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Novack and Macey Scores Victory for Developer River Road

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Novack and Macey LLP attorneys Donald Tarkington, Andrew Campbell and Givonna Long secured a critical victory on behalf of their client River Road Restaurant Pads, LLC, in an action brought by Rare Hospitality Management, Inc., the owner of The Capital Grille restaurant chain, to enjoin River Road from opening a Wildfire Restaurant in its InterContinental Hotel development in Rosemont, Illinois.

River Road is the owner of a portion of a development in Rosemont, Illinois, which includes a new \$180 million InterContinental Hotel and sites for three restaurants. Rare entered into a lease with River Road for one of the adjacent parcels and agreed to open a Capital Grille restaurant on that parcel. Rare alleged that the operation of a Wildfire restaurant in the Hotel would violate an exclusivity provision in the parties' lease. Rare asked the court to stop River Road from opening the planned Wildfire, saying its operation would amount to a breach of contract.

After a four day hearing, Cook County Circuit Court Judge Rita Novak denied Rare's motion for preliminary injunction. Judge Novak ruled that Rare failed to prove that it had a clearly ascertainable right in need of protection or that it had a likelihood of success on the merits. Judge Novak also ruled that the balance of hardships weighed in favor of River Road.

"The order was significant because it allows the restaurant to open," says Donald Tarkington, a partner with Novack and Macey LLP, as quoted in an article from [Chicagobusiness.com](#). "It was a decision that's likely to be upheld on a permanent basis."

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