



Second Circuit Decision Focuses on a Potential Pitfall in Appellate Practice and an Attorney's Reliance on Legal Advice From a Judge's Law Clerk, ABA LPL eAdvisory

*By Brett A. Scher
(November 2007)*

In American Safety Indemnity Company v. Official Committee of Unsecured Creditors of Vanderveer Estates Holdings LLC, 2007 U.S. App. LEXIS 21248 (2d Cir. Sept. 6, 2007), the U.S. Court of Appeals dismissed an appeal as being untimely filed. This recent decision imparted two important lessons for active litigators. The first issue in the decision involved a little known nuance in federal appellate practice when does the time to appeal begin to run when there is a judgment which is followed by a corrected judgment in the District Court. The second issue focused on one of the travails of the everyday litigator reliance on a representation by a judge's law clerk. Both of the harsh lessons taught by this decision are instrumental for the attorney seeking to avoid a malpractice claim.