

New York's Highest Court Holds That Three-Year Statute of Limitations Applies to Martin Act Claims

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On June 12, 2018, the New York Court of Appeals overruled longstanding Appellate Division precedent and held that fraud claims brought by the New York Attorney General ("NYAG") under the Martin Act (General Business Law article 23-A, § 352, *et seq.*) are governed by a three-year statute of limitations, and not the six-year statute applicable to actions "based upon fraud," because the Martin Act expands liability for "fraudulent practices" beyond that recognized under the common law. The court remitted to the trial court whether the three- or six-year limitations period would apply to related claims brought by the NYAG under Executive Law § 63(12). While the NYAG has sought to minimize the significance of the Court's decision, the shortened limitations period may have a substantial impact on its ability to conduct investigations and bring Martin Act claims.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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