

BLUE ARC Trends in **Electronic Discovery**
Register for the webcast. [Register >>](#)

- [Law.com Home](#)
- [Newswire](#)
- [LawJobs](#)
- [CLE Center](#)
- [LawCatalog](#)
- [Our Sites](#)
- [Advertise](#)

An *incisivemedia* website

THE AM LAW DAILY

- [This Site](#)
- [Law.com Network](#)
- [Legal Web](#)

Search the Legal Web [Go >>](#)

- [HOME](#)
- [THE AM LAW DAILY](#)
- [RANKINGS](#)
- [MAGAZINE](#)
- [ADVERTISE](#)
- [SUBSCRIBE](#)
- [FREE ACCESS](#)
- [RSS](#)
- [CONTACT US](#)

[THE AM LAW DAILY](#)

- [The Firms](#)
- [The Talent](#)
- [The Work](#)
- [The Management](#)
- [The Score](#)
- [The World](#)
- [The Life](#)

SURVEYS AND RANKINGS

- [AM LAW 100](#)
- [AM LAW 200](#)
- [A-LIST](#)

- [Jobs](#)
- [Verdicts](#)
- [LawCatalog](#)
- [Experts](#)
- [Online CLE](#)
- [ALM Research](#)
- [Events](#)
- Resources
- [Law Firm Papers](#)
- [Court Reporters](#)
- [Legal Dictionary](#)
- [Legal Blogs](#)

[The Work](#)

August 28, 2008 5:50 AM

Gold Rush: Thompson Hine on Losing End in Landlord/Tenant Case

Posted by Zach Lowe

A "Victory or Death" flag is flying outside [Cooper & Kirk](#). The Washington, D.C. litigation boutique won an unusual case before the U.S. Court of Appeals for the Sixth Circuit Wednesday over a gold clause in a Cleveland building lease (the clause gives a tenant the right to be paid in gold rather than dollars).

[The case](#)

arose after New York real estate investor Stuart Venner purchased the land that Cleveland's landmark Halle building sits on and then discovered that a lease agreement originally drafted in 1912 included a clause that had never been enforced: that the tenant had to pay rent in gold coins if the property owner demanded it. So the property owner did what any greedy landlord might do: he enforced the clause.

For the new renter on the lease, represented by [Thompson & Hine](#), that was bad news. They'd been paying \$35,000 per year for 200,000 square feet in downtown Cleveland. Suddenly the landlord was "demanding rent equivalent to the value of 35,000 1912 gold coins," according to the circuit court's ruling. How much does that equal? Try about \$1.5 million, according to Cooper Kirk managing partner David Thompson, who argued the case for the property owners.

The tenants, a realty company, sued, and initially won in district court, where they argued the clause had lain dormant for so long that it was unenforceable. They also argued that Franklin Roosevelt had banned private ownership of gold in 1933, effectively voiding any pre-1933 contract requiring payment in gold.

The Sixth Circuit disagreed, saying a bizarre quirk in the law makes the clause valid.

Thompson would know--he argued the 1997 case before the Supreme Court that helped set the standard. Congress repealed FDR's gold ban in 1977, and courts have since held that pre-1977 gold clauses can be reactivated if a new renter takes on a lease after 1977.

"It's a very interesting little area of the law we've developed some expertise in," Thompson says.

Gary Lee Walters, who argued the case for Thompson Hine, did return messages seeking comment.

Cooper Kirk, meanwhile, put up its flag that reads "Vincere Aut Mori" -- Latin for "Victory or Death," the firm's motto.

"We've got it trademarked," Thompson says.

Thompson also disputes the notion he's helping property owners use an obscure rule to rip off tenants. In his view, the realty company was getting a sweet deal on prime property.

"Tenants of this property got 70 years of a windfall," he says.

[Make a comment](#)

[Comments \(0\)](#)

Save & Share: [Facebook](#) | [Del.icio.us](#) | [Digg It](#) | [Email](#) |

Comments

Report offensive comments to [The Am Law Daily](#).

Post a comment

If you have a TypeKey or TypePad account, please [Sign In](#)

Name:

Email Address:(Not displayed with comment.)

URL:

Remember personal info?

Comments:

Preview

Post