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Novack and Macey Wins Dismissal of Claims of Breach of Fiduciary, Contractual and Other Duties— With Prejudice

MAY 17TH, 2010

Novack and Macey attorneys Mitchell Marinello and Christopher Dean recently won a hard-fought motion to dismiss on behalf of their clients, a limited liability company (the LLC) and its two members. The plaintiff was a judgment creditor of one of the members (for reasons unrelated to the business of the LLC), and had used that judgment to obtain the member's distributional interest in the LLC. The plaintiff then tried to use its status as the holder of a distributional interest to enforce its judgment against the LLC and the other member of the LLC, neither of whom had any obligation to pay the judgment.

The complaint raised several novel claims under the Illinois Limited Liability Company Act and Illinois common law. Following extensive briefing and a lengthy oral argument, the court agreed that the plaintiff's claims had no legal basis and dismissed them with prejudice.