

Courts Divide on Use of Prior Unadjudicated Complaints,” New York Law Journal

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In this article, Jenner & Block Partner Michael W. Ross and Associate Justin O. Spiegel examine the Second Circuit split about whether a complaint may rely on facts derived from a previous complaint that was never adjudicated on the merits. The authors explain that the split can be traced to *Lipsky v. Commonwealth United*, which affirmed a district court decision to strike allegations based on an earlier unadjudicated complaint that had been filed against the same defendant. The authors describe the differing approaches to reliance on prior unadjudicated complaints within the Second Circuit. “Until those differences are resolved by the Second Circuit, litigants will need to take care when considering or confronting allegations based on prior complaints,” they observe.

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