nearly resembled state tort actions for assault and battery, false arrest and imprisonment, and since plaintiff knew of injury...

...merit in Pennsylvania law required institution of suit for such claims within two years of accrual, and (2) where state court declared a mistrial after jury could not reach a verdict and, on appeal, Superior Court of Pennsylvania held that trial court's premature discharge...

67. Ramirez v. Barsanti

United States Court of Appeals, Seventh Circuit. June 30, 2016 654 Fed.Appx. 822 2016 WL 3619362

CIVIL RIGHTS - Prisons. Immediate dismissal of inmate's appeal was warranted as sanction under Prison Litigation Reform Act.

...prisoner from proceeding without prepayment of filing and docketing fees after accruing three "strikes" resulting from actions or appeals dismissed as frivolous or for failure to state claim, since inmate had accrued more than three strikes, and had deceived district court and...

68. Nixon v. State

Supreme Court of Iowa. September 30, 2005 704 N.W.2d 643 2005 WL 2398232

EDUCATION - Limitations. Claims against state accrued when subjects discovered that they had been subjects of professor's stuttering experiment.

...this chapter shall be forever barred, unless within two years after such claim accrued, the claim is made in writing to the state appeal board under this chapter. Iowa Code §669.13 (2005...

...chapter shall be forever barred, unless within two (2) years after such claim accrued or prior to July 1, 1967, whichever is later, the claim is made in writing to the state appeal board under this Act and a suit is begun under...

69. Perry v. State

Supreme Court, Appellate Division, Third Department, New York. July 27, 1978 64 A.D.2d 799 406 N.Y.S.2d 154

Appeal was taken from an order of the Court of Claims denying claimant's motion for an order deeming filed document a claim against the State. The Supreme Court, Appellate Division, held that where alleged notice of claim against State was not served upon Attorney General until 91st day after accident giving rise to claim, court lacked jurisdiction...

...not been served on the Attorney General within 90 days after the accrual of the claim (see Court of Claims Act, s 10, subd. 3, s...

...11), the Court of Claims denied the motion, and this appeal ensued. [1] We hold that the order appealed from should...

70. Baker v. Ancient Order of Hibernians

Supreme Court, Appellate Division, First Department, New York. December 30, 1915 170 A.D. 844 156 N.Y.S. 619

Appeal from Trial Term, New York County. Action by Hyman D. Baker against the Ancient Order of Hibernians. Judgment for plaintiff, and defendant appeals. Reversed. McLaughlin and Scott, JJ., dissenting.

...In general. (Formerly 233k129(1) Where an agreement to pay lessee's accrued claim for liquidated damages under lease provided for retention of part of each month's rent by lease after termination of an action pending, the right to retain did not accrue while appeal was pending in such action. 192 Cornelius J. Earley, of...

71. Acorn Decorating Corp. v. U.S.

United States Court of Claims. July 13, 1959 146 Ct.Cl. 394 174 F.Supp. 949

Action by painting contractor against the United States for alleged increased costs incurred by it in performance of government contract. Upon government's alternative motions for judgment on the pleadings and for summary judgment, the Court of Claims, Laramore, J., held that, where contractor had completed work called for under contract, had...

...of limitations for failing to bring suit within six years after the time its claim first accrued or is barred by the finality of the Corps of Engineers Claims and Appeals Board's decision for failure to appeal such decision to the Secretary of the Army as required...

72. Purnell v. Shinseki

United States Court of Appeals for Veterans Claims. March 28, 2014 Not Reported in Vet.App. 2014 WL 1259728

M. Ann Purnell, widow of veteran James A. Purnell, appeals through counsel from a November 26, 2013, Board of Veterans' Appeals (Board) decision dismissing her husband's appeal for benefits for an acquired psychiatric disorder and a right hip disability, and denying his request to reopen his claim for benefits for necrosis of the left hip. For the...

...and subsequently granted by the agency of original jurisdiction (AOJ) after the appeal has been dismissed by the Board, the appeal will be reinstated for the purpose of furthering the accrued benefits claim. See VA Fast Letter 10-30 at 3 (Aug. 10...

73. Taylor v. Shinseki

United States Court of Appeals for Veterans Claims. May 08, 2014 Not Reported in Vet.App. 2014 WL 1810706

Veteran Charles H. Kimball died in June 2013, while his claim for entitlement to service connection for a low back disability and a request for a total disability rating based on individual unemployability due to service-connected disabilities was pending before the Board of Veterans' Appeals (Board). Subsequently, on August 26, 2013, the Board...

...and subsequently granted by the agency of original jurisdiction (AOJ) after the appeal has been dismissed by the Board, the appeal will be reinstated for the purpose of furthering the accrued benefits claim. See VA Fast Letter 10-30 at 3 (Aug. 10...

74. Auburn Regional Medical Center v. Sebelius

United States Court of Appeals, District of Columbia Circuit. June 24, 2011 642 F.3d 1145 2011 WL 2507853

HEALTH - Medicare. Equitable tolling was available under Medicare statute.

...statute required all claims to "be submitted within 6 years after the accrual of the claim " see also Irwin, 498 U.S. at 94-96, 111 S.Ct...

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...equitable tolling permissible where statute provided that "within 60 days after the date on which [the complaint] is filed, the complainant may elect to appeal except that in no event may any such appeal be brought before the 61st day after the date on...

75. Hansen v. State

Supreme Court of Iowa. November 12, 1980 298 N.W.2d 263

<https://www.westlaw.com/Search/Results.html?query=fi%3A&transitionType=Search&contextData=%28sc.Default%29&VR=3.0&RS=cblt1.0>

Husband and wife appealed from determination of the Johnson District Court, Ansel J. Chapman, J., sustaining state's motion for summary judgment on tort claim based on failure to bring timely suit. The Supreme Court, Schultz, J., held that in view of legislative intent that predecessor rules defining commencement of suit specified event which would...

...this chapter shall be forever barred, unless within two years after such claim accrued, the claim is made in writing to the state appeal board under this chapter. The time to begin a suit...

76. Babcock v. Culver

Supreme Court of Vermont. February 01, 1874 46 Vt. 715 1874 WL 6575

Discontinuance. Record of Justice of Peace. Tender. Payment. In a suit returnable before a justice, the plaintiff died before the return day, and the case was continued five times, without any suggestion of the plaintiff's death upon the record. Two of said continuances were because of the inability of the justice to attend, and the others were at...

...verdict for the plaintiff. It was conceded that some time after judgment had been rendered by the justice, and before the appeal was entered in the county court, the defendant tendered to the plaintiff's attorney upon the plaintiff's claim and accrued costs, the sum of \$10, which the attorney received, and...

77. Farnum v. G.D. Searle & Co., Inc.

Supreme Court of Iowa. October 19, 1983 339 N.W.2d 392

<https://www.westlaw.com/Search/Results.html?query=fi%3A&transitionType=Search&contextData=%28sc.Default%29&VR=3.0&RS=cblt1.0>

Wife, allegedly injured in taking birth control pills, sought with her husband and children to recover against drug manufacturer on a theory of products liability and against physicians employed by county hospital, on a theory of negligence in prescribing pills. The District Court, Polk County, George W. Bergeson, J., entered order...

...this chapter shall be forever barred, unless within two years after such claim accrued, the claim is made in writing to the state appeal board under this chapter. The time to begin a suit...

78. Smith v. Shinseki

United States Court of Appeals for Veterans Claims. October 11, 2012 Not Reported in Vet.App. 2012 WL 4829032

Veteran Alfred W. Smith died in October 2011 while his claim for service connection for an acquired psychiatric disorder, to include post-traumatic stress disorder (PTSD), was pending before the Board of Veterans' Appeals (Board). Accordingly, on November 12, 2011, the Board dismissed his appeal. On February 21, 2012, Nellie B.

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Smith, the veteran's...

...and subsequently granted by the agency of original jurisdiction (AOJ) after the appeal has been dismissed by the Board, the appeal will be reinstated for the purpose of furthering the accrued benefits claim. See VA Fast Letter 10-30 at 3 (Aug. 10...

79. **Faldowski v. Eighty Four Min. Co.**

Commonwealth Court of Pennsylvania. December 11, 1998 725 A.2d 843 1999 WL 89295

ENERGY AND UTILITIES - Mining. Commonwealth Court lacked jurisdiction over declaratory judgment action regarding mining damage.

...the mine operator fails to repair or compensate for damage after exhausting its right of appeal, the department shall pay the escrow deposit made with respect to the particular claim involved and accrued interest to the owner of the damaged building. 52 P.S...

80. **Couzens v. Fortis Ins. Co.**

United States District Court, D. Arizona. July 13, 2009 Not Reported in F.Supp.2d 2009 WL 2072009

Plaintiffs Mary and James Couzens filed this action against defendants in the Superior Court of Arizona in Maricopa County alleging various state law claims against defendants Time Insurance Company, formerly known as Fortis Insurance Company dba Assurant Health, ("Time") and Edward and Marsha Oakes (collectively, the...

...by the statute of limitations. Plaintiffs contend, however, that their claims did not accrue until Time definitively denied coverage in 2007 after negotiations and appeal. FN1. Plaintiffs' false advertising and consumer fraud claims are subject...

81. **Lisea v. Sherman**

United States District Court, E.D. California. September 08, 2014 Not Reported in F.Supp.3d 2014 WL 4418632

Petitioner is a state prisoner proceeding with counsel with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges his 2011 conviction for attempted murder and related charges. (ECF No. 1 ("Ptn.")). Petitioner was the driver of a car from which a shooter shot a victim in a gang-related incident...

...9 and 10. Id. at 16-17.) He asserts that Claim 11 did not accrue until after his appeal was complete. Id. at 17) Claim 12: The cumulative effect...

82. **Global Financial Corp. v. Triarc Corp.**

Court of Appeals of New York. June 10, 1999 93 N.Y.2d 525 715 N.E.2d 482

LITIGATION - Limitations. Nonresident plaintiff's contract claim did not accrue in New York for purposes of borrowing statute.

