

Firm preserves client's right of early termination of commercial lease

Owners and managers of commercial property typically seek initial lease terms with new tenants of at least five years, and sometimes for much longer. In many instances a five-year lease term is entirely acceptable, but what if you only need temporary space?

Property owners are often reluctant to negotiate early termination provisions in commercial leases. When they do, landlords typically will want to limit the tenant's termination rights, and will try to strictly enforce any notice requirement before honoring the tenant's right of early termination.

One of the firm's clients had just such an early termination right – one that permitted a one-time early termination of a five-year lease, but only upon nine month's written notice. However, the parties could not agree on when the lease-term actually began. Therefore, they could not agree on when the termination right arose or precisely when the notice of early termination was due.

In the resulting litigation, the landlord claimed that the tenant's notice was late by a few hours, and as a result, the tenant remained liable under the lease for future rent obligations approaching \$1 million, all for space the tenant already had vacated.

That is when Plunkett Cooney's commercial litigation group stepped in. Our litigators employed a creative strategy to demonstrate the tenant's early termination notice, which on its face appeared to be late, nonetheless was timely when all of the relevant lease-terms were construed together. Plunkett Cooney used this strategy to successfully try the case during a two-day bench trial, which resulted in a minimum of business disruption and expense.