

Rental Agreement Value Limit Upheld

By D. Carlos Kaslow, Esq., SSA General Counsel

United States District Court Judge Marsha Pecham, in *Reule v. The H.O. Seifert Company*, 2009 U.S. Dist. LEXIS 59688, has dismissed federal RICO claims and state claims against a Washington storage operator in connection with a lien sale of the tenant's stored property. While Judge Pecham's ruling was based upon federal jurisdictional grounds, rental agreement provisions were key elements to her decision.

The suit arose when Ms. Reule failed to pay her rent. Her space was ultimately sold in accordance with the Washington Self-Service Storage Act which grants self storage operators a lien on all stored property. The rental agreement limited the value of property that could be stored in a space to \$5,000. It also prohibited the storage of heirlooms, irreplaceable property or items having special or sentimental value to the occupant. Plaintiff filed a suit against the storage facility claiming that the auction constituted fraud and conversion, breach of contract, negligence and violation of both the federal Racketeering Influenced Corrupt Organizations Act (RICO) the Washington's Consumer Protection Act.

Limitation Barred Federal Jurisdiction

The storage operator moved that the suit be dismissed because plaintiff could not make a claim based upon RICO and the court lacked jurisdiction because plaintiff could not recover more than the \$5,000 limit in the rental agreement and the court's minimum jurisdiction is \$75,000. Judge Pecham dismissed the RICO claim because the plaintiff could not allege facts giving rise to a criminal enterprise. Nor could the plaintiff show two criminal acts that would support a claim that the storage facility was engaged in a pattern of criminal activity.

The court next considered the state law claims. To bring these claims the plaintiff would have to meet the damage jurisdiction of the federal court. The storage operator pointed out that the rental agreement executed by plaintiff specifically limited the value of stored property to \$5,000. It also specifically prohibited the storage of property to which the plaintiff had an emotional attachment. Judge Pecham concluded that the \$5,000 limit was enforceable. In her opinion she noted that the limitation was conspicuous and that the clear language of the provision invited the defendant to negotiate a higher limit if she believed her property had a higher value at the time she rented the space. Plaintiff argued that she did not have time to consider the consequences of signing the rental agreement. She was under considerable time pressure when she rented the space and that precluded her from fully reading and under-



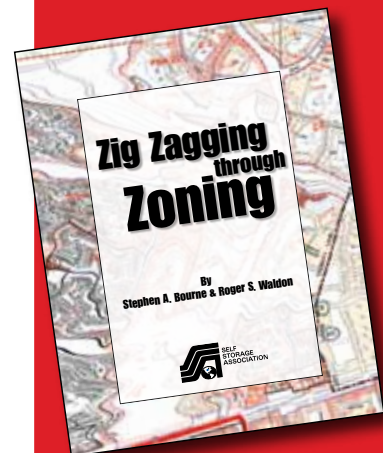
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standing the rental agreement. The judge rejected this argument, noting that the rental agreement was a month-to-month agreement that either party could terminate on 20 days advanced notice. Plaintiff rented the storage space for over five years and took no action even after having the opportunity to review the contract at her leisure.

Value Limitation is Not a Release of Liability

This is a very interesting opinion because it distinguishes between an exculpatory clause and a rental agreement

provision that limits the value of property stored to a fixed amount. The judge concluded that such a provision would effectively limit plaintiff's recovery. What was most interesting was the judge's conclusion that this provision was effectively a bargained for provision of the rental agreement. Judge Pecham pointed out that the \$5,000 value limitation stated it would apply unless the owner gave permission for a higher value. The plaintiff never requested that she be permitted to store property with a higher value. The rental agreement clearly gave the plaintiff the right to negotiate a higher limit; that she chose not to exercise this right did not change this fact. ♦

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