

Professional Liability Group Defeats Claim of "Special Relationship" Between Insurance Broker and Insured

In *C.S. Osborne & Co. v. The Charter Oak Fire Insurance Co.*, the insured filed professional negligence claims against its insurance broker after Superstorm Sandy damaged the insured's commercial facilities in New Jersey and the \$1,000,000 of flood coverage was insufficient to cover the loss. The insured claimed the broker had a duty to provide additional quotes for higher flood insurance limits and that the broker breached that duty when it failed to do so throughout the course of the parties' twelve-year relationship. C.S. Osborne also argued that since there was a "special relationship" between the broker and its client, the broker assumed additional responsibilities.

The Superior Court of New Jersey, Appellate Division, disagreed. Citing prior decisional law, the court reasoned that, absent a special relationship, a carrier or its agents has no common law duty to advise an insured concerning the possible need for higher policy limits upon renewal of a policy. The court determined that a special relationship did not exist between C.S. Osborne and its broker because the broker never made communications to the insured that would have reasonably caused the insured to rely on its quotes as recommendations for the proper amount of insurance coverage. As the court observed, "an insurance broker is not an insurance consultant." Moreover, the court noted that the broker had notified the insured on multiple occasions of its ability to offer higher limits of coverage. The Appellate Division also held that whether a special relationship exists is a determination to be made by the trial judge.

Christopher Leise, Marc Penchansky and Alicia Van Sciver represented the defendant broker.