

## **Saiber Secures Appellate Reversal of \$1.4 million Judgment in Dental Malpractice Case**

October 19, 2021

Saiber attorneys Jennine DiSomma and Sean R. Kelly successfully secured an appellate reversal of a \$1.4 million dental malpractice judgment against our client.

At issue was whether our client negligently performed a tooth extraction that resulted in permanent nerve injury, or whether the injury was caused by a preexisting infection. During trial, the attorneys who were then representing the defendant offered testimony of the plaintiff patient's treating physician and an expert, both of whom would have testified that the preexisting infection caused the patient's injuries. The trial judge barred some of the expert's testimony and all of the treating physician's testimony, ruling that trial counsel for the defense had given insufficient notice to plaintiff's counsel of the witnesses' proposed testimony. The jury returned a verdict for plaintiff.

The defendant retained Saiber for the appeal. On appeal, Saiber successfully convinced the appellate panel that the exclusion of the treating physician and expert testimony was in error. The Appellate Division reversed the liability finding against our clients and remanded the matter for a new trial.