

No. S232322
(Court of Appeal No. D066831)
(Superior Court of California – San Diego County No. 37-2013-00042315-
CU-BT-CTL)

SEP 22 2016

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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

SAMUEL HECKART,
Individually and on behalf of a Class of all those similarly situated,

Plaintiff and Appellant,

v.

A-1 SELF STORAGE, INC., et al

Defendants and Respondents,

APPLICATION FOR LEAVE TO FILE AMICI CURIAE BRIEF AND
AMICI CURIAE BRIEF OF BAKER, BURTON & LUNDY, PC,
ZAKARI LAW & DALE E. WASHINGTON, ESQ. IN SUPPORT OF
PLAINTIFF AND APPELLANT SAMUEL HECKART

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TO THE HONORABLE TANI G. CANTIL-SAKAUYE, CHIEF JUSTICE
OF THE SUPREME COURT OF CALIFORNIA:

Pursuant to California Rule of Court 8.520 (f), Baker, Burton & Lundy, P.C., Zakari Law, & Dale E. Washington Esq. (collectively, "Amici") respectfully request leave to file the attached amicus brief in support of Plaintiff and Appellant Samuel Heckart. This brief is timely, as it is filed within 30 days after the last reply brief was filed.

If it would please the Court, permission is requested to have 11 pages of Exhibits instead of 10.

STATEMENT OF INTEREST

The proposed amicus curiae brief discusses the growing movement in the self-storage industry to substantially increase profits and facility value through the sale of insurance under the guise of "Contents Protection". This brief addresses the practices utilized by self-storage operators to side-step the consumer safeguards enacted by the Legislature addressing insurance abuses in the self-storage industry.

Amici currently have two separate consumer class actions pending in Los Angeles Superior Court against two self-storage companies, Public Storage and PODS. The PODS class action has an identical "Contents Protection is not insurance" issue. (*Headley, et. al. v. PODS of Los Angeles LLC, et. al.* LASC Case No. BC509418 & *Downey, et al. v. Public Storage* LASC Case No: BC575661)

Baker, Burton & Lundy, P.C. has a history of representing consumers during its 40 year legal career including representing over 20 million California consumers in a coordinated energy class action case involving the energy crisis of 2000-2001. (*Continental Forge v El Paso Natural Gas Pipeline Company, Sempra et. al.* J.C.C.P. 4221, 4224, 4226

& 4228.) Brad N. Baker donated six months of his legal career as a volunteer at the Los Angeles Legal Aid Society in Venice, and Albro L. Lundy III was named trial lawyer of the year for California in 2009 in a case that triggered Cal Trans review of all rural intersections in California to upgrade them to proper safety standards. (*Schmidt vs. State of California* RIC 465626, 28 Trials Digest 13th 25, 2008 WL 7950711 (Cal.Super.)) Brad N. Baker attended the *Heckart v. A-1 Self-Storage, Inc., et al* appellate hearing in San Diego, and was dismayed at the result handed down by the justices, and felt the need to speak up on this issue, if permitted.

Dale E. Washington has devoted his practice to insurance bad faith and self storage tenancy. He devotes 25% of his time to pro bono advice and has two insurance opinions: *20th Century v. Superior Court (Ahles)* (2001) 90 Cal.App.4th 1247 and *Ong v. Fire Ins. Exchange* (2015) 235 Cal.App.4th 901.


Raymond Zakari of Zakari Law has represented tenants in landlord-tenant disputes for over 13 years. Earlier in his career he worked at Legal Aid in Long Beach representing the indigent and still performs pro bono work for the indigent.

Amici believe that this proposed amicus curiae brief can provide the Court with the helpful analysis on the issues presented, and believe there is a need for additional argument on the issues presented within this brief. For these reasons, Amici respectfully request permission to file the attached amicus curiae brief.

No current party in this case, or counsel for any current party in this case, authored the proposed amicus curiae brief or any part of the brief. No person or entity other than Amici paid any money to fund the preparation or submission of this brief.