...time-barred. Corporation appealed. The Supreme Court, Appellate Division, affirmed. After granting corporation leave to appeal, the Court of Appeals Kaye, C.J., held that corporation's claims accrued in jurisdiction in which it sustained economic impact of alleged...

83. Johnson v. Federal Exp. Corp.

United States District Court, M.D. Pennsylvania. February 10, 2014 996 F.Supp.2d 302 2014 WL 509152

LABOR AND EMPLOYMENT - Discrimination. Employer was not entitled to summary judgment on African-American employee's claims of racially disparate compensation.

...consider whether Ledbetter still applies to the Section 1981 claim after the FPA, but analyzing the alleged pay-setting decisions under...

...F.3d 1020, 1026 (7th Cir.2011) (extending the paycheck accrual rule to equal protection claims under 42 U.S.C. §1983 because the FPA "remov[ed]...

84. Lockett v. I.N.S.

United States Court of Appeals, Tenth Circuit. February 26, 2001 245 F.3d 1126 2001 WL 184225

IMMIGRATION - Deportation. Aliens were not eligible for suspension of deportation or cancellation of removal.

...level. (Formerly 24k54.3(1) Aliens failed to preserve for appellate review claims that they accrued an additional period of seven years' continuous physical presence in the United States after they were served with deportation charging documents, and that Board of Immigration Appeals' (BIA) delay in processing their applications for suspension of deportation...

85. Boeschstein v. Burde

St. Louis Court of Appeals, Missouri. May 04, 1926 284 S.W. 202

<https://www.westlaw.com/Search/Results.html?query=fi%3A&transitionType=Search&contextData=%28sc.Default%29&VR=3.0&RS=cblt1.0>

Appeal from St. Louis Circuit Court; Victor H. Falkenhainer, Judge. "Not to be officially published." Action by Albert E. Boeschstein against Charles J. Burde. From a judgment on demurrer for defendant, plaintiff appeals. Reversed, and cause remanded.

...costs of sale, advertising, and all other lawful charges. That after said deed of trust had been executed as aforesaid plaintiff...

...of the estate of said Emil R. Wittig, who died after plaintiff's said claim accrued, and said cause was entitled 'Albert E. Boeschstein, Plaintiff, v...

86. Williams v. Rohm and Haas Pension Plan

United States District Court, S.D. Indiana, New Albany Division. October 17, 2008 Not Reported in F.Supp.2d 45 Employee Benefits Cas. 2683

In March of 1997, Gary Williams left the employ of Rohm and Haas. As as a participant in the Rohm and Haas Pension Plan (the "Plan"), a defined benefit pension plan under § 3(35) of ERISA, he sought payment of his accrued benefits in a lump sum pay-out, and received a check in the amount of \$47,850.71, representing the Plan's calculation of the...

...had its own 90-day limitations period for filing suit after the denial of an appeal and that limitations period was in place when Williams filed his internal claim. Consequently, Williams's claim accrued at the moment his appeal was denied and his filing...

87. Slaughter v. Martin

Court of Appeals of Alabama November 13, 1913 9 Ala.App. 285 63 So. 689

Ching, Kenneth 2/9/17
For Educational Use Only

List of 194 results for adv: claim /5 accrual /s #after +s appeal affirm

Appeal from Circuit Court, Baldwin County; A.E. Gamble, Judge. Assumpsit by A.D. Slaughter against George Martin. From judgment for defendant, plaintiff appeals. Reversed and remanded.

...Pleading Set-Offs and Counterclaims. Defendant cannot set off a claim which accrued after judgment for plaintiff in justice court, and appeal to the circuit court; the purely statutory right to plead...

88. McPhail v. Nicholson

United States Court of Appeals for Veterans Claims. February 25, 2005 19 Vet.App. 30 2005 WL 453136

VETERANS - Appeal. Equitable tolling issue was not properly before the Court of Appeals for Veterans Claims on appeal.

...statute of limitations ought to be tolled indefinitely, stating that accrual of claim will be tolled if party makes good-faith attempt to...

...good cause shown" and requiring that where extension is requested after expiration of time limit, "the action required of the claimant...

89. Harden v. State

Supreme Court of Iowa. January 25, 1989 434 N.W.2d 881 1989 WL 4861

Plaintiff brought action against state for personal injuries which allegedly occurred when plaintiff was minor. The District Court, Buchanan County, Alan L. Pearson, J., dismissed action, and plaintiff appealed. The Supreme Court, Andreasen, J., held that: (1) two-year statute of limitations for actions brought against State...

...this chapter shall be forever barred, unless within two years after such claim is accrued, the claim is made in writing to the state appeal board under this chapter. Iowa Code section 614.8 provides...

90. Blakey v. Caterpillar, Inc.

United States District Court, C.D. Illinois. March 08, 2010 Not Reported in F.Supp.2d 2010 WL 2089292

Plaintiff pursues ERISA claims regarding the denial of her application for surviving spouse benefits. Before the Court is Defendants' motion to dismiss, which the Court recommends be granted in part and denied in part. Plaintiff's husband was an employee of Caterpillar, Inc., and a beneficiary of the Caterpillar Retirement Income Plan (the "Plan")....

...Cash Balance Plan, 667 F.Supp.2d 850, 887 (N.D.Ill.2009) (claim for benefits accrued after final appeals denied, not when alleged underpayment was made)(applying Pennsylvania's four...

91. American Spirit Graphics Corp. v. Toshiba Mach. Co., Ltd.

United States Court of Appeals, Eighth Circuit. June 23, 1994 27 F.3d 353 1994 WL 275516

Employer brought subrogation action against manufacturer of printing press to recover for worker's compensation benefits paid to employee injured by press. The United States District Court for the District of Minnesota, Paul A. Magnuson, J., granted summary judgment for manufacturer and employer appealed. The Court of Appeals held...

...parties agree that ASG filed suit more than two years after its claim accrued, the only issue on appeal is whether the printing press was an improvement to real...

92. Bensley v. State

Supreme Court of Iowa. April 17, 1991 468 N.W.2d 444 1991 WL 58321

Estates of three passengers killed in automobile accident filed second wrongful death action against State for its alleged negligent maintenance of road after their claims were denied by state appeal board and first suit was dismissed on grounds that estates had not exhausted their administrative remedies. State's motion for summary judgment was...

...claims act) shall be forever barred, unless within two years after such claim accrued, the claim is made in writing to the state appeal board under this chapter. The time to begin suit under...

93. Art v. Montana Dept. of Labor and Industry ex rel. Mason

Supreme Court of Montana. December 19, 2002 313 Mont. 197 60 P.3d 958

LABOR AND EMPLOYMENT - Hours and Wages. Court lacked subject matter jurisdiction to review Department of Labor and Industry's decision.

...administrative appeals process. Section 26, Ch. 442, L.1999. For claims accruing on or after April 23, 1999, an appeal of the decision resulting from a contested case hearing may...

94. Escalante v. Township of Cinnaminson, Cinnaminson Memorial Park

Superior Court of New Jersey, Appellate Division. August 01, 1995 283 N.J.Super. 244 661 A.2d 837

TORTS - Tort Claims Act. Trial court abused its discretion in finding that claimant's ignorance of filing deadline constituted sufficient reason to allow late filing; and that municipality would not be substantially prejudiced by allowing late filing.

...permission to file a late claim within one year period after accrual of tort claim is matter left to the sound discretion of trial judge which will be sustained on appeal in the absence of a showing of abuse thereof. N.J.S.A...

95. Appeal of Jones

Supreme Court of Pennsylvania. February 05, 1883 1 Chest. 582 14 Lanc.B. 185

1. Under the Act of April 9th 1872 (P. L. 47), growing crops, the products of agriculture, in the hands of a receiver of an insolvent firm, where there has been a severance by sale or otherwise of the growing grain before the land itself is sold, go to wages claimants (as specified in the Act) in preference to prior judgment lien creditors. 2. A...

...grass crop which in an agricultural sense was wholly grown after the claims for wages had accrued and while the land was in the hands of the...

...Reiff v. Reiff, 14 P. F. Smith 134; Bausman's Appeal, 9 Norris 178, and other cases, very properly drew a...

96. Vachon v. State

Supreme Court of Iowa. March 23, 1994 514 N.W.2d 442 1994 WL 94060

Ching, Kenneth 2/9/17
For Educational Use Only

List of 194 results for adv: claim /5 accrul /s #after +s appeal affirm

Patient and his wife brought action against state of Iowa, alleging medical malpractice under theory of respondeat superior and seeking damages for loss of consortium. The District Court, Johnson County, Paul J. Kilburg, J., granted summary judgment in favor of state. Plaintiffs appealed and state cross-appealed. The Supreme Court, Snell, J., held...

...this chapter shall be forever barred, unless within two years after such claim accrued, the claim is made in writing to the state appeal board under this chapter." Iowa Code §669.13 The...

97. Holcombe v. US Airways, Inc.

United States Court of Appeals, Fourth Circuit. March 05, 2010 369 Fed.Appx. 424 2010 WL 750086

BANKRUPTCY - Claims. Employee claims arising from discriminatory acts or omissions after confirmation date were not discharged and remained open.

...1) employee's claim was not a single, unitary "continuing violation" claim which accrued preconfirmation and persisted into postconfirmation period, so her failure to file proof of claim after receiving notice in airline's first bankruptcy case meant that her...

...2) any claims arising from discriminatory acts and omissions occurring after confirmation date had not been discharged and remained open for...

98. Vassilev v. City of New York

United States District Court, S.D. New York. August 12, 2014 Not Reported in F.Supp.3d 2014 WL 3928783

Plaintiff Anton Vassilev ("Vassilev"), a public school teacher at Intermediate School 291 ("IS 291") who was terminated from that position in 2010, sues the City of New York ("City"), the New York City Department of Education ("DOE"), and former DOE Chancellor Dennis Walcott (collectively,...

