

MISSOURI COURT OF APPEALS UPHOLDS SUMMARY JUDGMENT OBTAINED BY HERZOG CREBS FOR CHESTERFIELD CENTER CORPORATION

On April 24, 2007, the Missouri Court of Appeals issued a *per curiam* opinion affirming a summary judgment entered in August 2006 by the St. Louis County Circuit Court in favor of Chesterfield Center Corporation, a subsidiary of Sachs Holdings, a long-time Herzog Crebs' client, and against Pescado Loco, LLP. Pescado Loco, LLP operates Aqua Vin restaurant in Chesterfield, Missouri on property leased from Chesterfield Center.

In November 2005, Chesterfield Center sought to terminate Aqua Vin's lease due to non-payment of rent. Aqua Vin challenged that termination in December 2005 by filing suit in St. Louis County Circuit Court claiming notice of the termination had not been properly given under the lease.

In April 2006, Peter Herzog and Michael Vitale of Herzog Crebs filed a motion for summary judgment on behalf of Chesterfield Center, seeking a declaration that the termination of Aqua Vin's lease was proper and valid. Aqua Vin filed a counter-motion seeking a declaration that the lease had been improperly terminated and thus remained in effect. The motion was argued to the Honorable Barbara Crancer on August 3, 2006 and on August 4, Judge Crancer entered summary judgment in favor of Chesterfield Center and against Aqua Vin.

Aqua Vin appealed the summary judgment to the Missouri Court of Appeals. Oral argument took place on April 10, 2007 and the Court of Appeals issued its *per curiam* opinion on April 24 in favor of Chesterfield Center and affirming the termination of Aqua Vin's lease.