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FOR IMMEDIATE RELEASE:

ROSENBERG & ESTIS, P.C. SUCCESSFULLY OBTAINS DISMISSAL OF COMPLAINT SEEKING \$500,000 IN DAMAGES FOR ALLEGED FRAUD / TORTIOUS INTERFERENCE AND BREACH OF CONTRACT IN PARTNERSHIP DISPUTE

Rosenberg & Estis, P.C., a premier New York City real estate law firm with an award-winning Litigation Department, obtained a complete dismissal of a complaint in a partnership dispute alleging breach of contract, misappropriation, fraud, tortious interference and conversion on statutes of limitations grounds. The plaintiff alleged that his ownership interest in the partnership had been wrongfully reduced from 30% to 20%, without his knowledge or consent and in violation of the terms of the operating agreement.

Brett B. Theis and Evan D. Rosenberg of Rosenberg & Estis, P.C. represented the partnership and the individually named defendants.

The decision, issued on September 17, 2018 by Honorable Lawrence Knipel of the New York State Supreme Court, adopted the arguments advanced by R&E and dismissed the plaintiff's complaint in its entirety on the grounds that each of the plaintiff's claims were time-barred by the applicable statutes of limitations. The Court also dismissed the plaintiff's derivative claim, agreeing with R&E's argument that the plaintiff failed to either make a pre-suit demand upon the partnership to commence litigation or to demonstrate that it would have been futile to do so.

The plaintiff claimed that he was unaware of the decrease of his ownership interest until he reviewed certain closing documents in connection with a refinancing of the partnership's real property in 2014 and subsequently filed suit in 2015. Through discovery and deposition testimony, R&E demonstrated the alleged breach and wrongful conduct occurred, if at all, more than 10 years ago and moved to dismiss each cause of action based on the applicable statute of limitations.

The plaintiff opposed defendants' motion and cross-moved for summary judgment, alleging that the partnership's distributions to plaintiff based upon his reduced ownership interest constituted a continuous wrong, giving rise to new causes of action. The Court adopted all of R&E's arguments and dismissed the entire complaint, holding that the plaintiff's subsequent receipt of reduced distributions was not a continuing wrong "but rather a continuing effect of the earlier allegedly wrongful act of divesting plaintiff of 10% of his ownership," which occurred, if at all, beyond the applicable statute of limitation periods. The Court also agreed with R&E that the plaintiff failed to properly plead the elements of a derivative claim.

“We were pleased to see that the Court, in this complex partnership dispute, agreed with all of our legal and factual arguments and dismissed over \$500,000 in specious,” Theis said. “It was truly an excellent result for our clients.”

About Rosenberg & Estis, P.C.

Founded in 1975, Rosenberg & Estis, P.C. is widely recognized as one of New York City’s pre-eminent real estate law firms. Rosenberg & Estis, P.C. provides full service representation and advice in every aspect of real estate, from performing due diligence and evaluating financing, to handling joint ventures, acquisitions and leasing, construction and design team agreements, land use and zoning matters, co-op and condo offering plan filings, as well as the litigations and negotiations which sometimes ensue when deal making. Rosenberg & Estis’ wealth of experience in New York real estate makes it the ideal thought partner for owners, developers, not-for-profit corporations, educational institutions, sponsors, equity investors and lenders in both real estate transactions and in all court venues.

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