Dated: September 19, 2016

Respectfully submitted

By: 
Brad N Baker, Esq.
Co-Counsel for Amici Curiae

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PUBLIC UTILITIES COMMISSION ORDER

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INTERNET REFERECNES

Aug 21, 2013 Orange County Register
“Self-storage: the industry that keeps on keeping”
<http://www.ocregister.com/articles/industry-495121-storage-self.html>..... 1

EXHIBIT LIST

TAB NO. **DOCUMENT**

- A. Website Advertisement for “Tenant Protection Plan: A Storage Operator’s Secret to Increase Rent Roll, Profit & Portfolio Value”
- B. PODS Content Protection Option
- C. Inside Self Storage (ISS) – The Premier Magazine of Self-Storage Professionals, November 2012 Article: “Implementing a Tenant-Insurance Program”

I. INTRODUCTION

There is a growing movement in the self-storage industry to substantially increase profits and facility value through the sale of “Contents Protection”. Attached hereto as “Exhibit A” is a typical website advertisement reaching out to self-storage operators throughout California. The advertisement coaches self-storage operators to end run consumer safeguards enacted by the Legislature to address insurance abuses in the self-storage industry. (*California Insurance Code* §§1758 *et seq.*)

The self-storage industry markets to the “3 Ds” . . . Divorce, Debt Problems, and Death¹. The people who most often turn to the self-storage industry are consumers who are facing one of these “Ds”. People storing personal possessions and used household goods impacts a class of property infused with a “public interest” for moving and storage purposes.

(*California Public Utilities Code* §5102(a))

Insurance is also within the “public interest” as articulated by the California Supreme Court in the 1979 *Egan* case (*Egan v. Mutual of Omaha Insurance Company* (1979) 24 Cal.3d, 815, 820).

The circumvention of this “public interest” in insurance as well as “public interest” in personal effects and used household goods is the subject of this appeal.

II. Pending Class PODS Case To Halt “It’s Not Insurance” Abuse

There is currently a class action pending in Los Angeles Superior Court (*Headley, et. al. v. PODS of Los Angeles LLC, et. al.* LASC Case

¹ Aug 21, 2013 Orange County Register “Self-storage: the industry that keeps on keeping” <http://www.ocregister.com/articles/industry-495121-storage-self.html> (speakers also add a 4th D, “disease” to this unfortunate marketing reality).

No. BC509418) to attempt to stop the abuses perpetrated upon consumers by the leading mobile storage company known as PODS.

PODS delivers storage containers to your doorstep which are self-loaded before being shipped to a new destination for offloading, or shipped to a warehouse for storage.

PODS is mandated by statute to carry Twenty Thousand Dollars (\$20,000) of insurance for each shipment so that they are not subject to the same P.U.C. rules and regulations as Bekins and Atlas Moving companies. (*California Business and Professions Code* §21701.1(a)(4).) The failure of PODS to so inform its customers of the \$20,000 insurance coverage is a direct affront to the duty to alert consumers to potential duplication of coverage. (*California Insurance Code* §1758.76.)

How can PODS justify this lack of disclosure? Contents Protection is *not insurance*, thus PODS feels it is not bound by any insurance statutes requiring disclosure.

In order to use one of PODS storage units, the consumer is contractually obligated to insure his or her valuables. Attached hereto as "Exhibit B" is a list of monthly "Contents Protection" quotes for different levels of coverage which will satisfy the contractual obligation to have consumers' valuables insured.

As can be seen, the lowest monthly rate is \$38.00 per month for \$5,000 of coverage (which currently on-line is \$34.95 for \$5,000 in coverage). This approximates a homeowners insurance premium for a \$500,000 home, an obscene premium which would never be approved as a rate by the California Department of Insurance. Did we mention that at no point in the sign-up process is the consumer told that he or she already has \$20,000 in shipment coverage mandated by statute?!

PODS takes the position that they do not have to abide by insurance rules (i.e. disclosures, reserves to cover any losses, get their rates approved,

review of claims procedures, etc.) because “Contents Protection” is *not insurance*. Pretty simple in PODS’ view.

Until Self-Storage companies are held accountable for this absurd behavior, a vulnerable class of California Consumers will be abused.

III. Personal Effects and Household Goods Are Within the Public Interest According To The Public Utilities Commission

In 1997 the Public Utilities Commission issued an Order Instituting Rulemaking for the regulation of containerized shipments of used household goods and personal effects transported to and from self-storage facilities. (*R. 97-10-050 Order filed October 22, 1997*)

In the Opinion at page 6 the Commission noted that the regulation of the movement of household goods has been singled out for protection because the goods are of a “highly personal nature”. At page 7 the Commission further states that “Finally, it is well to remember that used household goods in a public storage facility are not warehoused merchandise, but personal possessions whose value is likely to be sentimental as well as monetary. Loss of damage to these items in transit may be disruptive to the customer’s life, and perhaps emotionally devastating.”