...Tracy Decl., Dkt. 16 Ex. 1.) Plaintiff argues that his claims did not accrue on the date of his termination, and instead should have accrued only after he received a final determination for his appeal. (Pl. Reply Mem. at 11.) This argument is unsupported. Under...

99. Nationwide Ins. Co. v. Ohio Dept. of Transp.

Court of Claims of Ohio. February 21, 1990 61 Ohio Misc.2d 761 584 N.E.2d 1370

After insurer filed property damage claim against state, state filed motion to transfer case to administrative docket. The Court of Claims, Russell Leach, J., sitting by assignment, held that statute raising ceiling on amount of claims against state that could be resolved administratively could be given prospective application to claims...

...on claims against state that could be resolved administratively to claims accruing before but filed after statute's effective date did not work retroactive effect upon any...

...would violate State Constitution; substitution of administrative determination and limited appeal for full trial and appeal to all higher state courts did not affect cause of...

100. Robinson v. State

Supreme Court of Iowa. October 06, 2004 687 N.W.2d 591 2004 WL 2238803

GOVERNMENT - Limitations. Date State Appeals Board drafted notice denying inmate's claim did not constitute date notice was mailed, for limitations purposes.

...this chapter shall be forever barred, unless within two years after such claim accrued, the claim is made in writing to the state appeal board under this chapter. The time to begin a suit...

101. Allen v. White

United States District Court, E.D. California. July 29, 2006 Not Reported in F.Supp.2d 2005 WL 1836933

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. Pending before the court is 1) defendant's February 24, 2005 motion, pursuant to Fed.R.Civ.P. 12(b)(6), to dismiss the complaint as barred by the statute of limitations to which plaintiff filed an opposition on March 24, 2005; and 2) plaintiff's June 6, 2005...

...barred by the statute of limitations whether his First Amendment claim is deemed to have accrued at the time that he sets forth that he became aware of the AEDPA deadline, 297 days after the enactment of that statute, or in March of 1997...

...June 28, 2002 or February 20, 2002, when his subsequent appeals were dismissed. MTD, pp. 3-5. Based on the record...

102. Callahan v. State

Supreme Court of Iowa. December 19, 1990 464 N.W.2d 268 1990 WL 207365

Mother brought action against State under Tort Claims Act and § 1983 for abuse of her child while he was student at state-operated school. The District Court for Pottawattamie County, Paul H. Sulhoff, J., dismissed, and mother appealed. The Supreme Court, Larson, J., held that: (1) discovery rule applied to statute of limitations governing claims...

...this chapter shall be forever barred, unless within two years after such claim accrued, the claim is made in writing to the state appeal board under this chapter. The time to begin a suit...

103. In re Time Sales Finance Corp.

United States Court of Appeals, Third Circuit. February 07, 1974 491 F.2d 841

<https://www.westlaw.com/Search/Results.html?query=fi%3A&transitionType=Search&contextData=%28sc.Default%29&VR=3.0&RS=cb1t1.0>

A creditor's claim for interest accruing after the date that a petition was filed for an arrangement under the Bankruptcy Act was disallowed by the referee, and the referee's order was affirmed by the United States District Court for the Eastern District of Pennsylvania, Thomas J. Clary, J. The creditor appealed. The Court of Appeals, Adams,...

...Judges. OPINION OF THE COURT ADAMS, Circuit Judge. A creditor's claim for interest accruing after the date a petition was filed for an arrangement under the Bankruptcy Act prompts this appeal. On April 5, 1968, Time Sales Finance Corporation (the bankrupt...

104. Robinson v. Brice

Court of Appeals of Texas, Austin. March 08, 1995 894 S.W.2d 525 1995 WL 91545

Prejudgment Interest. Letter requesting payment and inquiring as to when next lost wages check was due

constituted written notice of claim under prejudgment interest statute.

...and awarded prejudgment interest accruing on date action was filed. After driver appealed portion of judgment awarding prejudgment interest on future...

...appealed regarding determination of accrual date, and the Court of Appeals, Powers, J., held that: (1) passenger was not required to perfect independent appeal; (2) accident report submitted by passenger to employer's insurer shortly after accident did not constitute written notice of claim as would accrue claim for prejudgment interest; but (3) letter sent two months after...

105. Williams v. Richland County

Supreme Court of South Carolina. July 13, 1901 61 S.C. 80 39 S.E. 967

Appeal from common pleas circuit court of Richland county; Townsend, Judge. Action by R. B. Williams, sheriff of Richland county, against Richland county. From an order reversing the judgment of the county board of commissioners disallowing the claim, the county appeals. Reversed.

...whereas, it appearing that all of the items of said claim accrued after the order changing the venue from Richland county to Kershaw...

...said Richland county, and, so holding, should have dismissed the appeal." We have determined, for the reasons set out in the...

106. Borich v. Life Ins. Co. of North America

United States District Court, N.D. Illinois, Eastern Division. April 25, 2013 Not Reported in F.Supp.2d 2013 WL 1788478

Plaintiff Lillian Borich alleges that defendant Life Insurance Company of North America ("LINA") wrongfully denied her long-term disability ("LTD") insurance claim. Borich brings suit under the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1132(a)(1)(B), seeking to recover LTD benefits,...

...C 2247, 2010 WL 1005030, *7 (N.D.Ill. Mar.11, 2010) "claims for benefits accrue when the plan denies a formal appeal"

Young v. Verizon's...

...2d 850, 887 (N.D.Ill.2009) "an ERISA action logically accrues after the final administrative appeal is denied in writing" And the Seventh Circuit has upheld...

107. Hall v. Clinton

United States District Court, District of Columbia. March 28, 2001 143 F.Supp.2d 1 2001 WL 425877

LABOR AND EMPLOYMENT - Public Employment. Court lacked jurisdiction over tort action brought by former White House employee against First Lady.

...the Department of Justice (DOJ) from representing the first lady. After the Court of Appeals, 235 F.3d 202, upheld District Court's dismissal of prior...

...1) DOJ could represent First Lady; (2) prior Court of Appeals decision that district court lacked subject matter jurisdiction was binding...

108. B & M Coal Corp. v. United Mine Workers of America

Court of Appeals of Indiana, First District. July 08, 1985 480 N.E.2d 227

<https://www.westlaw.com/Search/Results.html?query=fi%3A&transitionType=Search&contextData=%28sc.Default%29&VR=3.0&RS=cblt1.0>

Ching, Kenneth 2/9/17
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List of 194 results for adv: claim /s accrul /s #after +s appeal affirm

Judgment creditor brought action to recover interest which accrued on judgment debtor's appeal bond and which was retained by county clerk. The Circuit Court, Spencer County, Edward C. Theobald, Special Judge, entered judgment against judgment creditor, and judgment creditor appealed. The Court of Appeals, Ratliff, P.J., held that...

...M) appeals from an adverse decision of the trial judge, after a bench trial, denying its claim for interest which accrued on an appeal bond. We reverse. FACTS The present dispute is between Spencer...

109. Montano v. Wells Fargo Bank N.A.

United States District Court, S.D. Florida. October 23, 2012 Not Reported in F.Supp.2d 2012 WL 5233653

THIS CAUSE comes before the Court pursuant to Defendant Wells Fargo Bank N.A.'s ("Wells Fargo") motion to dismiss, filed August 24, 2012 [DE 13]. Plaintiffs responded on September 10, 2012 [DE 15]. Wells Fargo replied on September 20, 2012 [DE 19]. This motion is ripe for adjudication. Plaintiffs own their primary residence, which is...

...only applies to servicemembers. On August 31, 2012, a week after Defendant filed its Motion to Dismiss, the Ninth Circuit Court of Appeals filed an amended opinion, *Gale v. First Franklin Loan Services*...

...he cannot rely on amendments Congress made after his action accrued to bolster his claim." Id at * 1. In May 2009, TILA was amended to...

110. Lee v. Town Bd. of Town of Ellicott, N.Y.

United States District Court, W.D. New York. July 12, 2004 Not Reported in F.Supp.2d 2004 WL 1591229

The Lees filed this section 1983 action on January 17, 2002. On April 26, 2004 the Lees filed a motion to extend the discovery deadline by amending this Court's Scheduling Order dated January 14, 2004. On April 26, 2004 defendant Van Every filed a motion for summary judgment. On April 27, 2004 the Town of Ellicott and its Town Board ("the Town...

...violation theory as a basis for finding that plaintiffs' discrimination claims accrued after their disciplinary proceedings concluded, the court of appeals held that the decision to file charges was the allegedly...

111. Taylor v. Ford Motor Co.

United States Court of Appeals, Third Circuit. May 09, 1985 761 F.2d 931 119 L.R.R.M. (BNA) 2413

After remand, 703 F.2d 738, the United States District Court for the District of New Jersey, Harold A. Ackerman, J., dismissed employee's action against employer and union as time-barred. The Court of Appeals, James Hunter, III, Circuit Judge, held that six-month limitation period of National Labor Relations Act applied to hybrid action to...

...the gravamen of the complaint will be the union's conduct after the arbitration process is complete, and the claim will not accrue until the futility of further union appeals becomes apparent or should have become apparent. *Scott v. Local*...

112. Montano v. Browning

Court of Appeals of Arizona, Division 2, Department A. June 20, 2002 202 Ariz. 544 48 P.3d 494

LITIGATION - Limitations. Statute of limitations was not tolled until minor driver reached age of majority.

...dismiss, and defendant sought special action relief from that ruling. After accepting special jurisdiction, the Court of Appeals Brammer, P.J., held that, in a matter of first impression...
...period was not tolled while driver was a minor, and claim accrued at the time of the accident. Reversed West Headnotes [1...

113. Maslan v. American Airlines, Inc.

United States District Court, S.D. New York. May 03, 1995 885 F.Supp. 90 1995 WL 259295

California resident, who was member of airline's private club, brought breach of contract suit against airline, whose principle place of business was in Texas. The District Court, Sweet, J., held that, under various tests used to apply New York's borrowing statute, claim was time barred. So ordered.

