

# LANDLORDS SUE ROSS & GAP FOR RENT



**Landlords are suing Ross & The Gap – smart or foolish?  
With their businesses so intertwined does it make sense to sue?**

**These landlords think so. Is it a sign of things to come for retail?**

The following is taken from an article from GlobeSt.com on May 6th. To read the full article [click here](#).

## **Gap Article on May 7th**

This week, landlords have filed at least two lawsuits against major retailers over nonpayment of rent.

And South Florida lawyers say these are just the start as brick-and-mortar retail faces a new and unexpected hurdle: the coronavirus.

The lawsuits follow the Florida governor's executive order requiring store closures and mandating social distancing restrictions.

In one case, discount clothing retailers Ross Dress for Less and Ross Stores are defendants in a suit from Palm Springs Mile Associates and Philips Lake Worth, pending in the Miami Division of the U.S. District Court for the Southern District of Florida.

## **Intertwined Interests**

Attorneys including Danielle Garno, head of the retail legal practice at Cozen O'Connor in Miami, are bracing for a trend of lawsuits from commercial landlords against major retail tenants.

Garno warns that parties to the lawsuit must understand how intertwined their businesses are to come to a resolution, rather than just enforcing obligations under the lease.

"Their success and survival in this pandemic depends on each other and coming to a resolution that benefits both parties," Garno said. "If the tenant fails, then the landlord is going to fail."

Palm Springs Mile and Lake Worth brought the lawsuits to enforce the payment of rent on three separate locations where Ross has storefronts, according to court pleadings. The plaintiffs are seeking damages in excess of \$5.5 million from Ross Dress for Less and Ross Stores.

In the court filing, the plaintiffs claim that the tenants failed to pay rent due May 1 under the terms of their contract. In addition, Palm Springs Mile and Lake Worth assert that the force majeure provision is not applicable because that provision expressly excludes its application to the "making of payments." A force majeure provision excuses performance under a contract due to an "act of God" or similar natural disaster.

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