Of particular interest was the manner in which the Commission dealt with Public Storage’s argument on page 14 that Public Storage did not have to comply with PUC regulations when transporting household goods because the transportation activity is “incidental to the storage business”. The Commission stated, “We believe the argument is disingenuous.”

There is a “public interest” in the protection of personal belongings and used household goods that is intersecting with the “public interest” inherent in insurance.

A-1 Storage is asking you to turn a blind eye to these public interests by arguing that the sale of “Contents Protection” is just incidental to the storage business.

IV. National Magazine Touts Mandatory Insurance

The nationally distributed self-storage magazine, Inside Self Storage (ISS) – The Premier Magazine of Self-Storage Professionals, ran an article in 2012 setting forth with particularity just how profitable it can be to force consumers to insure their valuables, and then offer insurance so that profits can be substantially increased, and facility value can be enhanced. Attached hereto as “Exhibit C” is a copy of this article, entitled “Implementing a Tenant-Insurance Program”.

This article also talks about Property-Protection Plans that skirt the licensing requirements, and can be even more lucrative.

Virtually all Self Storage contracts now make it mandatory to have insurance although it is abundantly clear that the tenant is responsible for any losses sustained by him or her. The self-storage industry works very hard to distance themselves from the position of “bailee of goods” which would attach liability to the self-storage operators.

Thus, when mandatory insurance is required, it is not shifting any risk away from the self storage operators as one would normally suspect. In fact, just the opposite occurs when Contents Protection is sold to a tenant. Risk is shifted onto the operators. Risk that is not currently regulated or monitored by the California Department of Insurance if the *not insurance* game is allowed to continue.

V. It Is Not A Level Playing Field

California is the national leader on insurance jurisprudence, and knows well the difference between the duty of good faith and fair dealing in

an insurance contract, and the “so sue me” adverse legal relationship of a mere contract.

The substantial (if not obscene) profits generated in the Contents Protection organizations like PODS create a war chest to battle the small money claims suffered by consumers who perpetually cannot find legal representation if a claims dispute arises. The under representation of self-storage tenants who often do not have the resources to protect themselves legally, cannot be over emphasized. (It is David versus Goliath, but David is not given any sling.)

The California Legislature recognized the evils of allowing self-storage operators to sell actual regulated insurance to their tenants and passed *California Insurance Code* §§1758.7 *et seq.* It would be ironic if all a self storage organization had to say is that “I am not selling insurance, I am selling Contents Protection”, and avoid the intent of our lawmakers.

VI. CONCLUSION

California is the world’s largest self-storage market, and the Self-Storage Industry is looking with great interest at this Court’s decision. The two largest California self-storage companies, Public Storage and Extra Space, currently comply on its face with the statutory requirements of *California Insurance Code* §§1758.7 *et. seq.*, although Public Storage evidently receives approximately 75% of each premium payment through means not disclosed to the public.

There are two class actions pending in Los Angeles Superior Court to halt these non-disclosed profits. (*Downey, et al. v. Public Storage* LASC Case No: BC575661 & *Perez v. Public Storage* LASC Case No: BC611584)


Has a loophole been found by the Industry? We sincerely hope not. A clear message from this Court to stop organizations like PODS from

taking advantage of consumers facing one of the traumatic Ds would be very helpful.

We thank you for your consideration.

Dated: September 19, 2016

Respectfully submitted

By: 

Brad N Baker, Esq.

Co-Counsel for Amici Curiae

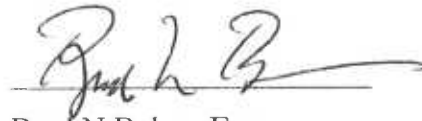
CERTIFICATE OF COMPLIANCE

Pursuant to California Rules of Court, rule 8.204(c)(1), the BRIEF OF AMICUS CURIAE BAKER, BURTON & LUNDY, PC, ZAKARI LAW & DALE E. WASHINGTON, ESQ. IN SUPPORT OF PLAINTIFF AND APPELLANT SAMUEL HECKART was produced using 13-point Times New Roman type style and contains 1,374 words not including the Tables of Contents and Authorities, List of Exhibits, Caption Page, or this Certification page, as counted by the word processing program used to generate it.