...Tefel, 626 F.Supp. 314, 316 (S.D.N.Y.1986) Only three years after Martin the Court of Appeals for this Circuit apparently approved the more traditional "place-of...

...interest analysis for use in determining whether or not a claim accrued outside of New York State. See Stafford v. Int'l Harvester...

114. Forbes v. Harrington

Supreme Judicial Court of Massachusetts, Worcester. June 07, 1898 171 Mass. 386 50 N.E. 641

Report from supreme judicial court, Worcester county; Oliver Wendell Holmes, Judge. Suit by one Forbes against Leonard Harrington and William T. Harrington. There was a decree for defendants, and plaintiff appealed, and the case was reported to the full court. Reversed.

...fully administered," for the retention of sufficient assets to satisfy claims which do not accrue within two years from the time of giving the administration...

...and an action may be brought within one year after the claim becomes payable, or within one year after the final determination of the proceedings on appeal, against the executor or administrator if they are ordered to...

115. Tyco Intern., Ltd. v. Kozkowski

United States District Court, S.D. New York. May 24, 2011 Not Reported in F.Supp.2d 2011 WL 2038763

Plaintiffs Tyco International, Ltd. and Tyco International, Inc. ("Tyco") sue on numerous claims against their former Chief Executive Officer and Chairman, Dennis Kozlowski, including fraud, breach of fiduciary duty, and breach of contract. On December 1, 2010, this court issued an opinion ruling on the parties' cross-motions for...

...Kozlowski argues that since the court dismissed all of his claims based on unpaid benefits accrued after September 1995, the disposition as to those claims is final...

...delay because judicial efficiency is best served by an immediate appeal. Tyco opposes both the request for leave to file an...

116. Moorhead v. Dodd

Supreme Court of Kentucky. September 18, 2008 265 S.W.3d 201 2008 WL 4286535

COMMERCIAL LAW - Judgment. Res judicata did not apply to an action for post-judgment and appellate attorney fees.

...in underlying breach of contract action in which she prevailed, claim did not accrue until after the judgment was entered in the underlying action and defendant brought post-judgment motions and filed appeal, in which plaintiff also prevailed. [6] 228 Judgment 228XIII Merger...

117. Board of Regents v. Oglesby

Court of Appeals of Georgia. November 21, 2003 264 Ga.App. 602 591 S.E.2d 417

EDUCATION - Torts. Daughter's claims against university for displaying mother's remains arose before sovereign immunity was waived.

...and for summary judgment, and university sought interlocutory appeal. Holdings: After granting interlocutory appeal, the Court of Appeals Barnes, J., held that: (1) claims of daughter accrued when mother died, for purposes of determining whether causes of...

118. Kearney v. Foley and Lardner

United States District Court, S.D. California. March 28, 2011 Not Reported in F.Supp.2d 2011 WL 1119020

Defendants Foley & Lardner, Gregory V. Moser, and Larry L. Marshall (collectively "Foley defendants") move to dismiss plaintiff's second amended complaint ("SAC"). The motion has been fully briefed and considered without oral argument. For the reasons set forth below, the Court enters the following decision. Plaintiff is the...

...that the limitation's period did not begin to run until after all the appeals of her eminent domain case were completed, i.e., "Plaintiff's claim did not accrue until she incurred appreciable and actual damages." (Opp at 11...

119. People v. Metropolitan Surety Co.

Supreme Court, Appellate Division, Third Department, New York. November 15, 1916 175 A.D. 43 161 N.Y.S. 616

Appeal from Special Term, Albany County. In the matter of the Metropolitan Surety Company. From an order of the Supreme Court, confirming the report of a referee, and allowing the United States Fidelity & Guaranty Company one-half of its claim of \$8,182.60, to be paid from any surplus remaining after all legal and proved claims which accrued against...

...of \$8,182.60, to be paid from any surplus remaining after all legal and proved claims which accrued against the Metropolitan Surety Company on or prior to January...

...have been fully paid, the United States Fidelity & Guaranty Company appeals. Modified and affirmed. In November, 1901, the appellant, the United...

120. Kennecott Copper Corp. v. Chavez

Court of Appeals of New Mexico. January 14, 1992 113 N.M. 504 828 P.2d 416

Employer appealed from order of Workers' Compensation Administration denying claim against Subsequent Injury Fund. The Court of Appeals, Apodaca, J., held that: (1) finding that worker had not suffered subsequent injury was not supported by evidence, and (2) employer's claim was not time barred. Reversed and remanded.

...because this section applies only to causes of action accruing after its effective date of March 8, 1988, see Consolidated Freightways...

...N.M. 201, 793 P.2d 1354 (Ct.App.1990), and employer's claim accrued before that date, the four-year limitations period provided for...

121. Kearney v. Foley and Lardner

United States District Court, S.D. California. March 28, 2011 Not Reported in F.Supp.2d 2011 WL 1119047

Defendant Michael T. McCarty moves to dismiss the two causes of action alleged against him in plaintiff's SAC. The motion has been fully briefed. The Court finds this matter suitable for determination on the papers submitted and without oral argument pursuant to Civil Local Rule 7.1(d)(1). Plaintiff is the former owner of a 52.06 acre parcel of...

...that the limitation's period did not begin to run until after all the appeals of her eminent domain case were completed, i.e., "Plaintiff's claim did not accrue until she incurred appreciable and actual damages." (Opp at 11...

122. Myrick v. Discover Bank

United States District Court, D. Delaware July 16, 2013 Not Reported in F.Supp.2d 2013 WL 3784158

The plaintiff Aneka Myrick ("Myrick"), who proceeds pro se, filed this lawsuit on June 11, 2012, alleging employment discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-5. (D.I. 2.) The court has jurisdiction pursuant to 28 U.S.C. §1331. Before the court is the...

...allows a court to stop the limitations period from running after a claim has accrued, both the Supreme Court and the United States Court of Appeals for the Third Circuit have recognized that the doctrine should...

123. Lindahl v. Supreme Court I.O.F.

Supreme Court of Minnesota. January 25, 1907 100 Minn. 87 110 N.W. 358

Appeal from District Court, Ramsey County; William Louis Kelly, Judge. Action by Ingeborg Lindahl against the Supreme Court Independent Order of Foresters. Verdict for plaintiff. From an order denying a new trial, defendant appeals. Affirmed.

...order, denying the right to resort to the courts until after remedies within the order are exhausted, impose unreasonable burdens and restrictions, they are ineffective, and, where they require an appeal to the highest tribunal of the order, which meets in...

...a foreign country three years from the time when the claim accrued, they are void. 190 217 Insurance 217XXXI Civil Practice and...

124. Balam-Chuc v. Banfi

Court of Appeals of Washington, Division 1. September 17, 2012 Not Reported in P.3d 170 Wash.App. 1036

This appeal arises from a legal malpractice action brought by Jose and Rebekah Balam-Chuc and their two children against Jose and Rebekah's former attorney, Gabriel Banfi. The action is based on Banfi's alleged failure to timely file Jose's immigration petition with the United States Immigration and Naturalization Service. The...

...depends on when they accrued. The Balam-Chucs argue their claims accrued when Jose was required to leave the country in November 2009, after his appeals failed. Banfi argues they accrued in July 2002 when Jose...

125. Certain Underwriters at Lloyd's, London v. Johnson & Bell, Ltd.

United States District Court, N.D. Illinois, Eastern Division. August 25, 2011 Not Reported in F.Supp.2d 2011 WL 3757179

Plaintiff Certain Underwriters at Lloyd's, London has sued defendant law firm Johnson & Bell, Ltd. and two Johnson & Bell attorneys, alleging state law claims for malpractice relating to two underlying insurance cases. Defendants have moved to dismiss plaintiff's complaint on the basis of Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). For...

...N.E.2d at 60 The court held that the plaintiff's claim accrued when she paid replacement counsel to bring the briefs into compliance with court rules rather than after the appellate court adjudicated her appeal. Id. at 595-96, 213 Ill.Dec. 426, 659 N.E.2d...

126. **Murphy v. Smith**

Supreme Judicial Court of Massachusetts, Bristol. October 07, 1991 411 Mass. 133 579 N.E.2d 165

Purchasers brought legal malpractice action against attorney, alleging he negligently certified good record title to real property. The Superior Court Department, Bristol County, Andrew G. Meyer, J., granted attorney's motion for summary judgment. The Superior Court Department, John M. Xifaras, J., entered separate final judgment...

...J., entered separate final judgment dismissing complaint, and purchasers appealed. After transferring appeal, the Supreme Judicial Court, Liacos, C.J., held that: (1) legal malpractice claim accrued when purchasers received letter from neighbors' attorney informing them that...

127. **Mitchell v. Shearson Lehman Bros., Inc.**

United States District Court, S.D. New York. May 27, 1997 Not Reported in F.Supp. 1997 WL 277381

Charla Mitchell sues Shearson Lehman Brothers, Inc. ("Shearson"), her former employer, Smith Barney Shearson, Inc. ("Smith Barney"), Shearson's successor, and First UNUM Life Insurance Co., Shearson's insurer, for improper denial of disability benefits. Plaintiff filed suit initially in New York State Supreme Court...

...of his internal remedies and the denial of his claim [after appeal] constitute a clear repudiation of his claim, commencing the statute...

...limitations." see also Daill, 100 F.3d at 66, 67 (claim accrued when fund denied plaintiff's appeal, not upon initial denial); Stevens v. Employer-Teamsters Joint Council...

128. **Hagerman v. United Transp. Union**

United States Court of Appeals, Tenth Circuit. March 04, 2002 281 F.3d 1189 2002 WL 335614

LABOR AND EMPLOYMENT - Transportation Workers. District court lacked jurisdiction over employees' claims that railroad breached agreement.

...merger, and District Court thus lacked jurisdiction over employees' contract claims; (2) latest possible accrual date for claim that first union breached duty of fair representation was when...

...representation by failing to continue to negotiate regarding seniority districts after arbitration and appeal to Surface Transportation Board Affirmed West Headnotes [1] 231H Labor...

