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FOR IMMEDIATE RELEASE:

ROSENBERG & ESTIS SECURES APPELLATE DIVISION RULING REVERSING SUPREME COURT AND REINSTATING COMPLAINT AND MOTION FOR YELLOWSTONE INJUNCTION

*Firm's Efforts Reinstate Motion for Injunction and Supreme Court Complaint
After Civil Court Awarded Final Judgment of Possession Against Client*

Rosenberg & Estis, P.C., New York City's largest real estate law firm, has secured an Appellate Division ruling that reverses the New York State Supreme Court and reinstates a client's motion for a *Yellowstone* injunction.

Michael A. Pensabene, Member, Alex Lycoyannis, Member, and Ethan R. Cohen, Associate, of Rosenberg & Estis, P.C., represented Tap Tap, LLC, the commercial net-lessee and plaintiff in the proceeding against 558 Seventh Ave. Corp., before the Appellate Division, First Department.

Due to Rosenberg & Estis P.C.'s efforts, the Appellate Division reinstated Tap Tap, LLC's Complaint and motion for a *Yellowstone* injunction. Importantly, this occurred after a notice of termination expired in April 2015, after the landlord commenced a summary proceeding in civil court in May 2015, and after civil court granted summary judgment awarding a final judgment of possession against Tap Tap, LLC in January 2016.

Rosenberg & Estis, P.C. substituted into the litigation as counsel after the final judgment was entered, and was successful on appeal.

The case dates back to an April 2015 notice to cure and subsequent notice of termination served upon plaintiff Tap Tap, LLC, arising from an alleged breach of lease for its commercial property. In May 2015, defendants commenced a summary holdover proceeding in Civil Court, seeking plaintiff's eviction. Thereafter, plaintiff commenced an action in Supreme Court seeking declaratory and injunctive relief, and in June 2015, plaintiff moved in Supreme Court for a *Yellowstone* injunction to stay the notice to cure, notice of termination and holdover proceeding.

Supreme Court initially granted an interim stay, but then vacated the stay and denied plaintiff's objections to the validity of the notice to cure and the notice of cancellation. Then, Supreme Court resolved plaintiff's motion for a *Yellowstone* injunction by dismissing the entire action without prejudice to specified further presentation by plaintiff. Supreme Court then modified its dismissal to be with prejudice to certain issues. Defendants then moved in Civil Court for summary judgment, which was granted to Defendants along with a judgment of possession for the property.

After the judgment of possession was entered, Rosenberg & Estis substituted into the litigation, moved to re-argue the Civil Court decision, moved to clarify the prior Supreme Court orders and then appealed all of the Supreme Court orders.

On the consolidated appeals, the Appellate Division ruled that the Supreme Court's August 2015 order dismissing the action was erroneous, and stated that the "court improperly resolved plaintiff's order to show cause seeking *Yellowstone* relief without applying the proper standard for such relief, and improperly dismissed the entire action, sua sponte, when there was no basis for the court to do so."

The Appellate Division reopened the matter and reinstated the complaint and plaintiff's *Yellowstone* motion, remanding it to the Supreme Court "to consider whether, under the circumstances, plaintiff's *Yellowstone* injunction was timely filed ... and otherwise warranted on the merits."

About Rosenberg & Estis, P.C.

Founded in 1975, Rosenberg & Estis, P.C. is widely recognized as one of New York City's pre-eminent real estate law firms. Rosenberg & Estis, P.C. represents clients in all aspects of real estate development, transactions, financing, litigation, rent regulation and governmental affairs.

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