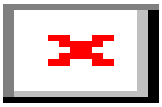
NJ Supreme Court Releases Opinion in Favor of Porzio's Argument on Behalf of the NJ State Bar Association

June 23, 2016

On June 23, 2016, the New Jersey Supreme Court released its opinion in *Mortgage Grader, Inc. v. Ward & Olivo*, siding with the arguments advanced by Porzio counsel, Peter J. Gallagher, on behalf of the New Jersey State Bar Association (NJSBA), who appeared as *amicus curiae*.

The question on appeal was whether a partner in a law firm practicing as an LLP loses the liability protections normally afforded to partners in LLPs if the LLP fails to maintain professional liability insurance as required under Rule 1:21-1C(a)(3). During his oral argument, Mr. Gallagher asserted that, "there's no scenario under the Uniform Partnership Act, or even the spirit of it, that would allow for what the trial court did here." For video of the oral arguments, click here. (Mr. Gallagher's argument begins at minute 53.)

In its decision, the Court agreed, holding that the insurance requirement for LLPs under the Court Rules does not extend to a firm's windup period, and that there is no requirement that an LLP purchase tail insurance once it ceases to do business. The Court also agreed that the trial court did not have the authority to convert an LLP to a general partnership.

Justice Albin dissented, suggesting that the Court Rules be amended to put attorneys on notice that an LLP will lose its liability protection if its does not meet the insurance requirements, and requiring LLPs to purchase tail insurance for six years following their dissolution.

To read the full Court opinion, please click here.