129. **Christie v. Jeney**

Supreme Court of New Jersey. May 15, 2001 167 N.J. 509 772 A.2d 361

LEGAL SERVICES - Malpractice. Applicability of Affidavit of Merit statute is not determined by accrual of claim.

...AMS). The Superior Court, Law Division, Somerset County, granted motion. After granting client leave to appeal, the Supreme Court Zazzali, J., held that: (1) critical inquiry...
...took place before effective date of AMS, rather than whether claim "accrued" after that date, and (2) legally-significant facts in instant..

130. Padgett v. Nicholson

United States Court of Appeals for Veterans Claims. September 07, 2005 19 Vet.App. 334 2005 WL 2175933

VETERANS - Appeal. Death of veteran pending appeal warranted vacation of Board decision and dismissal of appeal

...accrued benefits where, as here, the veteran died on or after December 16, 2003), thus calling into question the concerns raised by the U.S. Court of Appeals for the Federal Circuit that a successful accrued-benefits beneficiary...
...substituted for the veteran rather than proceeding with a separate claim for accrued benefits. See Richard v. West, 161 F.3d 719, 722...

131. Wyatt v. Keating

United States Court of Appeals, Third Circuit. April 12, 2005 130 Fed.Appx. 511 2005 WL 834462

CIVIL RIGHTS - Malicious Use of Process. Court would not have to abstain from hearing Insurance agent's §1983 claims during pendency of state license proceedings.

...District Court's orders. First, he argues that his §1983 claims did not accrue until after the completion of his state appeals because he had a duty to exhaust his available state...

132. In re Fraternal Composite Service, Inc.

United States Bankruptcy Court, N.D. New York. October 16, 2003 315 B.R. 247 2003 WL 23833178

BANKRUPTCY - Case Administration. Chapter 11 petition filed on eve of entry of state court judgment was filed in bad faith.

...transferred assets or placed them beyond the reach of creditors after the judgment, (3)is the case a two party dispute...
...the debtor exhausted its state court remedies in attempting to appeal without paying a bond and has the debtor examined the...

133. Lansford v. Harris

Court of Appeals of Arizona, Division 1, Department A. October 20, 1992 174 Ariz. 413 850 P.2d 126

Former client brought malpractice claim against attorney, alleging inadequacy of representation in bankruptcy proceedings, which led to debt being declared nondischargeable. The Superior Court, Maricopa County, Cause No. CV-89-19836, John Foreman, J., entered summary judgment in favor of attorney, finding that client's legal...

...for malpractice in litigation until the litigation is complete, the claim cannot accrue until after the judgment becomes final, that is upon the final appellate decision or the expiration of any available appeals period. Accordingly, the court concluded that the statute of limitations...

134. Kalyanaram v. American Ass'n of University Professors at New York Institute of Technology, Inc.

United States Court of Appeals, Second Circuit. February 03, 2014 742 F.3d 42 2014 WL 349918

Background: Employee brought action alleging that his union breached its duty of fair representation (DFR). The United States District Court for the Southern District of New York, Batts, J., dismissed action as untimely. Employee appealed. Holdings: The Court of Appeals, Droney, Circuit Judge, held that: 4(1)employee's claim...

...UPGWA), although the Tenth Circuit held that a plaintiff's DFR claim accrued only after he was notified that the district court dismissed his union's...

...on the merits of his grievance" by pursuing a judicial appeal. 46 F.3d 1047, 1054 (10th Cir.1995) There is...

135. Saratoga Trap Rock Co. v. Standard Accident Ins. Co.

Supreme Court, Appellate Division, Third Department, New York. March 08, 1911 143 A.D. 852 128 N.Y.S. 822

Submission of controversy under Code Civ. Proc. §§ 1279-1281, by the Saratoga Trap Rock Company, as plaintiff, and the Standard Accident Insurance Company, as defendant. Judgment for defendant.

...for loss actually sustained and paid in money by it after actual trial of the issue, interest on a judgment for \$5,000 for an employe against assured accruing pending an appeal from the judgment taken by the insurer is not recoverable...

...the insurer, not being part of the costs, and assured's claim not accruing till after its payment of the judgment against it, which was not till after affirmance on the appeal of such judgment. 190 217 Insurance 217XVII Coverage—Liability Insurance...

136. Loomis v. Blades

United States District Court, D. Idaho. August 08, 2006 Not Reported in F.Supp.2d 2006 WL 2265260

Pending before the Court in this habeas corpus action is Respondent's Motion for Summary Dismissal (Docket No. 12), Petitioner's Request for Admissions (Docket No. 16), and Petitioner's Request for Hearing (Docket No. 20). All parties have consented to the jurisdiction of a United States Magistrate Judge (Docket No. 8). Having reviewed the record...

...parole denials, but challenges his sentence. As a result, this claim would have accrued forty-two days after his April 1982 conviction, because he did not file a direct appeal. See Wixom v. Washington, 264 F.3d 894 (9th Cir....

137. Padgett v. Shinseki

United States Court of Appeals, Federal Circuit. June 30, 2011 643 F.3d 950 2011 WL 2573359

VETERANS - Attorney Fees. Surviving spouse of veteran could obtain fees under EAJA for attorney hours expended on veteran's claim after veteran's death.

...can survive his death. Where, as here, a veteran dies after his case has been submitted to the Veterans Court, but before the court has entered judgment on his claim, a qualified accrued benefits claimant can substitute on appeal in order to obtain a judgment on the veteran's claim...

138. **Sheets v. Terhune**

United States District Court, E.D. California. April 28, 2004 355 F.Supp.2d 1138 2004 WL 1059815

CIVIL RIGHTS - Prisons. State prisoner failed to exhaust available administrative remedies prior to filing civil rights suit.

...this claim. Plaintiff has set forth no evidence demonstrating that after his access claim accrued (at such time as he suffered the "actual injury"), he submitted an appeal grieving the denial of access to the courts. [2] Further...

139. **Ludwig v. Liberty Mut. Fire Ins. Co.**

United States District Court, M.D. Florida, Fort Myers Division. June 03, 2013 Not Reported in F.Supp.2d 2013 WL 2406320

This matter comes before the Court on the Plaintiff, Christopher Ludwig's Motion to Remand and for an Award of Costs and Attorney's Fees (Doc. # 18) filed on April 11, 2013. The Defendant Liberty Mutual filed its Response in Opposition (Doc. # 25) on April 29, 2013. The Motion is fully briefed and now ripe for the Court's review. On June 14, 2008,...

...removal to federal court was timely because the bad faith claim did not accrue until after the Second District Court of Appeals had decided the appeal on the underlying UM claim. However, there is authority in...

140. **Ortega v. Arnold**

United States District Court, S.D. New York. March 21, 2016 Slip Copy 2016 WL 1117585

Plaintiff Moises Ortega, proceeding pro se, brings this action alleging that Defendants failed to provide him with (1) a sign language interpreter when he sought dental treatment at the New York University College of Dentistry (the "College"), and (2) adequate representation and translation services during a hearing before the New York...

...that the limitations period did not begin to run until after the dismissal of his Article 78 appeal and the Court finds no authority to support this view-Plaintiff's claims still would have accrued no later than July 14, 2008. Plaintiff, however, did not...

141. **Kershaw County v. Richland County**

Supreme Court of South Carolina. July 12, 1901 61 S.C. 75 39 S.E. 263

Appeal from common pleas circuit court of Richland county; Townsend, Judge. Claim by Kershaw county against Richland county for costs and expenses of murder trial. From decree of circuit court reversing order of board of commissioners of Richland county disallowing the claim, Richland county appeals. Reversed.

...whereas, it appearing that all of the items of said claim accrued after the order changing the venue from Richland county to Kershaw...

...said Richland county, and, so holding, should have dismissed the appeal. (3) Because his honor erred in ordering and decreeing that...

142. **Marsh v. St. Croix County Sup'rs**

Supreme Court of Wisconsin. August 01, 1877 42 Wis. 355 1877 WL 3632

Ching, Kenneth 2/9/17
For Educational Use Only

List of 194 results for adv: claim /s accrul /s #after +s appeal affirm

These are cross appeals from the same judgment. The action is to recover money paid on void tax certificates. The plaintiffs are dissatisfied with the judgment because the amount recovered was less than they claimed; the county is dissatisfied because there was any recovery. The objections to any recovery will first be considered. The first error...

...court. By leave of the circuit court, against plaintiffs' objection, after the cause had come on for trial, and a jury...
...the same. 2. That more than six years had elapsed after the cause of action mentioned in the complaint accrued, before said claim was presented to the board of supervisors of said county...

143. Hook v. Lippolt

Supreme Court of Iowa. August 29, 2008 755 N.W.2d 514 2008 WL 3982653

GOVERNMENT - Tort Claims. For limitations purposes, motorist was charged with knowledge of claim against state on date of collision with state volunteer.

...this chapter shall be forever barred, unless within two years after such claim accrued, the claim is made in writing to the state appeal board under this chapter. The time to begin a suit...

144. Valdez ex rel. Donely v. U.S.

United States Court of Appeals, Second Circuit. February 29, 2008 518 F.3d 173 2008 WL 553541

LITIGATION - Limitations. Fraudulent concealment is not essential to equitable tolling of statute of limitations.

...5) Because she filed the administrative claim within sixty days after the dismissal of the complaint and refiled an amended complaint...

...months of that denial, the first step in resolving this appeal is fixing the point in time at which the cause of action accrued.

[1] A claim under the Federal Tort Claims Act accrues on the date...

145. Behring Intern., Inc. v. Imperial Iranian Air Force

United States Court of Appeals, Third Circuit. February 09, 1983 699 F.2d 657 35 Fed.R.Serv.2d 1261

In litigation arising out of a freight-forwarding contract between American corporation and two instrumentalities of Iran, the corporation made a motion seeking to recover storage charges out of a Trust Account established by the parties' pre-existing Settlement Agreement which had been previously ratified by the district court. The United...

