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Enforcing the Calif. Lien in Court

by D. Carlos Kaslow, Esq. –SSA General Counsel

The revised California Self-Service Storage Facility Act gives self storage operators the right to bring lien foreclosure actions in small claims court when a tenant returns a valid *Declaration in Opposition to Lien Sale*. We received a great tip from the operators of Trojan Storage, who recently went to small claims court in the San Fernando Valley to get a judgment to sell the contents of a delinquent space. They had the foresight to bring a copy of the current version of lien law (Business and Professions Code section 21700 to 21716). This proved to be useful for two reasons. First, the judge was not sure that a suit to enforce the lien could be brought in small claims court. This is clearly stated in section 21710(1). Second, the judge was not certain if he had the power to grant a judgment to sell the property rather than a judgment for rent and other charges owed. Section 21710(b) provides that the court can grant an order to sell the contents. Trojan Storage was granted a judgment that provided the operator had the right to sell the goods.

The provisions giving storage operators the right to bring an action to foreclose on the lien in small claims court have been in effect for less than a year. It will take time for the small claims courts to become familiar with the changes in the law that affect their jurisdiction over self storage lien suits, so bringing a copy of the law to court is a good idea. The law worked exactly as designed for Trojan Storage, who could sell the property at auction 30 days after the small claims court judgment was granted.

California self storage operators who are going to court in response to a *Declaration in Opposition to Lien Sale* should make sure they bring all relevant documents when they attend the small claims hearing. In addition to a copy of the law they should bring:

1. A copy of the rental agreement
2. All collection letters and statutory lien notices including:
 - a. The Preliminary Lien Notice
 - b. The Notice of Lien Sale and the returned Declaration in Opposition to Lien Sale
 - c. Proof of mailing the notices
3. A copy of the tenant payment records
4. A narrative summary of the delinquent tenant payment history if the computer records are not easy to follow

Storage operators should make it as easy as possible for the small claims judge to understand the claim and the relief sought. Storage operators do not want a money judgment. They want the right to sell the property. ❖