

Press Release

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PORZIO LITIGATION TEAM HELPS ERASE \$9 MILLION DOLLAR DAMAGES VERDICT

MORRISTOWN, N.J., March 9, 2016 – On January 19, 2015, in *Henebema v. South Jersey Transportation Authority, et al.*, Docket No. ATL-L-964-07, Eli S. Scheiman of Porzio, Bromberg & Newman, P.C. ("Porzio") along with attorneys from Gass Weber Mullins LLC in Milwaukee, Wisconsin, and Blank Rome LLP in Philadelphia, Pennsylvania, successfully obtained summary judgment dismissing a lawsuit against two public entity defendants, South Jersey Transportation Authority and New Jersey State Police, along with a \$9 million damages verdict.

The plaintiff in the case, Janet Henebema, had sustained serious injuries, including the loss of a leg, in a multi-vehicle accident on the Atlantic City Expressway during an unexpected winter storm in 2005. She claimed she was injured because the Transportation Authority and State Police did not respond to the accident scene in a timely manner.

The case had initially gone to trial in 2010 with a different defense team. After a lengthy trial, the plaintiff obtained a \$9 million judgment verdict against the Transportation Authority and State Police. The liability verdict was subsequently reversed on appeal by the Appellate Division and the New Jersey Supreme Court, because the trial judge did not allow the jury to determine whether the public entities' conduct was "ministerial," thus subject to an ordinary negligence standard of liability, or "discretionary," hence subject to a "palpably unreasonable" or higher-than-negligence standard of liability under the New Jersey Tort Claims Act. The case was remanded for a new trial on liability so that the jury could make this threshold determination, and then decide whether, under either the ministerial or discretionary standard of liability, the public entities should be held liable.

The jury's \$9 million damages verdict, however, was affirmed. Thus, on re-trial, if the public entities were held liable under either standard of liability, plaintiff would receive \$9 million.

The re-trial was scheduled for September 2015. At that point, Porzio was retained to assist in the Transportation Authority and State Police's defense at trial. In May 2015, the defense team moved for summary judgment, arguing that the Transportation Authority and State Police were immune from plaintiff's claims under the 9-1-1 dispatch statute, *N.J.S.A. 52:17C-10*, and police protection immunity of the New Jersey Tort Claims Act, *N.J.S.A. 59:5-4* – irrespective of whether their conduct was discretionary or ministerial – thus obviating the need for the re-trial. Porzio and co-counsel also argued that these sovereign immunities could not be waived, and therefore could be raised on remand.

After oral argument on January 6, 2016, the trial court granted the defense motion in its entirety, dismissing the plaintiff's claims against the Transportation Authority and State Police with prejudice, along with the \$9 million damages verdict.

The Porzio team was led by attorney Eli S. Scheiman, counsel, with assistance from Justice James H. Coleman, Jr. and Judge Maurice J. Gallipoli, both Of Counsel.

About Porzio, Bromberg & Newman, P.C.

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