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**Saiber Attorneys Sean Kelly, Rina Grassotti and Gregory Tabakman
Win Federal Appellate Decision in Favor of Rutgers**

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Saiber attorneys Sean Kelly, Rina Grassotti and Greg Tabakman argued and won an affirmance of a summary judgment in favor of Rutgers, The State University of New Jersey, dismissing claims by a graduate nursing student who was expelled because of inadequate academic performance. The plaintiff, who had been a student at the former University of Medicine and Dentistry of New Jersey prior to the merger of the nursing school into Rutgers, raised claims based on breach of contract, arguing that the grade standards that applied to him were those that had been in effect when he first matriculated, and that the university was barred from making those grade standards more rigorous while the student was in the program. The student also asserted that the university violated his state and federal constitutional due process rights, and discriminated against him on the basis of his military status.

Regarding the student's contract claims, the Third Circuit Court of Appeals affirmed the holding of the District of New Jersey that the former student failed to "present sufficient factual evidence that a reasonable factfinder could rely on to conclude that UMDNJ violated its rules and regulations in some substantial way."

The Court similarly affirmed the dismissal of the student's claims of violations of his procedural and substantive due process rights, adopting the District Court's finding that the "dismissal was based on academic grounds and not due to other non-academic disciplinary grounds," and that the student "received all the process to which he was entitled."

Finally, the Court affirmed the dismissal of the military status discrimination claim, observing that "there are not sufficient facts in the record to conclude that any discrimination or retaliation occurred based on [the student's] military status."

For over 30 years, **Sean Kelly** has focused his practice on counseling employers and defending employment cases, higher education and school law. He is a member of the National Association of College and University Attorneys and the Higher Education

Committee of the NJ State Bar Association. Mr. Kelly is certified by the Supreme Court of New Jersey as a Civil Trial Attorney, has been repeatedly included in New Jersey Monthly Magazine's list of New Jersey "Super Lawyers," holds the highest rating awarded by the Martindale-Hubbell Lawyers Directory, has been named a Master of two American Inns of Court, and is included on the New Jersey Superior Court roster of court-approved mediators.

Rina Grassotti specializes in higher education and school law, employment and labor law, business litigation, insurance coverage litigation, and reinsurance litigation. Ms. Grassotti has been named to the list of New Jersey Super Lawyers - Rising Stars 2011-2013 and she is the co-chair of the Higher Education Committee of the NJ State Bar Association. Ms. Grassotti is a member of the National Association of College and University Attorneys.

Gregory S. Tabakman concentrates his practice on employment and labor law and business litigation. He is a member of the New Jersey State Bar Association, the Association of the Bar of the City of New York and the Essex County Bar Association. Before entering private practice, Mr. Tabakman clerked for the Honorable Justice Virginia A. Long of the New Jersey Supreme Court.

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