



# Partners Daniel S. Eichhorn, Paul N. Ambrose, and Of Counsel Steven Siegel Successfully Defeated an Appeal in a Commercial Real Estate Dispute

January 4, 2023

Counsel for Cullen and Dykman obtained a favorable decision from the Appellate Division of the Superior Court of the State of New Jersey that secured a number of favorable decisions entered by the trial court related to a highly contested commercial real estate dispute. Cullen and Dykman LLP had filed suit on behalf of its client a purchaser of a gasoline station to enforce a contract of sale which was improperly terminated by the seller. After the seller terminated the contract, the seller then entered into a second sales contract for the same gasoline station with a second purchaser. Following very contested litigation the seller agreed to a settlement providing for the sale of the property to Cullen and Dykman's client. After the settlement was entered, the second purchaser commenced its own lawsuit against the seller and filed a lis pendens on the property. Thereafter, Cullen and Dykman filed a motion to vacate the lis pendens and enforce the settlement. The second purchaser responded by filing its own motion to void the settlement, intervene in the lawsuit and to consolidate both the lawsuits. The trial court found in favor of Cullen and Dykman's client and denied all the relief sought by the second purchaser. The second purchaser thereafter filed a motion for reconsideration and a subsequent motion to stay enforcement of the settlement, both of which Cullen and Dykman successfully defeated. The second purchaser then filed an appeal of the trial court's decisions.

The Appellate Division upheld all the rulings of the trial court and denied the second purchaser's appeal in full. The Appellate Division agreed with Cullen and Dykman LLP's arguments that the second purchaser's motion to intervene and consolidate the cases were untimely, that the second purchaser had no legal basis for vacating the settlement and that the second purchaser's lis pendens was legally invalid as they did not demonstrate a meritorious claim for specific performance which is necessary to support the maintaining of the lis pendens.

## About Cullen and Dykman's Commercial Litigation Department

Cullen and Dykman is a leading commercial litigation firm serving clients throughout the Northeast and Mid-Atlantic regions and nationwide. Few firms of our size offer the same breadth and depth of experience in commercial litigation, and we have distinguished our practice by emphasizing client-first representation focused on achieving efficient, practical and cost-effective resolutions to complex commercial disputes.

## About Cullen and Dykman

Cullen and Dykman ([www.cullenllp.com](http://www.cullenllp.com)) has been providing legal services to institutional clients since 1850. The firm represents a wide range of clients, including banks and other financial institutions, energy, telecommunications and water companies, construction companies, insurers, educational institutions, religious organizations, and not-for-profits. With over 190 attorneys in seven offices located throughout the Northeast and Mid Atlantic regions, Cullen and Dykman is strategically positioned to meet the changing needs and demands of our clients.

## Practices

- Commercial Litigation

## Attorneys

- Daniel S. Eichhorn
- Paul N. Ambrose Jr.
- Steven Siegel