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Appellate Victory For Novack and Macey LLP's Real Estate Developer Client in Billboard Lease Dispute

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Stephen J. Siegel

Partner [Steve Siegel](#) followed a trial court victory in a lease dispute with a win on appeal in the Illinois Appellate Court, Second District. [Opinion](#).

Our client, a real estate developer, purchased property in the Chicago suburbs that it is developing into a shopping center. The property was subject to a long-term billboard lease. The lessee was a prominent outdoor advertising company that maintained a billboard on the property.

After the local municipality zoned the property for the shopping center and authorized construction on the center to start, our client terminated the lease and demanded that the billboard be removed. The billboard company sued the client in federal court, seeking to maintain its billboard. We obtained a dismissal of the federal lawsuit on jurisdictional grounds and, simultaneously, filed a complaint in Illinois state court against the billboard company in April 2011.

The billboard company raised a host of legal objections and aggressively contested the lawsuit. One month into our suit, we moved for summary judgment, asking the court to rule that the lease termination was proper as a matter of law. On October 7, 2011, the court entered judgment in favor of our client and against the billboard company, holding that the client had a right to terminate the lease on its terms and ordering that the billboard be removed.

The billboard company appealed the judgment. The Illinois Appellate Court recently affirmed the trial court's judgment, adopting our argument that the client had a right to terminate the lease because the billboard is illegal.

The Court agreed that the billboard was illegal because it failed to comply with applicable State of Illinois permitting requirements and local zoning ordinances, and further agreed that the billboard's illegality gave the client the right to terminate the lease.

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