

Rupp Pfalzgraf LLC Secures Major Victory in Second Circuit Court of Appeals Against City of Buffalo

Second Circuit Revives Property Owner's Constitutional Claims, Ruling City May Have Abused Its Emergency Demolition Authority

BUFFALO, NY, June 30, 2026— Rupp Pfalzgraf LLC announced that the United States Court of Appeals for the Second Circuit issued a significant ruling in favor of its clients, Maxim Levin and Vodka Properties LLC, in *Levin, Vodka Properties LLC v. City of Buffalo et al.*, Docket No. 25-762. The decision vacates the district court's dismissal of key constitutional claims and remands the case for trial, keeping alive claims that the City of Buffalo unlawfully demolished Mr. Levin's residential property without adequate legal justification.

The case centers on the City of Buffalo's 2019 emergency demolition of a residential building owned by Maxim Levin and Vodka Properties LLC. The City ordered the demolition without a pre-deprivation hearing, citing alleged drug activity on the property and the building's purported structural condition. Rupp Pfalzgraf challenged those justifications on behalf of its clients, arguing that the City abused its emergency demolition authority and violated the plaintiffs' constitutional rights under the Fourth, Fifth, and Fourteenth Amendments.

The Second Circuit agreed that genuine disputes of material fact preclude summary judgment on three of the plaintiffs' core constitutional claims: procedural due process, unlawful taking, and unreasonable seizure — because the record raises serious questions about whether true emergency conditions existed at the time of the demolition. The Court noted that approximately one month elapsed between the overdose death cited by the City and the demolition itself, and that there was no evidence the City considered alternative measures short of demolition before acting. The Court also pointed to testimony from the Commissioner himself that he would have waited for a scheduled court hearing, which was only three weeks away, had he known about it.

In a further victory, the Second Circuit ruled that the district court erred in dismissing the plaintiffs' municipal liability claim under *Monell v. Department of Social Services*. The Court held that uncontroverted evidence established Commissioner James Comerford, Jr. as the City's final policymaker with respect to emergency demolitions, meaning the City of Buffalo itself can be held liable for his decision. The Commissioner's qualified immunity defense was also rejected at this stage, given the unresolved factual disputes about whether an emergency actually existed.

Jon Cantil, who argued the appeal, was joined on the brief by Paul D. Jager of Rupp Pfalzgraf LLC.

"This decision is an important vindication for property owners," said Cantil. "The Second Circuit made clear that a municipality cannot use the label of 'emergency' as a blank check to demolish private property without real justification. Our clients lost their building, and they deserve the opportunity to have a jury hear their case."



The matter is remanded to the United States District Court for the Western District of New York for further proceedings consistent with the Second Circuit's opinion.

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About Rupp Pfalzgraf

Rupp Pfalzgraf LLC is a full-service law firm headquartered in Buffalo, NY. Founded in 2000, the firm employs more than 75 attorneys in 7 offices across New York State. Its attorneys are admitted in jurisdictions across the country, including New York, Florida, California, Texas, New Jersey, Virginia, Maryland, Washington D.C., Ohio, Missouri, and British Columbia (Canada). Core practice areas include litigation, corporate law and governance, banking and creditors rights, project development and environmental law, construction law, healthcare law, insurance law, commercial real estate and financing, and labor and employment law. For more information, visit www.rupppfalzgraf.com.

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