Dated: September 19, 2016

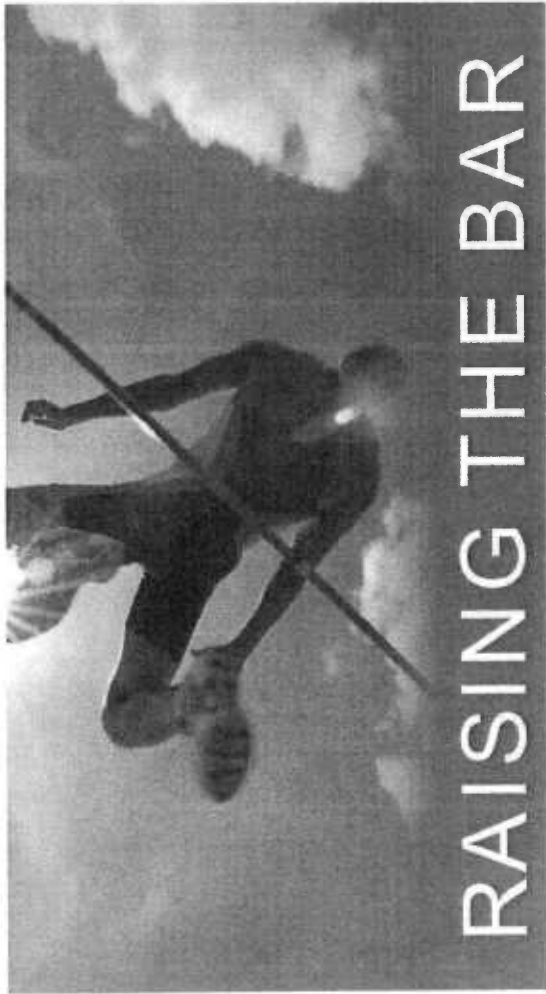
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By:



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Introduction

Tenant insurance is a critical component of any successful self-storage business. By offering it, facility operators can reduce their liability, generate additional revenue and maintain a better customer-service model. To implement and maintain a successful and profitable program, operators must know how to choose the right insurance model and partner, and then set and achieve goals once the program is in place.

Regardless of the precautions operators take to avoid legal issues, a leaky roof, fire or other unplanned event can quickly put them at risk of damaged belongings and unhappy tenants. While a lease is intended to protect operators from being held liable for stored belongings when a situation like this occurs, it's not uncommon for tenants to fight for compensation in a small-claims court—and win.

"The reality is that even though the lease is designed to protect the owner/operator from that liability, it doesn't always work that way, nor does it make for happy tenants," says Kim Evered, director of marketing for Storage Business Owners Alliance Tenant Insurance (SBOATI), a Phoenix-based company that offers a tenant-insurance program. "In fact, judges have completely ignored the lease and given judgments in favor of the tenant."

When this happens, self-storage operators not only pay court and lawyer fees, they dish out whatever compensation is required by the court to the tenant. Offering insurance can reduce this liability and offer tenants a means of compensation. "They're still going to be mad their stuff was ruined. Instead of having no recourse other than small-claims court, they now have the recourse of an insurance claim," Evered says.

In the event a customer's belongings are damaged, tenant insurance can strengthen an operator's customer-service model. The operator can assist the customer in filing a claim rather than send him away empty-handed and discontented. "You're on the same side as your tenants. In the other scenario, you're battling against them because they're mad at you, have no recourse, and want you to pay. Instead you're helping to facilitate their insurance claim," Evered said.



Educating the Customer

Offering tenant insurance can also benefit self-storage customers by making them aware their goods are not insured. Most assume their belongings are automatically covered by their homeowner's insurance policy or even the facility's insurance policy. But when a leaky roof rains on their parade, they're not going to be pleased that their assumptions were incorrect. "You're educating the tenant on what the reality is," Evered says. "They just don't know their stuff is not covered by the facility."