...American corporation to draw on trust account to satisfy its claim for storage charges accruing after January 19, 1981, the date Iranian hostage crisis was settled...

...the residue of the account returned to Iran, since the appeal of defendants was not timely filed. [8] 170B Federal Courts...

146. Taylor v. State Farm Mut. Auto. Ins. Co.

Court of Appeals of Arizona, Division 1, Department E. September 22, 1994 182 Ariz. 39 893 P.2d 39

Insurer brought bad faith claim against automobile liability insurer. The Superior Court, Maricopa County, Cause No. C-550146, Frederick J. Martone and Howard V. Peterson, JJ., entered judgment for insured. Appeal was taken. The Court of Appeals reversed and, on appeal, the Supreme Court, 175 Ariz. 148, 854 P.2d 1134,...

...if we were to adopt the approach that bad faith claims do not accrue until after the appeal of the underlying judgment is final, an insured in Taylor's...
...be forced to wait years (three years passed from the appeal of the Rings' judgment until it was affirmed) before beginning...

147. Whitley's Elec. Service, Inc. v. Sherrod

Supreme Court of North Carolina. November 11, 1977 293 N.C. 498 238 S.E.2d 607

Action was brought by electrical subcontractor against general construction contractor for "services rendered." The Superior Court, Wilson County, Bradford Tillery, J., entered judgment for plaintiff, and defendant appealed. The Court of Appeals, 32 N.C.App. 338, 232 S.E.2d 223, reversed, and appeal was taken. The Supreme Court, Exum, J., held...

...was tolled only as to those items which had accrued after 14 May 1968, that the trial court's judgment included recovery for claims which had accrued prior to that date, that plaintiff has not proved successive...
...on these earlier claims, and that therefore the Court of Appeals correctly reversed and remanded for new trial on these issues...

148. The Interstate No. 1

Circuit Court of Appeals, Second Circuit. April 16, 1923 290 F. 926 1923 A.M.C. 1118

Appeal from the District Court of the United States for the Southern District of New York. Suit in admiralty by James Shewan & Sons, Inc., and others, against the steam tug Interstate No. 1. From the decree, Burns Bros., colbelants, appeal. Affirmed.

...against the above vessel, which at the times when the claims accrued was a harbor tug, engaged in towing in the harbor...
...it is further ordered that the clerk of this court, after paying the fees of the officers of this court, pay...

149. Agolli v. Office of Inspector General, U.S. Department of Justice

United States District Court, District of Columbia. August 31, 2015 125 F.Supp.3d 274 2015 WL 5139379

GOVERNMENT - Records. FOIA claim accrued 20 business days after requester filed last administrative appeal.

...Colleen Kollar-Kotelly, J., held that: (1) requester's FOIA claim accrued, for purposes of six-year statute of limitations, 20 business days after she filed last administrative appeal, and (2) OIG's search for responsive records was adequate...

150. Bell v. Hummel

Court of Appeal, Second District, Division 3, California. October 26, 1982 135 Cal.App.3d 1009 186 Cal.Rptr. 688

Former client appealed from a judgment of the Superior Court, Los Angeles County, Alfred L. Margolis, J., dismissing his legal malpractice action following the sustaining of his former attorneys' demurrer without leave to amend. The Court of Appeal, O'Brien, J., assigned, held that: (1) former client had no right to voluntarily...

...1) former client had no right to voluntarily dismiss action after demurrer had already been sustained without leave to amend and order of dismissal filed and thus notice of appeal from order of dismissal was intact; (2) running of statute...
...damages arising from attorneys' alleged negligent failure to assert such claims had not fully accrued and statute of limitations was tolled. Affirmed. West Headnotes [1...

151. Wyatt v. Avoyelles Parish School Bd.

Court of Appeal of Louisiana, Third Circuit. October 31, 2001 799 So.2d 1197 2001 WL 1337556

EDUCATION - Labor and Employment. School district employees were entitled to payment of unused accrued leave on retirement.

...used at end of each year was invalid; (2) no claims for unused, accrued leave would have been viable prior to retirement, and thus claims that which were brought after retirement had not prescribed; (3) former employee, who had also...
...entitled award of additional attorney fees upon successful defense against appeal. Affirmed as amended. West Headnotes [1] 231H Labor and Employment...

152. Fraternal Composite Services, Inc. v. Karczewski

United States District Court, N.D. New York. September 21, 2004 315 B.R. 253 2004 WL 2106611

BANKRUPTCY - Case Administration. Chapter 11 petition filed by solvent debtor was not in good faith.

...transferred assets or placed them beyond the reach of creditors after the judgment; (3) whether the case was a two-party...
...the debtor exhausted its state-court remedies in attempting to appeal without paying a bond and whether the debtor had examined...

153. Pyles v. Young

Court of Appeals of Texas, Dallas. July 01, 2009 Not Reported in S.W.3d 2009 WL 1875581

Tony Pyles appeals the traditional summary judgment granted in favor of Loren and Louise Young on their affirmative defense of res judicata. In three issues, Pyles contends the district court erred in granting Youngs' motion for summary judgment because his fraud, unjust enrichment, and statutory damages claims were not compulsory counterclaims...

...not cite any applicable authority supporting his contention that a claim for unjust enrichment cannot accrue until after a suit determining the right to possession is affirmed on appeal. Accordingly, we conclude Pyles's argument presents nothing for this Court's...

154. Dorman v. Osmose, Inc.

Court of Appeals of Indiana. September 25, 2007 873 N.E.2d 1102 2007 WL 2769768

LITIGATION - Jury. Trial court's failure to replace juror, who was upset he would lose income while on jury, was not an abuse of discretion.

...statement in a previously filed brief that Trustee could bring claims accruing on or after September 20, 1987 was a judicial admission by the Trustee...

...a case upon which it was relying was pending on appeal was a judicial admission of that fact), vacated by 435...

155. Henderson v. Zrelia

United States District Court, W.D. Washington, at Tacoma. September 04, 2007 Not Reported in F.Supp.2d 2007 WL 2570447

Plaintiff claims that Defendants violated his civil rights by withholding certain pre-trial hearing transcripts in violation of a court order, and Defendants moved for summary judgment. Magistrate Judge Karen L. Strombom recommends that Defendants' motion should be granted because Plaintiff's claims are time barred. Plaintiff filed objections to...

...claims are still time-barred. Plaintiff argues, however, that his claims did not accrue until after he exhausted his appeals of the denial of his habeas corpus petition in this...

156. Caliaro v. State Farm Mut. Auto. Ins. Co.

United States District Court, M.D. Florida, Fort Myers Division. May 05, 2014 Not Reported in F.Supp.3d 2014 WL 1779265

This matter comes before the Court on the Plaintiff, Frances A Caliaro's Motion to Remand for an Award of Costs, Including Attorney's Fees (Doc.# 5) filed on May 10, 2014. The Defendant State Farm Automobile Insurance Company, filed its Response in Opposition (Doc.# 11) on April 24, 2014. The Motion is now fully briefed and ripe for the Court's...

...removal to federal court was timely because the bad faith claim did not accrue until after the Second District Court of Appeals had decided the appeal on the underlying UM claim. There is authority in both...

157. United Cities Gas Co. v. Brock Exploration Co.

United States District Court, D. Kansas. November 13, 1997 984 F.Supp. 1379 1997 WL 716142

Natural gas local distribution company (LDC) brought action in state court against gas producer, seeking damages arising from producer's unlawful sales of natural gas to industrial customers within company's certificated territory. Producer removed action to federal court. Parties cross-moved for partial summary judgment, and...

...The District Court Van Bebber, Chief Judge, held that: (1) after 1995 amendments eliminating its treble damages provision, Kansas Public Utilities...

...year limitations period on date that state court denied producer's appeal of Kansas Corporation Commission's (KCC) order in company's administrative complaint...

158. Padgett v. Nicholson

United States Court of Appeals, Federal Circuit. January 05, 2007 473 F.3d 1364 2007 WL 29954

VETERANS - Parties. Justice and fairness to parties weighed in favor of substituting widow nunc pro tunc for veteran when veteran died.

...substituting widow nunc pro tunc for veteran when veteran died after his case had been submitted for decision but before favorable ...

...continuing relevance and preclusive effect that issues decided in veteran's appeal had for widow's accrued-benefits claim. 38 U.S.C.A. §5121(a) [8] 34 Armed Services 34III...

159. McCammon v. Oldaker

Supreme Court of Appeals of West Virginia. June 01, 1999 205 W.Va. 24 516 S.E.2d 38

LITIGATION - Limitations. Claim for tort of outrage arising from underlying case accrued when trial court finalized its judgment.

...who represented patient in underlying medical malpractice action against physician, **claim accrued**, for statute of limitations purposes, no later than date upon which trial court denied patient's post-trial motions **after** judgment was entered on jury verdict for physician, rather than when such judgment was affirmed on **appeal**, in appealing underlying judgment, attorneys were simply exercising their client's...

160. Anderson v. Chesley

United States District Court, E.D. Kentucky, Northern Division., at Covington. November 16, 2010 Not Reported in F.Supp.2d 2010 WL 4736833

Pro se Plaintiffs Christine Anderson and Candace Wenger were members of a state court class action styled: John Doe, et al. v. Roman Catholic Diocese of Covington, et al., Commonwealth of Kentucky, Boone Circuit Court, No. 03-CI-181 (hereafter, "the Catholic Diocese litigation"). The action settled in January 2006 with the...

...May 28, 2009. 6 However, under Kentucky case law, their claims did not **accrue** until **after** the plaintiffs were unsuccessful in getting additional payments awarded by the Appeals Special Master and after the challenges to the rulings of...

161. Wilks v. Chater

United States District Court, N.D. Illinois, Eastern Division. March 31, 1997 Not Reported in F.Supp. 1997 WL 158328

Plaintiff Weader Wilks, who suffers from back and leg problems, depression, and substance abuse, applied for Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI") under Sections 1611 and 1614 of the Social Security Act ("Act"), 42 U.S.C. §1381a, 1382a. The Commissioner...

