

If the cause of action accrual date is not in the complaint, you cannot obtain a dismissal on statute of limitations

The decision does not describe the facts of the malpractice case. The amended complaint was dismissed with prejudice on statute of limitations grounds. This decision was reversed because the accrual date of the legal malpractice case was outside the four corners of the complaint.

The date of accrual was not included in the complaint, its attachments or incorporated by reference. Here, the accrual date was included in a document attached to the motion to dismiss. Relying upon data outside the four corners of the complaint to establish the statute of limitations was improper resulting in reversal.

TAKEAWAY - A knowledgeable Plaintiff's lawyer will make sure that a statute of limitations defense cannot be established within the four corners of the complaint. Without language in the complaint or its attachments which will prove that the statute of limitations has expired, summary judgment is the best option to prevail on a statute of limitations defense.