In addition, while a tenant will typically be the one filing the claim directly with the insurance company, operators can facilitate the process by filing a report and taking pictures. Again, this positions the operator in a positive light.

Generating Revenue

Another great perk for operators is the add-on revenue tenant-insurance programs can generate. Tenant insurance can be the second-highest source of income for self-storage operations after rental income, Evered notes. While there are other revenue streams that can generate more money, such as truck rentals or RV/boat-storage, tenant insurance can be a leading source.

Choosing an Insurance Model

Once a self-storage operator decides to start offering tenant insurance, the next step is choosing the program model that will best achieve his goals. There are two general tenant-insurance models—a true insurance model or a property-protection plan. In the true insurance model:

- ◆ Customers buy an insurance policy from an insurance provider.
- ◆ The contract is between the tenant and the insurance company, keeping the operator totally out of the transaction.
- ◆ All claims are processed through the insurance provider.
- ◆ Nothing comes out of the operator's pocket, and the operator doesn't take "care, custody or control of the tenant's goods," an important legal point in the self-storage industry.

That last point is a huge advantage in this type of program, Evered says. "In certain states, self-storage operators are required to obtain a limited license to offer insurance. While this licensing requirement can be a hassle, it means the difference between being squared away in a highly regulated industry and trying to skirt the regulations," she says.

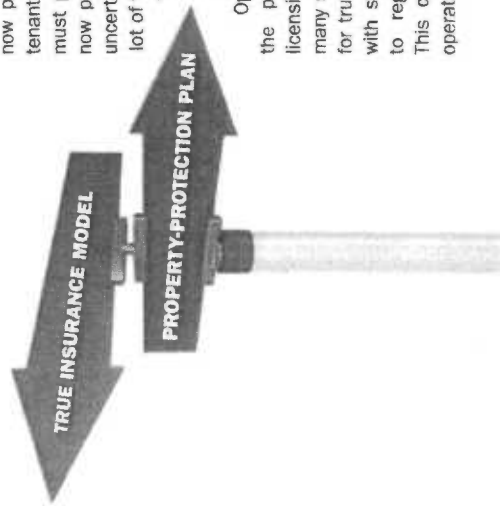
Monthly Revenue Projections



Insurance-License Requirements



Operators who
 choose to
 implement the
 property-protection
 plan to **avoid**
 licensing need
 to be wary.



In contrast, the following is true with a property-protection plan:

- ✦ The contract is between the operator and the tenant, which may create some confusion regarding the legal terms.
- ✦ There's no regulation for a protection plan, meaning no licensing, and operators now must change their lease agreement to state the stored goods of the tenant are now covered up to a limit called for in the lease.
- ✦ There are protection plans that have an underwriting insurance company, but the underwriter only steps in to process a claim and pay once the cost of damages exceeds the deductible. A common deductible for a property-protection plan is \$25,000.

Evered outlines a few reasons why the protection plan can be a risky choice for self-storage operators. First, in many property-protection plans, operators are now processing all the claims from the tenants. In addition, in these plans they must pay all their own claims and have now put themselves in an area of legal uncertainty. "It's a risky proposition in a lot of ways legally, and while it does avoid the licensing, operators are putting themselves in a legal gray area," she says.

Operators who choose to implement the property-protection plan to avoid licensing need to be wary. Evered suspects many states that do not require licensing for true insurance models will follow suit with states that do and may also begin to regulate property-protection plans. This could create legal implications for operators who offer this type of insurance.

Optional vs. Lease-Compliance Program

When it comes to implementing a true insurance program, operators have a few options. The first is to provide insurance on an optional basis, offering it to customers who may want the extra security but not requiring proof of insurance in the tenant's lease. The average participation rate in this type of program is between 5 percent and 30 percent.

"If the operator's goal is to offer the tenant-insurance program as an extra service or amenity to his clients, and he's not necessarily concerned about either the liability or receiving the admin fees, then he probably wants to go with the optional program," Evered says.

