

Risk Sharing - If misery loves company, Roseland's **Connell Foley** has a reason to love a piece of a ruling that reinstates an \$8 million malpractice claim against the firm and remands for trial. The reason is that if there's liability, Connell Foley can seek damages from a co-counsel in Chicago.

The Appellate Division ruled Wednesday that Connell Foley's client, Israel Travel Advisory Service Inc., could pursue a claim that the firm botched its handling of a case in 1993, resulting in a verdict in favor of a business rival.

A trial judge tossed the malpractice case, *Connell Foley v. Israel Travel Advisory Service Inc.*, on grounds the plaintiff didn't sue soon enough to satisfy mandatory joinder rules that were in effect in the early 1990s. But the appeals court said the trial judge misapplied the case that canceled those rules, *Olds v. Donnelly*. So Connell Foley is back in the defendant mode.

But the panel said the firm can seek contribution for any damages from co-counsel in the underlying case, **Seyfarth, Shaw, Fairweather & Geraldson**. The Chicago firm argued to no avail that Connell Foley couldn't pursue it because the plaintiff didn't.

Connell Foley's counsel, **James Orr** of Newark's **Wilson, Elser, Moskowitz, Edelman & Dicker**, says the firm did nothing wrong and expects to prevail.

The lawyer who likes all of the opinion is ITAS' malpractice counsel, **Glenn Bergenfield** of Princeton. The appeals court threw out a trial ruling that ITAS owed Connell Foley a \$339,000 fee.