



And The Defense Wins

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DRI member [Jonathan B. Bruno](#), a partner at **Kaufman Borgeest & Ryan LLP** in New York City, recently obtained a dismissal of a legal malpractice action brought against a law firm and one of its named partners. The law firm's former client sued for legal malpractice, among other claims. The plaintiffs retained the law firm to incorporate their graphic arts business and to defend them in an action brought by their former employee for unpaid commissions. After a judgment was entered against the plaintiffs, their former employee commenced an enforcement action (in which the plaintiffs appeared *pro se*) against them. The former employee was ultimately successful in piercing the corporate veil, thereby holding the plaintiffs personally responsible for the judgment. The plaintiffs then filed a legal malpractice action against their lawyers, alleging that they were held personally liable because of their lawyers' negligence.

On the law firm's motion to dismiss, the Supreme Court of New York, New York County, held that the legal malpractice claim was barred by the three year statute of limitations, despite the plaintiffs' claim that the "continuous representation" doctrine tolled the statute. The court held that the documentary evidence proved that the law firm did not represent the plaintiffs in the enforcement action and that the plaintiffs' general allegations that the firm continued to represent them in "other" matters were insufficient. As for the plaintiffs' remaining claims, the court dismissed many of them as duplicative of the plaintiffs' legal malpractice claim.

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