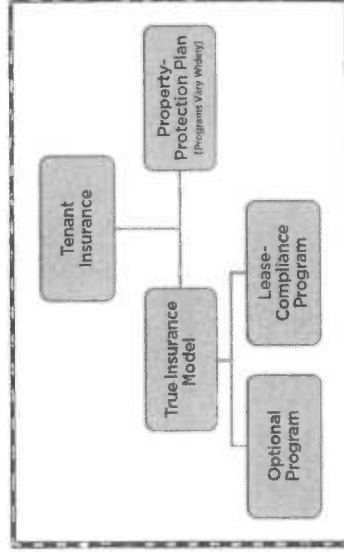
There are creative ways to make optional insurance available to tenants without crossing the line of what regulators would consider the job of a licensed agent. Strategies can be discussed with your insurance provider. With an optional program, you essentially offer the tenant three choices: He can purchase tenant insurance, provide proof of insurance or waive coverage altogether.

In contrast, a lease-compliance program only gives customers two choices: They can purchase the tenant-insurance policy or provide proof of insurance through an existing homeowner's or renter's policy. It's important to note that while it's

legal to require proof of insurance for the tenant to comply with your lease, you can't require him to purchase the insurance offered by your facility. You must always present customers with at least two options for compliance.

Before committing to a lease-compliance program, self-storage operators must first ensure that their lease contains the proper wording to require proof of insurance. If the tenant has no proof, the tenant-insurance program is the go-to option. The average participation rate is between 50 percent and 80 percent.

"The lease-compliance program is the most effective in protecting the operator, and it does typically get the highest participation rates because it doesn't allow the tenant the 'easy out' of waiving insurance all together," Evered says.



Choosing a Partner

After weighing the pros and cons between the true insurance model and property-protection plan, operators must compare the various insurance companies and choose the one that will provide the best opportunity for fair offset of administrative expenses, reduced liability and enhanced tenant experience. The choice of provider will determine the amount of training the operator and facility staff receive, the administration fee, invoice handling, and additional costs associated with starting and maintaining the program.

Almost all companies will provide basic materials for the insurance program including brochures and contracts for tenants to sign. Some provide the materials at no cost, while others provide them for free as long as a certain policy participation rate is reached. Some companies offer free materials at startup and then charge for reprints.

Most tenant-insurance policies are similar in terms of coverage. The policies are named peril policies, meaning the insurance companies list everything that's covered and specify exclusions. These policies cover only property within the unit and exclude liability. While this is standard, operators should compare the verbiage when looking for an insurance provider.

"While they're pretty basic and straightforward, there are some differences between policies, so it's important when looking at the various competitor policies to compare them to each other," Evered says. "The goal of the operator is to make a good insurance program available to tenants that offers good coverage."

Little details can make a big difference when choosing an insurance company. Some companies offer software that's fully integrated with facility management programs, which makes invoicing simple. Operators should also look for companies that provide ongoing training and share the operator's customer-service expectations.

The right tenant-insurance company may even take the hassle out of the licensing process. Some companies offer guidance from a licensing coordinator or online resources to walk operators through it. However, it's the operator's responsibility to make sure the administrative fees collected from policy sales will offset the licensing fees, which vary depending on state regulations. At this point, operators need to take the proper steps to make sure they generate the revenue desired to meet their goals.

Training Staff

Properly training and motivating facility managers is vital to ensure staff is properly handling insurance transactions within the regulations. If your lease requires proof of insurance, then managers need to be trained on how to properly enforce your lease while maintaining your standards of customer satisfaction.

It's also important that managers understand they're making a convenient, optional insurance program available to tenants as an alternative to other forms of insurance and do not represent themselves as insurance agents. Evered suggests offering ongoing training every six to 12 months to keep personnel up-to-date on any changes and review the material and procedures.

At the end of the day, providing facility staff with the resources to be successful is just one piece of the pie. Choosing the right insurance model and asking the right questions when choosing an insurance company are all equal pieces to implementing a tenant-insurance program that offsets administrative expenses, decreases liability and contributes to the success of a self-storage operation. **ISS**

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Lease-Compliance Case Study:

Absolute Storage Management Inc.

Like anything in life, a tenant-insurance program will only be as successful as you make it. Operators must set goals in terms of revenue and liability, and then pursue the appropriate strategy. The following case study shows how Absolute Storage Management Inc. of Cordova, Tenn., fared after implementing a lease-compliance tenant-insurance program at its facilities.

A devastating fire that destroyed property and buildings at one of the self-storage facilities it manages led Absolute Storage Management Inc. to reconsider the protection and benefits of a tenant-insurance program. "When you see the destruction and then the people affected, you want to find some way to help them," says Michael Haugh, president.

