

Insurance Agent Skorr's Victory in New Jersey's Appellate Division

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The New Jersey Appellate Division recently issued an opinion addressing the applicability of the special relationship owed to insureds when there is no evidence of detrimental reliance on the insurance broker.

In *Skorr Products, LLC v. Bollinger, Inc. et al.*, 2024 WL 1879158, the Superior Court of New Jersey declined to find the existence of a special relationship between plaintiffs Skorr Products, LLC ("Skorr"), its principal Robert Skvorecz, its insurance broker, Bollinger, Inc., and insurance company Arthur J. Gallagher & Co. in litigation arising from a February 5, 2014 fire loss.

The plaintiffs had alleged that the defendants breached their duty to meet with plaintiffs and review their insurance, breached duties imposed on them by the parties' special relationship, and breached their duty to advise and obtain increased coverage for them.

The plaintiffs initially worked with George Rork, who operated the insurance agency until it was acquired by Bollinger and Melissa Chung in 2007. Bollinger sent annual renewal questionnaires, which included specific questions about whether the client needed to make changes to its business personal property limits and whether the client had purchased any new equipment in the last year. The questionnaire further stated in boldface

and underline, "**By not returning this questionnaire or calling us to provide changes or updates, you acknowledge no changes or adjustments are needed to your existing insurance program and do not desire Bollinger to pursue additional or optional coverage quotes on your behalf.**" The plaintiffs did not return a completed questionnaire from 2005 through 2013.

Mr. Skvorecz admitted that he did not contact Bollinger from 2008 to 2013, and stated that he valued the custom-made machinery and equipment at his restaurant supply store himself. Following a November 2013 conversation between Skvorecz and Chung regarding insuring a new machine, Skvorecz stated that the equipment at his facility might be underinsured and requested an inspection by the insurer. Chung facilitated the request; however, when she emailed Skvorecz asking for a contact person, she received no reply. An inspection did occur in January 2014 and Chung notified Skvorecz that the insurer was able to value his custom made machinery, and Skvorecz could maintain the current coverage limits or increase the \$163,000 equipment value. Again, Skvorecz did not reply. A fire occurred a week later, resulting in the instant litigation.

The trial court granted summary judgment on behalf of Bollinger on the breach of fiduciary duty claim, alleging no special relationship

existed. The court determined that, absent a special relationship, an insurance broker did not have a duty to recommend increased insurance limits. Here, there was no such special relationship. Even assuming, arguendo, that a special relationship was established between Rork and Skvorecz (despite the court finding a lack of detrimental reliance), the special relationship ended in 2007. From 2008, when Chung took over the handling of this account, through 2014, Bollinger and Skvorecz established a course of dealing in accord with a typical broker-client relationship.

Further, there was no evidence of detrimental reliance as to equipment valuation where Skvorecz valued his own equipment and could have requested an increase to the limits on the questionnaire.

On appeal, the Superior Court of New Jersey affirmed the trial court's findings, concluding that no special relationship or detrimental reliance existed. The defendants did not have a duty to recommend higher coverages or to value Skvorecz's equipment, particularly where Skvorecz failed to fill out Bollinger's annual questionnaires or ask Chung questions about his insurance.

The Appellate Division's affirmance in *Skorr* further highlights the applicability (or inapplicability) of the special relationship in

insurance broker/insured dealings. In New Jersey, the existence of a special relationship gives rise to a heightened duty owed to insurance customers, which makes defending errors and omissions claims more difficult. Courts review factors such as the length of the relationship, prior conduct and any specific requests or representations. Thus, similar to the defenses raised in *Skorr*, it is important to establish a course of dealing that engenders client satisfaction and repeat business without inviting detrimental reliance.



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