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Traub Lieberman Partner Stephen Straus Obtains Pre-Answer Dismissal of Complaint in Legal Malpractice Case

Related Attorneys: Stephen D. Straus

Plaintiff filed suit against Traub Lieberman's law firm client (Defendant) for allegedly disclosing confidential personal information about Plaintiff during discovery exchanges in an underlying lawsuit. The Defendant had represented Plaintiff's adversary in that action, and the disclosure allegedly occurred in court filings during the suit. When the filings came to light, the records were sealed. Plaintiff sought no sanction or other relief against its adversary or Defendant in the underlying suit.

Plaintiff instead filed a separate action against Defendant, seeking damages related to the allegedly negligent disclosure of Plaintiff's personal information. Stephen Straus and the Traub Lieberman team moved pre-answer to dismiss the complaint on two grounds. Firstly, Traub Lieberman argued that Plaintiff did not have standing to sue, because Defendant did not represent Plaintiff in the underlying action, and it was not alleged that Defendant committed fraud. Secondly, Traub Lieberman argued that Plaintiff was relegated to seeking redress in the underlying action rather than by way of a planetary action concerning the discovery dispute.

The court agreed and dismissed the complaint, holding that Plaintiff had no right of action against Defendant as the law firm did not represent Plaintiff, and no exception to the privity requirement existed under the alleged facts. The court further held that Plaintiff conceded it was pursuing an impermissible plenary action by not disputing Traub Lieberman's argument that Plaintiff did not seek redress in the underlying action.