After considering its options, Absolute launched a test earlier this year to gauge customer reaction to a new lease-compliance tenant-insurance program. The pilot program was enacted at seven facilities in markets throughout Georgia, Mississippi, North Carolina and Tennessee. The company oversees a total of 64 self-storage facilities in eight states.

"The idea was to determine if we insisted on compliance with the signed rental agreement, what if any negative outcome would occur in markets with varying demographics or facilities with different product offerings like climate control," Haugh says. Two of the facilities were in low-income areas, two in higher-income areas, and the remaining in middle-income markets.

The company notified tenants via letter that proof of insurance would be required as part of the self-storage rental lease. Customers had 30 days to provide proof of insurance or a policy would be added to their lease. Although the company lost roughly 10 to 15 tenants overall, it added 1,140 policies and gained approximately \$3,000 a month in total revenue.



80% of the tenant base is protected by insurance coverage.

Haugh attributes much of the program's success to staff training. The tenant-insurance provider conducted two conference calls to show managers how to overcome tenant objections. "We also offered a simple incentive program to our staff as a way of recognizing the extra effort they put into helping the tenants," Haugh says.

In addition, Absolute maintains decreased liability after implementing the lease-compliance policy. Now 80 percent of the tenant base is protected by insurance coverage. "It's a no-brainer since you're providing a valuable product to your customer at a fair price while further protecting your liability," Haugh says.

SBOATI's Evered says that while the lease-compliance program omits the customer's option to waive coverage, operators should consider surrendering the insurance requirement if a tenant insists. This will keep operators from losing customers and maintain a facility's good customer-service reputation.

"If the tenant is still unhappy and doesn't want to do it, empower your store managers to waive the insurance coverage in certain scenarios," Evered says. "There's a softer way to do it that's better for customer service."

Haugh agrees giving tenants an out is important to keeping the peace. "Most folks will take the coverage if they understand the benefits. If not and they push hard, we rent without it," he says.

At the end of the day, tenant insurance can be a great avenue for operators to generate revenue and reduce liability. Whether the insurance is offered as a convenient option or as a lease requirement, it's one more component to a strong and profitable facility.

"Inside of three years, I expect it to be as common as the admin fee nearly all of us in the business charge," Haugh says. "After testing the program for 90 days, we're moving forward with rolling it out to all locations without exception."

ISS

Costs for Contents Protection

Based upon your declared value, a fee will be added to your monthly rental charge. Coverage does not exceed \$300,000.

Declared Value	Monthly Cost
\$5,000	\$38.00
\$10,000	\$54.00
\$15,000	\$65.00
\$20,000	\$76.00
\$25,000	\$87.00
\$30,000	\$103.00
\$40,000	\$114.00
\$50,000	\$130.00
\$60,000	\$141.00
\$70,000	\$157.00
\$80,000	\$168.00
\$90,000	\$184.00
\$100,000	\$195.00
\$110,000	\$211.00
\$120,000	\$222.00
\$130,000	\$238.00
\$140,000	\$249.00
\$150,000	\$265.00
\$200,000	\$335.00
\$250,000	\$406.00
\$300,000	\$476.00

A one time transit fee of \$50 is required for moves outside the local area.

PLEASE READ THIS IMPORTANT DISCLOSURE AS IT RELATES TO THE CONTENTS PROTECTION OPTION

This brochure contains general and descriptive information only. For actual terms and conditions, please consult the Contents Protection/Duty To Insure Addendum to your Rental Agreement.

This is not an insurance policy.

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PODS

Contents Protection Option

Extra Protection and Peace of Mind



PODS

The Best Moving & Storage Idea Ever.

EXHIBIT B



TENANT PROTECTION PLAN

A STORAGE OPERATOR'S SECRET TO INCREASE RENT ROLL, PROFIT & PORTFOLIO VALUE



The Definition of a Protection Plan:

The protection plan business model is fairly new to the self storage industry. Protection plans are not tenant insurance. Protection plans take advantage of the lessor/lessee contractual relationship and modify the "Release of Liability" provisions found in most self storage rental agreements. With the use of a proper lease addendum, the "Release of Liability" clause is amended to allow the operator, for a certain additional monthly fee, to assume responsibility for its tenant's property up to a stated limited amount.

