

# COMMERCIAL LANDLORD LITIGATION

## PROTECTING INVESTMENTS

Ballard Spahr has been helping commercial landlords resolve disputes efficiently and effectively for decades. Our litigators work coast-to-coast and with commercial landlords of every size—from individual owners, managers, and developers to those with significant property portfolios, as well as government and university owners, publicly traded REITs, and special servicers or lenders. Our work ranges from leasing disputes and workout litigation to construction issues, bankruptcy, the defense of public access claims, eviction and judgment collections, and accessibility matters. We also represent commercial landlords in all aspects of condemnation. Significantly, our lawyers have worked in legal and administrative positions in government agencies with large real estate portfolios and the power of eminent domain, advising on planning, acquisitions, relocation benefits, and condemnation.

The team brings depth, range, and an extensive working knowledge of the challenges specific to commercial landlords—making us a fully-integrated, one-stop source for their legal needs. We understand the business of commercial landlords. We appreciate the business pressures facing commercial landlords, the impact of often frivolous litigation, and are experienced in counseling landlords through decisions to be made during litigation. We also appreciate that litigation is often an unavoidable cost for landlords, rather than a source of profit, and endeavor to change that. We vigorously defend matters that so require and efficiently settle those claims that cannot be efficiently or effectively litigated. We do not abandon our clients after winning a judgment—we partner with them to collect those judgments and create a profit center.

## REPRESENTATIVE CLIENTS AND CASES

**Commercial Lease Disputes.** We advise landlords on disputes involving CAM, taxes, breach of lease, exclusive use, co-tenancy provisions, demolition and improvement, expansion and renewal issues, sale-leaseback disputes, and termination matters

- Represented a shopping center owned by a publicly traded REIT against a claim by a tenant that the center fraudulently induced execution of the lease by underestimating common area maintenance charges and taxes. After trial, obtained a judgment against the tenant for rent owed.
- Secured a favorable judgment at trial for a publicly traded REIT, finding that the landlord did not abuse its discretion in terminating a common area short-term license on seven days' written notice.
- Following an eviction, obtained dismissal of a former tenant's complaint alleging the landlord breached the lease after exposing the former tenant's use of forged wholesale merchandise invoices to support compensatory damages claims.

**Construction Litigation.** We represent landlords in matters involving warranty and construction defect claims, mechanics liens, delay and disruption disputes, bid protests, change order issues, and *lis pendens* actions.

- Represented the developer of an urban high-rise condo complex in litigation with the general contractor over construction defects, delays, and design-build deficiencies.

- Represented a developer in the arbitration of delay and acceleration claims and scope disputes during the conversion of a 70-acre farm to a shopping center. The suit was settled during arbitration on terms favorable to our client.
- Represented a national developer of entertainment properties in construction claims against its general contractor for a large theater and restaurant project, including the defense of multiple mechanics lien claims and the prosecution of a bond claim.
- Represented a developer against a vendor in breach of contract actions and an improperly filed *lis pendens*, resulting in removal of the lien and allowing the developer to close on disposition of property.

**Bankruptcy.** We are one of the only firms in the country with a leading national practice representing landlords in Chapter 11 cases. We have represented landlords in many of the nation's largest and most complex restructuring and bankruptcy matters, including those involving multiple clients and locations and varied leasing structures. We are actively involved from the first day of a retail bankruptcy case. We protect the rights of landlords when the debtor is seeking post-petition financing and minimize the disruptions associated with inventory liquidation. We also secure adequate assurance of future performance when, as part of its reorganization, the debtor seeks to sell or assign a real property lease to a third-party. We represented landlords in bankruptcies such as Sears, Forever 21, JC Penney, Neiman Marcus, Brooks Brothers, Pier 1, and California Pizza Kitchen, to name only a few.

**Eviction and Judgment Collection.** We are experienced in state and local laws governing evictions. We are ready to assist you in all states where we have an office or licensed attorneys. We offer a range of alternative fee arrangements and blended rate structures to efficiently handle eviction matters with competitive rates. We are experienced in judgment collection. We can partner with you to become a profit center, utilizing tools such as garnishments, levies, nation-wide asset searches and asset recovery.

**Accessibility.** We advise landlords in responding to claims made under Title III of the ADA and other laws and regulations governing digital and physical access and accommodation. Our work includes responding to inquiries by federal, state, and local administrative agencies and we have a track record of success defending clients in accessibility-related litigation.

**Condemnee Representation.** We represent landlords in pre-taking planning, acquisitions in lieu of condemnation, regulatory and *de facto* takings, and trial, settlement, and appeals of just compensation and relocation benefits claims.

- Represented a national retail outlet in connection with the condemnation of property for the expansion of a state road in West Valley City, Utah.
- Guided a shopping center owner through a condemnation dispute with the Township of Medford, New Jersey.
- Represented an owner of a shopping center in Maryland in connection with a condemnation action involving a partial taking—including the creation of new easement areas—and negotiated a favorable settlement taking into account requirements of all tenant leases.
- Represented a property owner in the taking of a shopping center by the Township of Evesham, New Jersey.

## CONTACTS

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