



## Riker Wins Appeal to Overturn Tortious Interference Verdict

Riker Danzig's insurance practice attorneys recently won a major victory in the New Jersey Appellate Division, where they successfully overturned a nearly \$1.3 million jury verdict entered against St. Joseph's Regional Medical Center, and our clients, its CEO and its chairman of the OB-GYN department. The case, *Vosough, et al. v. Kierce, et al.*, involved claims by a group of doctors who alleged a breach of contract by the hospital and tortious interference with contract and with prospective economic advantage by the two individual defendants. The Appellate Division's reversal of the judgment below illustrates critical arguments to make when defending claims alleging breach of contract by an insured and tortious interference by individuals in its employ.

Following a 16-week trial and entry of the nearly \$1.3 million adverse damages award, St. Joseph's turned to Riker Danzig to overturn the jury's verdict with respect to the claims against its employees. In a decision approved for publication, the Appellate Division not only reversed the judgment below, but entered judgment for our clients and dismissed all claims. The Court's decision highlights a number of important points of law. Among other things, the Court held that plaintiffs could not simultaneously allege tortious interference against St. Joseph's employees based on the same conduct by them that constituted St. Joseph's alleged breach of contract, inasmuch as the former requires a finding that the employees acted outside the scope of their employment, while the latter requires a finding that the employees acted within the scope of their employment. The Court, therefore, dismissed the tortious interference claims against the CEO and OB/GYN department chairman, finding insufficient evidence for a jury to conclude that the St. Joseph's employees acted outside the scope of their employment. The Court also dismissed the breach of contract claims against St. Joseph's, finding that the plaintiffs could not establish damages beyond the 60 day notice of termination provision contained in the plaintiffs' contracts.

The Vosough decision provides a roadmap to the successful defense of complaints against insureds alleging simultaneous yet legally incompatible claims for tortious interference and breach of contract. Lance Kalik of Riker Danzig's Insurance Practice group argued the appeal, and led the team that helped convince the Appellate Division that the claims against St. Joseph's and its employees should never have reached the jury in the first place. A copy

of the decision may be obtained by clicking [here](#).

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