



Client Avoids \$6 Million Exposure Through Riker's Thorough Investigation

Riker Danzig Scherer Hyland & Perretti LLP achieved a prompt and successful result for a major financial institution client in a matter involving the New Jersey Department of Environmental Protection (NJDEP), allowing the client to avoid a \$6M lawsuit.

The bank had been the target for several years of NJDEP's efforts to recover remedial costs and natural resource damages at a site that had been owned by a subsidiary of the bank for a brief time in the 1970s.

Riker Danzig partner Dennis J. Krumholz, whom the bank called upon when the suit was imminent, convinced NJDEP to eliminate the bank as a defendant from the lawsuit before it was filed by citing the "secured creditor exemption" to liability under the New Jersey Spill Compensation and Control Act. Under New Jersey law, this exemption enables lenders to avoid liability for contaminated property it owns or owned where it acquired and maintained ownership solely to protect its security interest. Although the bank lacked any information as to the circumstances surrounding its subsidiary's ownership of the property, Riker's investigation uncovered the original mortgage, the foreclosure action in which the subsidiary acquired the property, and the deed selling the property two years later. It also revealed the name change of the mortgagee, which revealed how our client's subsidiary became involved with the site. Careful evaluation of this information led Riker to conclude that the secured creditor exemption would protect the bank from liability.

Based on Riker Danzig's presentation to NJDEP, the Agency eliminated the bank as a defendant in the cost recovery lawsuit.