



# Riker Danzig Secures Favorable Supreme Court Ruling in Case of First Impression

Riker Danzig obtained an important ruling for client Sun Chemical Corporation in a case of first impression before the New Jersey Supreme Court on a certified question from the Third Circuit Court of Appeals.

Our client Sun Chemical filed a federal court lawsuit to recover under the Consumer Fraud Act the losses it suffered from an explosion at its East Rutherford, New Jersey facility in 2012 that tragically injured several of its employees. The explosion occurred on the first day that Sun Chemical put into operation a new explosion suppression and isolation system it purchased from defendant Fike Corp. Sun contends that it purchased the system based on certain representations made by Fike that turned out to be untrue and which caused its losses.

Our appellate team, led by Riker Danzig co-managing partner Lance J. Kalik, was retained to file an appeal to the Third Circuit from the District Court's ruling that Sun Chemical's Consumer Fraud Act claim was subsumed by the Products Liability Act. Lance argued that Sun Chemical's damages were predominantly for economic loss that were not cognizable under the Products Liability Act, and further that Sun Chemical's claims for express misrepresentations could be brought under the Consumer Fraud Act irrespective of the Products Liability Act. The Third Circuit certified this novel legal question to the New Jersey Supreme Court. Lance argued before the Supreme Court on March 17, 2020, in one of the last live arguments before the Court went to remote arguments due to the Covid-19 pandemic.

On July 29, 2020, the New Jersey Supreme Court decided in a 5-0 opinion that Sun Chemical's Consumer Fraud Act claims are not subsumed by the Products Liability Act. The Court held that the Consumer Fraud Act is designed to address misrepresentations and unconscionable commercial practices, and that a plaintiff that alleges such conduct may pursue its remedies under the Act even if the misrepresentations involve a product and even if its losses, in whole or in part, also might be brought under the Products Liability Act.

Following announcement of the Supreme Court's decision, Lance Kalik said, "The Supreme Court correctly recognized what Sun Chemical has argued throughout this case, that the Consumer Fraud Act provides a remedy

for Sun Chemical's claims against Fike Corp., and that the Products Liability Act does not preclude those claims." Lance noted that "Sun Chemical's employees have reached a settlement with the defendant Fike Corp. in a separate litigation to address their injuries, and Sun Chemical eagerly looks forward to its day in court."

Playing a key role on the appellate team is Riker Danzig Associate Jeffrey A. Beer, Jr. Retired Justice Stewart Pollock, retired Judges Victor Ashrafi and James Rothschild, and associate Alfonse Muglia also provided guidance and assistance to the team. Articles covering the New Jersey Supreme Court's decision are at [New Jersey Law Journal](#) and [Law 360](#).

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