



Partner Daniel S. Eichhorn Successfully Obtained, in a Multidefendant Matter, the Denial of the Appeal of Plaintiffs Who Were Seeking to Overturn the Trial Court's Dismissal of Plaintiffs' Claims for Over Two Million Dollars in Attorneys' Fees Pursuant to an Indemnification Provision in a Stock Purchase Agreement

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Daniel S. Eichhorn, a partner in the firm's Commercial Litigation Department, in a multidefendant matter, initially obtained at the trial court level, along with the other defendants, summary judgment dismissing the entirety of Plaintiffs' suit seeking over two million dollars in attorneys' fees. The Plaintiffs appealed the summary judgment ruling, and the Appellate Division, after reviewing all the legal briefs and hearing oral argument, denied the Plaintiffs' appeal and ruled in favor of all the Defendants.

The Plaintiffs' claim stemmed from a stock purchase agreement, wherein Plaintiffs purchased the shares of the Defendants in a substantial specialized medical equipment business that sold equipment internationally. The stock purchase agreement contained an indemnification provision that provided that the Defendants had to indemnify the Plaintiffs if Defendants violated certain representations contained in the agreement, including a representation that no improper payments were made to secure business. Years after the sale was completed claims were brought against the Plaintiffs in arbitration by a customer claiming that such improper payments were made to secure their business. The Plaintiffs opposed the customer's claims that improper payments were made. The arbitrator concluded that the customer's claims were without merit and that no improper payments were made.

Following the arbitration, the Plaintiffs commenced suit against Defendants, claiming contrary to their positions taken in the arbitration, that improper payments were made, and therefore the Defendants were obligated to indemnify the Plaintiffs for attorneys' fees Plaintiffs incurred in the arbitration. The Plaintiffs claimed that under the stock purchase agreement, they were owed over two million dollars in attorneys fees. All the Defendants in the action filed motions in the trial court for summary judgment to dismiss Plaintiffs' claims and the motions

were granted in full. The Plaintiffs then filed an appeal of the dismissal of its case by the trial court. The Appellate Division in affirming the trial court's decision, and in denying Plaintiffs' appeal concluded that: (1) the obligation of the Defendants to indemnify Plaintiffs under the stock purchase agreement was only triggered if the Defendants were found to have made improper payments and because the arbitrator found that no improper payments were made, the Defendants were not obligated to indemnify Plaintiffs, and (2) under the doctrine of judicial estoppel Plaintiffs were barred as a matter of law from first arguing in the arbitration that no improper payments were made and then completely taking a contrary position later on in the trial court that improper payments were in fact made. This was a significant success for the Defendants in defeating the Plaintiffs who had been aggressively litigating the matter for nearly four years.

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Practices

- Commercial Litigation

Attorneys

- Daniel S. Eichhorn