...work. (R. at 38-46.) The instant action involves Plaintiff's claim for only those benefits **accruing after** January 29, 1993; Plaintiff does not contest that the prior decision is res judicata for purposes of this **appeal**. (R. at 14.) FN2. All references are to the Certified...

162. Snyder v. Blue Cross and Blue Shield of Mich.

United States District Court, E.D. Michigan, Northern Division. July 18, 2007 Not Reported in F.Supp.2d 2007 WL 2050812

Now before the Court are cross-motions for judgment on the administrative record of a plan administrator's decision, under the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001, et seq., to deny Plaintiff Sandra Snyder's claim for benefits. Plaintiff has made no showing, based in the administrative record, that the plan...

...A, II.G. That provision bars filing suit until 30 days **after** the exhaustion of the **appeals** procedure; this fact militates in favor of concluding that the **accrual** date for Plaintiff's claim could fall no earlier than that time frame permits. If...

163. Hood v. Ford Motor Co.

United States District Court, E.D. Michigan, Southern Division. August 19, 2011 Not Reported in F.Supp.2d 2011 WL 3651322

Plaintiffs Finnie Hood, Corine Elam, and Burton Hood have filed this proposed class action ERISA case against

Defendants to recover allegedly unpaid benefits that Plaintiffs argue that they are entitled to under collective bargaining agreements entered into by the parties. Plaintiffs also request that the Court enjoin Trust from failing to pay...

...representative thereof for entitlement to benefits under the Plan, until after the claims and appeals procedures of the Plan have been exhausted and, unless a...
...provided under ERISA, no later than two years after such claim has accrued. No other actions may be brought against the Plan more...

164. Nemes v. Korngut

United States District Court, D. New Jersey. December 24, 2008 Not Reported in F.Supp.2d 2008 WL 5401609

Plaintiff, Jeffrey Nemes, a prisoner confined at the Mid-State Correctional Facility, Wrightstown, New Jersey, brings this civil rights action, pursuant to 42 U.S.C. § 1983. At this time, the Court must review the complaint pursuant to 28 U.S.C. § 1915A to determine whether it should be dismissed as frivolous or malicious, for failure to state a...

...action. Plaintiff must raise these claims through a habeas petition after exhaustion of state court remedies; any 1983 case regarding these claims has not yet accrued as Plaintiff's conviction has not been overturned on appeal or through the habeas procedure. Plaintiff's claims regarding retaliation are...

165. McGee v. Schoolcraft Community College

United States Court of Appeals, Sixth Circuit. January 18, 2006 167 Fed.Appx. 429 2006 WL 126735

EDUCATION - Torts. Community college was entitled to absolute immunity as to former student's state tort claims.

...request to the Board to hear her step seven appeal after she had been repeatedly notified that her time to file such an appeal had expired cannot extend the accrual of her claims. See Stewart v. United States Veterans Admin., 722 F.Supp. 406...

166. Com., State Public School Bldg. Authority v. Noble C. Quandel Co.

Commonwealth Court of Pennsylvania. January 14, 1991 137 Pa.Cmwlth. 252 585 A.2d 1136

State Public School Building Authority appealed order of Board of Claims, No. 1192-1987, in favor of prime construction contractor on claims to recover cost of providing temporary heat and redoing site preparation. The Commonwealth Court, No. 2404 C.D. 1989, Pellegrini, J., held that: (1) Authority was estopped from asserting...

...that Quandel's site preparation claim is not barred because the claim accrued during the 30-day period after the Executive Director rendered his adverse decision and Quandel thereafter filed its appeal within the statutory six-month period. Paragraph 75 provides, in...

167. Cranpark, Inc. v. Rogers Group, Inc.

United States Court of Appeals, Sixth Circuit. April 22, 2016 821 F.3d 723 2016 WL 1612825

LITIGATION - Parties. Asset sale could affect real-party-in-interest status, not Article III standing.

...of appropriate amount of pre- and postjudgment interest was appropriate, after the Court of Appeals reversed judgment as matter of law entered by district court...

List of 194 results for adv: claim /5 accrul /s #after +s appeal affirm

...based on losses that occurred over span of years, and claims for certain losses arguably accrued at different times. [33]
219 Interest 219III Time and Computation...

168. U.S. v. Bank of Celina

United States Court of Appeals, Sixth Circuit. February 25, 1986 823 F.2d 911 60 A.F.T.R.2d 87-5324

Bank appealed from judgment of the United States District Court, Middle District of Tennessee, L. Clure Morton, Chief Judge, in favor of United States in action originally brought to foreclose on tax liens and to enforce levy. The Court of Appeals, 721 F.2d 163, affirmed. Dispute subsequently arose as to amount of postjudgment interest owing on...

...and bank appealed from District Court's decision awarding such interest. After issuing unpublished opinion, 786 F.2d 1166, the Court of Appeals, Contie, Circuit Judge, held that: (1) postjudgment interest accrued on Government's tax claim at same rate applicable in all civil cases; (2) postjudgment...

169. Government Technical Services LLC v. U.S.

United States Court of Federal Claims. December 29, 2009 90 Fed.Cl. 522 2009 WL 5185383

GOVERNMENT CONTRACTS - Performance and Breach. Army Corps of Engineers' decision not to exercise contract's renewal option was not procurement action under Tucker Act.

...file a written claim with the CO within six years after the accrual of the claim and that claim were denied, this court would have jurisdiction to entertain a timely appeal of the denial. See id. §§605 609 see also...

170. Manterola v. Farmers Ins. Exchange

Court of Appeals of Arizona, Division 2, Department A. August 28, 2001 200 Ariz. 572 30 P.3d 639

INSURANCE - Limitations. Bad faith claim was time barred prior to declaratory judgment action on coverage.

...period on Manterola's bad faith claim. At the latest, that claim accrued in May 1996, thirty days after the entry of final judgment in her PI action against the Ellases, with no appeal therefrom having been filed. Because Manterola filed her bad faith...

171. McDade v. Sizazon

Supreme Court of New Jersey. December 22, 2011 208 N.J. 463 32 A.3d 1122

GOVERNMENT - Tort Claims. Discovery rule did not apply to plaintiff's failure to file timely notice of claim against public entity.

...they were advised of the identity of the pipe's owner. After granting leave to appeal, the Appellate Division reversed the denial of summary judgment, holding that the discovery rule did not toll the accrual of plaintiffs' claims in the absence of an order granting leave to file...

172. In re Residential Capital, LLC

United States District Court, S.D. New York. September 21, 2016 558 B.R. 77 2016 WL 5137840

BANKRUPTCY - Claims. Contract-based attorney fee claims grounded in prepetition agreements also arose

prepetition.

...against the Trust's claims. Finally, in a recent decision decided after the Bankruptcy Court issued its Order, the Court of Appeals for the Ninth Circuit acknowledged that broad application of the...

...is inconsistent with the Ninth Circuit's fair contemplation test for claim accrual and, in an effort to reconcile the two, explained that...

173. Cody v. Missouri Bd. of Probation and Parole

United States District Court, W.D. Missouri, Western Division. April 10, 1979 468 F.Supp. 431

<https://www.westlaw.com/Search/Results.html?query=fi%3A&transitionType=Search&contextData=%28sc.Default%29&VR=3.0&RS=cb1t1.0>

On order directing habeas corpus petitioner to show cause why the action should not be dismissed as an abuse of the writ, the District Court, Russell G. Clark, J., held, inter alia, that: (1) where the evidence showed that, with respect to the four claims raised in motion to amend habeas petition, the petitioner withheld them from consideration by...

...a different footing, however. As petitioner properly notes, the credit claim did not first accrue until approximately the same time as his first federal habeas corpus petition, long after he had pursued his direct state appeal. While the preferable procedure would have been dismissal of No...

174. Phillips v. Shinseki

United States Court of Appeals, Federal Circuit. September 25, 2009 581 F.3d 1358 2009 WL 3051793

VETERANS - Disability Benefits. Survivors were eligible to be substituted as accrued-benefits claimants and EAJA-claimants upon death of veteran-claimants.

...fathers was appropriate, on grounds that veteran-claimants had died after disability benefits claims were submitted to Court of Appeals for Veterans Claims and denial of substitution would adversely affect accrued-benefits claims, where court's decisions removed significant roadblock from daughters' paths to...

175. Luke v. IKON Office Solutions Inc.

United States District Court, D. Minnesota. August 01, 2002 Not Reported in F.Supp.2d 2002 WL 1835645

Plaintiff L. Dean Luke, for himself and on behalf of others similarly situated, brings this class action against defendants IKON Office Solutions Inc. ("IKON") and the IKON Office Solutions 1991 Deferred Compensation Plan (the "Plan") under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1132(a)(1)(B), to recover benefits...

...litigation. The Court thus concludes that the general rule for claim accrual applies and therefore Luke's filing of the complaint three months after the denial of his administrative appeal was timely. ORDER Based upon the foregoing, the submissions of...

176. Anderson v. U.S.

United States Court of Federal Claims. December 12, 2002 54 Fed.Cl. 620 2002 WL 31778676

MILITARY LAW - Personnel. Servicemember was entitled to back pay for period of erroneous forfeiture.

...747 (2002) (holding that because "ultimate liability to pay plaintiff after his contractual discharge date depends exclusively on the outcome of his appeals, and because those appeals are not concluded, defendant's motion to dismiss plaintiff's claim for active-duty pay accrued after [expiration of enlistment] is granted" see also Knight, 26...

177. **County of Los Angeles v. Superior Court (Crystal B., Steven G., Anita G.)**
Court of Appeal, Second District, Division 3, California. August 29, 2001 91 Cal.App.4th 1303 111 Cal.Rptr.2d 471

FAMILY LAW - Child Protection. Minors' claims against county for abuse in foster care did not accrue, for late-filing purposes, with appointment of independent counsel to represent them.

...from claim-filing requirements. County petitioned for writ of mandate. After granting alternative writ and issuing stay of proceedings, the Court of Appeal Croskey, J., held that minors' claims accrued, for purposes of application to file late claims, on date...

