

Saiber's Trial Victory in Excess of \$2 Million Unanimously Affirmed on Appeal

January 30, 2024

Saiber lawyers Marc Wolin and Michael Shortt successfully represented commercial landlord 225 Long Avenue, LLC ("225 Long"), an affiliated company and their owner (collectively "Our Clients") in connection with a trial and subsequent appeal related to a contract dispute between 225 Long and Iron Mountain Information Management, LLC ("Iron Mountain"), a publicly traded document storage company.

Per an asset purchase agreement, Iron Mountain purchased most customer accounts of 225 Long's affiliate. The customers' boxes were primarily stored at 225 Long's warehouse in Hillside, New Jersey. Iron Mountain leased the warehouse from 225 Long for two years so it could identify and move all of the acquired boxes to its own storage facilities. When the lease concluded, Iron Mountain also had to leave the leased premises in broom clean condition. At the end of the lease, Iron Mountain claimed it had removed all the acquired boxes, and that none of the remaining 59,000 boxes belonged to its customers. Shortly thereafter, 225 Long immediately identified Iron Mountain boxes dispersed throughout the warehouse complex, and repeatedly demanded that Iron Mountain return to remove the rest of its inventory, but Iron Mountain refused.

Saiber filed a lawsuit in the Superior Court of New Jersey, Law Division: Union County on behalf of 225 Long and sought damages alleging, among other things, that Iron Mountain breached the commercial lease because it was a holdover tenant and because it failed to broom clean the premises. 225 Long also sought damages associated with an audit it conducted of the remaining warehouse inventory to identify and return to Iron Mountain its customers' boxes that it left behind. Iron Mountain filed a counterclaim against 225 Long and third-party claims against Our Clients.

225 Long arranged for the audit because it faced potential liability if it destroyed boxes that belonged to Iron Mountain's customers. 225 Long found nearly 1,300 boxes that belonged to Iron Mountain's customers, which included boxes belonging to publicly traded companies, banks, hospitals, pension funds, law firms and the like. Iron Mountain returned to 225 Long's warehouse to pick up its customers' boxes that were located during the audit. Iron Mountain continued to invoice its customers and collected revenue for the boxes it left at 225 Long's warehouse.

A 4-day bench trial, via Zoom, took place in June and July of 2021 before the Honorable Daniel R. Lindeman, J.S.C. Following the trial, the Court entered a verdict in favor of 225 Long and dismissed all of Iron Mountain's counterclaims and third-party claims and entered a \$2,037,000.00 judgment in favor of 225 Long.

Iron Mountain appealed the decision, arguing, among other things, that the boxes left behind were “inconsequential” and damages awarded related to the audit performed were unnecessary. On January 12, 2024, a three-judge panel of the New Jersey Appellate Division issued a unanimous decision affirming the trial court’s judgment in favor of 225 Long in all respects.