



THE LANDLORD'S EXPANDING CIRCLE OF LIABILITY™@2007

Lawsuit Exposure Update!

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Landlord's Expanding Circle of Liability! The landlord's circle of liability is expanding. Landlords today are facing the ever present threat of liability exposure to lawsuits of endless types. Insurance may not cover many lawsuits or be insufficient to meet the judgment amount, exposing you to personal liability; unless you take action to protect your assets and best practices.

Lawsuits!

Trends. Lawsuits are expanding in scope and size. If litigators continue as expected, and landlord's continue to expose themselves as expected, lawsuits will *supersize* into class actions! Beware it is time to enhance your 'best practices' used to run your buildings, as well as protect your assets from lawsuit exposure. Lawsuits will deal with discrimination, harassment, mold, lead based paint, asbestos, fire, employment, retaliatory eviction, prevention of crime, breach of contract, third party liability suits (re contractors, subcontractors, guests), personal injury, property damage, partners, investors, contractors, handymen, wrongful hiring/firing, among others.

Class Actions? Lawsuits are moving into the multi-million dollar range. Apartment builder owners were even sued by a "class" (*group of tenants*) in Los Angeles for toxic injuries as a result of negligence, breach of the implied warranty of habitability, public nuisance, negligent and intentional misrepresentation, and unfair business practices. (*Sharon R. Wheeler, et al v Avalonbay Communities, et al. No BC 237274, LASC*). Although the class was not certified, other plaintiffs will correct the defects and continue down the class road.

Failure of the 'Putting Your Head in the Sand - Defense'! Landlords may be *liable* for dangerous conditions on their property such as dangerous conditions, asbestos or lead paint based (injuries), in certain cases, even if they do *not have knowledge* of the hazard! The law presumes certain knowledge to the landlord, and the law presumes the hazard is present! After a triggering event such as a fire, discovery of asbestos, mold, lead based paint dust, or a contractor's violation of a work procedure, the law presumes the presence of the hazardous material. (Cal/OSHA Title 8, California Code of Regulations Section 1532 et seq., etc.) "Just as a motorist is presumed to know the laws regulating motor vehicles, the court reasoned, so a landlord is presumed to know the requirements of the local housing code pertaining to the habitability of leased premises. Landlords need not inspect the premises before leasing, the court said, but because of the implied

representation of habitability that accompanies the making of the lease, they fail to do so at their peril." (Benik v Hatcher 750 A2d 10 (Md Ct App. 2000).

Even Hiring a Contractor May Expose You to Liability! Agency law generally holds the *principal liable* for third parties and its employees' wrongful conduct. (ie: 2nd Restatement of Agency 213Ca, CC 2330-2339, Ca LC 2750.5). The hirer of an independent contractor who fails to take peculiar risk precautions may be liable for all persons injured. (2nd Restatement of Torts 413, 416, 427-427a (1965)). An owner, general or prime contractor is presumed liable for the acts of a licensed contractor that it hired. (ie: Ca LC 2705.5, Sabella v Wisler (1963) 59 C2d 21). A building **owner** was held **vicariously liable** with a demo-sub under the "particular risk doctrine" who failed to turn off the electric, causing death to the electric-sub worker. For a full report on Landlord's Expanding Liability Circle and Asset Protection Solutions™ email: RydstromLaw@Yahoo.Com or call 949-798-6206.



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Published or quoted collectively hundreds of times (in Forbes, Los Angeles Times, Chicago Tribune, Dallas Morning News, Apartment Associations and CPA journals, etc., and in the 110th Congress of the United States of America.

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