178. **Weston County Hosp. Joint Powers Bd. v. Westates Const. Co.**
Supreme Court of Wyoming. November 20, 1992 841 P.2d 841 1992 WL 337036

Company filed motion for order confirming arbitration award in its favor and against County Hospital Joint Powers Board. The District Court of Laramie County, Nicholas G. Kalokathis, J., after ruling that Board was not a "political subdivision" and that company's claim first accrued when American Arbitration Association entered...

...The District Court of Laramie County Nicholas G. Kalokathis, J., after ruling that Board was not a "political subdivision" and that company's claim first accrued when American Arbitration Association entered its award, denied Board's motion...
...Judgment for company in amount determined by Arbitration Board of Appeal. Appeal was taken. The Supreme Court, Thomas, J., held that...

179. **Minor v. State**
Supreme Court of Iowa. June 15, 2012 819 N.W.2d 383 2012 WL 2161486

CIVIL RIGHTS - Immunity. Social worker had qualified immunity on §1983 claim involving investigation leading to child in need of assistance proceeding.

...this chapter shall be forever barred, unless within two years after such claim accrued, the claim is made in writing to the state appeal board under this chapter." Id. §669.13 9 FN7...

180. **JJK Group, Inc. v. VW Intern., Inc.**
United States District Court, D. Maryland. March 27, 2015 Not Reported in F.Supp.3d 2015 WL 1459841

This matter is before the Court on a Motion for Partial Summary Judgment filed by prime contractor Plaintiff JJK Group, Inc. ("JJK"), and cross Motions for Summary Judgment filed by subcontractor Defendant VW International, Inc. ("VWI") and its surety, Defendant First National Insurance Company of America ("First...

...unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision (i) The...
...contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any...

■ 181. Back River LLC v. Jablon

Court of Special Appeals of Maryland. November 07, 2016 Not Reported in A.3d 2016 WL 6664893

Judicial tolling is a narrow and disfavored doctrine, rarely invoked and even more rarely affirmed. Overreliance on judicial tolling can "turn a legislative judgment as to a filing deadline into judicial balancing of competing equities, conferring on the judicial branch broad discretion to ameliorate the stern commands of the legislative...

...opinion, contradicted itself as to whether the limitations period began after the decision of the County Board of Appeal, or after this Court's decision in Back River I. The disputed sentence reads: "By this court's calculation, the Plaintiffs' claim accrued during Back River I, when the Baltimore County Board of Appeals first denied the variances and found the tower to be...

182. Back River, LLC v. Jablon

Court of Special Appeals of Maryland. December 02, 2016 Not Reported in A.3d 2016 WL 7077675

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183. Paalan v. U.S.

United States Court of Federal Claims. March 04, 2002 51 Fed.Cl. 738 2002 WL 384314

MILITARY LAW - Personnel. Former Navy member failed to state a claim for military pay based on transfer to Fleet Reserve.

...at 1093. Because the Navy's ultimate liability to pay plaintiff after his contractual discharge date depends exclusively on the outcome of his appeals, and because those appeals are not concluded, defendant's motion to dismiss plaintiff's claim for active-duty pay accrued after November 28, 1995, is granted. 4. Entitlement to compensation...

184. Environmental Safety Consultants, Inc. v. U.S.

United States Court of Federal Claims. February 11, 2011 97 Fed.Cl. 190 2011 WL 488685

GOVERNMENT CONTRACTS - Limitations. Contractor's claims stemming from Navy's termination for default on contract were time-barred.

...the federal government to a contracting officer "within 6 years after the accrual of the claim " compare 41 U.S.C. §605(c)(5) "Any failure by...
...denying the claim and will authorize the commencement of the appeal or suit on the claim with Pub.L. No. 111-350...

185. Spurlock v. Whitley

United States District Court, M.D. Tennessee, Nashville Division. July 17, 1997 971 F.Supp. 1166 1997 WL 431162

Plaintiffs, whose convictions on reprobsecution for murder were subsequently vacated, sued for wrongful

investigation, prosecution, conviction, incarceration and reprosecution based on alleged fabricated evidence and perjured testimony by city and county officers and attorneys, and brought claims under §§1981, 1983, and state law...

...of limitations, until their convictions were vacated and prosecutions terminated; claims did not accrue after convictions were overturned on appeal where state did not abandon its prosecution after appeal and one plaintiff was retried and other resolved charges by...

186. **Greco v. United Technologies Corp.**
Supreme Court of Connecticut. February 28, 2006 277 Conn. 337 890 A.2d 1269

ENVIRONMENTAL LAW - Hazardous Substances. Wrongful death statute barred claims arising from exposure to hazardous substances that occurred at employer's facilities.

...strike claims related to wrongful death, and plaintiffs appealed. Holdings: After transferring appeal, the Supreme Court Palmer, J., held that: (1) wrongful...

...in Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) governing accrual date of claims resulting from exposure to hazardous substances did not preempt Connecticut...

187. **Castellano v. Shinseki**
United States Court of Appeals for Veterans Claims. December 22, 2011 25 Vet.App. 146 2011 WL 6415348

VETERANS - Appeals. Board of Veterans' Appeals did not violate its duty on remand to readjudicate claim.

...2011. Decided Dec. 22, 2011. Background: Surviving spouse who filed accrued benefits claim after veteran's death appealed decision of the Board of Veterans' Appeals that denied entitlement to service connection for bipolar disorder, service...

188. **DeVito v. Pension Plan of Local 819 I.B.T. Pension Fund**
United States District Court, S.D. New York. January 07, 1997 975 F.Supp. 258 1997 WL 562005

Administrator of Employee Retirement Income Security Act (ERISA) pension plan beneficiary's estate sued plan and plan's Board of Trustees, for alleged violations of ERISA and the Taft Hartley Act. On cross-motions for summary judgment, the District Court, Lowe, J., held that: (1) limitations period on nonfiduciary ERISA claim began to run...

...supra. FN7. Plaintiff argues that the actual date of the accrual of this claim is July 1989—or sixty days after Defendants effectively denied Plaintiff's appeal by failing to render a decision on the appeal. See Pl.'s Reply Mem. at 17 (citing 29 C.F.R. §§...

189. **Shell Oil Company v. United States**
United States Court of Federal Claims. January 06, 2017 --- Fed.Cl. --- 2017 WL 75856

GOVERNMENT - United States. It was reasonably foreseeable that oil producers would invoke aviation fuel production contracts to cover the cost of acid waste cleanup under CERCLA.

...per centum per annum for the period beginning thirty days after the date fixed for termination and ending with the date...

...if the prime contractor unreasonably delays the settlement of his claim, interest shall not accrue for the period of such delay, (2) if interest for the period after termination on any advance payment or loan, made or guaranteed...

List of 194 results for adv: claim /5 accrual /s #after +s appeal affirm

190. Bailey Lumber Co. v. Mason

Supreme Court of Mississippi. May 20, 1981 401 So.2d 696

<https://www.westlaw.com/Search/Results.html?query=fi%3A&transitionType=Search&contextData=%28sc.Default%29&VR=3.0&RS=cb1.0>

Employer and its workers' compensation insurer appealed from decision of the Circuit Court, Harrison County, J. Ruble Griffin, J., reversing order of Workmen's Compensation Commission sustaining employer and insurer's motion to dismiss worker's petition to reopen compromise settlement. The Supreme Court, Bowling, J., held that Commission made...

...operation of Section 9(i) has been explained as follows: ' After a claim has accrued, a release of benefits is invalid except as approved by the Commission or by the court on appeal. Approval by the Commission is limited to certain types of...

191. Rowe v. Gary, Williams, Parenti, Watson & Gary, P.L.L.C.

United States District Court, N.D. Georgia, Atlanta Division. March 31, 2016 181 F.Supp.3d 1161 2016 WL 3390493

TORTS - RICO. Concert promoters failed to plausibly or particularly allege a pattern of racketeering activity predicated on a scheme to commit fraud.

...the Complaint in the light most favorable to Plaintiffs, the claims began to accrue on October 2, 2006, when the Supreme Court denied the plaintiff's petition for certiorari after the Second Circuit Court Appeals affirmed Judge Patterson's summary judgment order. Therefore, because the federal...

192. Moore v. Haviland

United States District Court, N.D. Ohio, Eastern Division. February 28, 2007 476 F.Supp.2d 768 2007 WL 632682

CRIMINAL JUSTICE - Habeas Corpus. Habeas petitioner did not validly waive his right to counsel at trial.

...General 197 603 Limitations, Laches or Delay 197 603 . 5 k. Accrual. (Formerly 197k603 Claims that prisoner sought to add to habeas petition by amendment began to accrue ninety days after state supreme court dismissed prisoner's delayed appeal of conviction, and thus were time-barred; since new claims...

193. Kwai Fun Wong v. Beebe

United States Court of Appeals, Ninth Circuit. October 09, 2013 732 F.3d 1030 2013 WL 5539621

GOVERNMENT - Tort Claims. FTCA statute of limitations was equitably tolled based on district court delay.

...be barred unless the petition is filed within six years after such claim first accrued," is jurisdictional); Bowles, 551 U.S. at 213, 127 S.Ct. 2360...

...U.S.C. §2107(a) and (c) , which provide that "no appeal shall bring any judgment, order or decree in an action...

194. Adams v. Robertson

Supreme Court of Alabama. December 22, 1995 676 So.2d 1265 1995 WL 756680

Insureds brought class action against health insurer to recover for fraud causing them to switch cancer

Ching, Kenneth 2/9/17
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insurance policies. The Circuit Court, Barbour County, No. CV-92-021, William H. Robertson, J., approved settlement. Objecting class members appealed. The Supreme Court, Kennedy, J., held that: (1)...

...from the date of this Order; or (iii) one year after entry of judgment or final order by the Alabama Supreme...

...Court, without regard to whether any petition for certiorari or appeal to the United States Supreme Court is filed with respect...