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Pryor Cashman Obtains Order Evicting Bianca Jagger From Park Avenue Apartment

Pryor Cashman client Katz Park Ave. Corp. won a major victory on October 18, 2007 when the N.Y. State Appellate Division, First Department, ruled that Bianca Jagger has no right under the rent guidelines to renew her lease at 530 Park Ave. Partner Todd E. Soloway, Chair of Pryor Cashman's Real Estate Litigation Group, represented Katz and was assisted by associate Joshua D. Bernstein.

The Court, in overturning the trial court, found that as a matter of law, Katz (the landlord) was entitled not to renew Jagger's lease because she is here on a temporary tourist (B-2) visa, which means that in obtaining the visa, she represented that she is a permanent resident elsewhere and here only temporarily for business or pleasure. The rent regulations provide that only tenants in their primary residences are guaranteed renewal of leases. Tenants in pied-a-terre situations have no such guarantee.

Typically, eviction cases of this kind go to trial because they are fact-sensitive. Here, however, the Court granted summary judgment to Katz, finding that, as a matter of law, Bianca's two positions were mutually exclusive. Simply stated, if you qualify for a B-2 visa you are not a permanent resident, and if you are not a permanent resident, then you do not qualify for the guaranteed renewal of your lease.

As stated by Soloway: "While we appreciate the fact that 530 Park Avenue is a highly desirable address, that doesn't change the fact that Ms. Jagger, who is in this country under a temporary tourist visa and who offered the court no evidence whatsoever that she resided in the apartment as her primary residence, is barred under the rent regulations from using a Park Avenue apartment as a pied-a-terre."