



**DEFENDANTS DID NOT DEMONSTRATE WHEN THE CAUSE OF ACTION FOR LEAD-PAIN
T EXPOSURE ACCRUED, THEREFORE THE SUMMARY JUDGMENT MOTION
SHOULD NOT HAVE BEEN GRANTED ON THE GROUND THAT THE STATUTE OF
LIMITATIONS HAD EXPIRED (FOURTH DEPT).**

The Fourth Department, reversing (modifying) Supreme Court, determined that defendant's failed to demonstrate when the lead-paint-exposure cause of action accrued. Therefore the motion for summary judgment on the ground that the statute of limitations had passed should not have been granted:

In moving to dismiss the complaint on statute of limitations grounds, each defendant had "the initial burden of establishing prima facie that the time in which to sue ha[d] expired . . . and thus was required to establish, inter alia, when the plaintiff[s'] cause of action accrued" ... Here, neither defendant established the relevant accrual date of plaintiffs' claims for injury caused by the latent effects of lead paint exposure and, in the absence of such evidence, neither defendant made a prima facie showing that the applicable limitations period had expired on those claims Supreme Court thus erred in granting defendants' respective motions to that extent. We note that, at oral argument in these appeals, plaintiffs conceded that their claims for patent injuries arising from such exposure were properly dismissed as time-barred. [Chaplin v Tompkins, 2019 NY Slip Op 04562, Fourth Dept 6-7-19](#)