Then the operator insures this additional risk by purchasing insurance for themselves.

Operators with mature programs in place have chosen not to insure the protection plan risk and have assumed the risk on their own.

Protection plans are very customer friendly. The plans allow facility operators the opportunity to cover the risk of loss or damage for its tenants up to a certain amount. By doing so, the operator may be able to obtain the confidence of its tenant to store their property at the facility knowing that a certain value of their property will be replaced if lost or damaged.



Protection Plan Advantages to the Owner/Operator:



There are many advantages to using a protection plan, including:

1. Protection plan revenue can be entered as additional rent which increases the overall value of the property.
2. Protection plan revenue delivers high margins, much higher than what is being earned for selling insurance on behalf of a third party insurer.
3. A protection plan will enhance the reputation of the facility. In the event of a forcible entry, a fire or even a leaking roof, a facility with a proper protection plan in place will be viewed as a responsible owner that cares for its tenants.
4. A facility can brand their protection plan by integrating their name into the title of the product.
5. Offering a free protection plan can provide an edge in dealing with competition, while possibly costing less than a dollar a month for the operator.

Insuring Protection Plan Risk:

Insurance to cover an operator's protection plan is becoming more affordable. In this maturing market, options to insure the operator's risk in providing a protection plan have made the cost the lowest it has ever been. Small operators are now able to insure their protection risk at economical rates with no deductibles, allowing them to enjoy the higher margins of this product previously enjoyed only by REIT's (Real Estate Investment Trust) and large management companies. As with most emerging insurance markets, some of the best new policy options are being offered by quality surplus lines carriers. New options that carry no deductible allow facilities to accept limited responsibility in their lease addendums up to as much as \$50,000.

Again, these policies are surprisingly affordable.

PREVIOUSLY the cost to insure a \$2,500 protection plan was well over \$3 per month.

NOW that risk can be insured for closer to 90 cents per month allowing operators to make over \$9 a month profit on a \$10 per month, \$2,500 tenant protection plan.

For smaller facility policies, covering \$500,000 in protection plan risk can be purchased for as little as a \$2,500 annual premium. Multiple location facilities and larger management companies can purchase one policy to cover all the owned and managed locations. Multiple location policies are also being offered on an earned premium deposit scenario where each facility reports the amount of protection plan risk at each location monthly. Based on the reporting, the insurance company simply deducts the earned premium and charges only for the amount of insurance needed to cover the protection plan risk for any particular month. The earned premium deposit option not only gives the facility a fixed cost for insuring its tenant protection plan risk, but it allows for an accurate expense allocation to each location for their insurance costs.



Protection Plan Implementation Strategies:

Voluntary programs:
Customers can voluntarily participate in the protection plan. This is where proper marketing can turn your current lease into an attractive "concierge level premium lease." A well marketed voluntary participation plan can expect participation at 20% to 30%.



Mandatory programs:
Many self-storage leases have a provision stating that their tenants need to provide proof of insurance for their stored property. Your lease can be amended to state that for all tenants who do not have proof of insurance, purchasing the protection plan will satisfy that lease obligation. Although all customers must have the option of obtaining coverage on their own, these mandatory programs can quickly achieve participation rates for protection plans between 50% and 80%.

Regulatory Compliance:

For years, third party insurance carriers have taken 75% of the revenue (or more) when offering tenant insurance. Third party insurance revenue on an income statement does not enhance the value of a facility. An increased rent roll achieved by offering a protection plan could enhance the value of a facility. Protection plans benefit owners, operators, management companies and tenants far better than third party insurance.

Protection plans take advantage of the rights of an operator and tenant to negotiate their mutual risk. Since protection plans are not insurance, they do not require a limited insurance license. Having a self-storage employee explain an insurance policy to a prospective tenant that they may not even understand is a problem in the industry. It is unclear how issuing a limited insurance license will suddenly make counter employees educated, informed insurance agents.

We believe protection plans are the solution to that insurance problem. Properly written protection plans do not have complicated insurance clauses or varying deductible. These plans are simple to understand and clearly outline the terms and conditions that the facility operator will accept a limited responsibility for the tenant's stored property. Anyone can offer a protection plan with little training.



Sample Financials

Monthly Reporting:

Quality tenant protection plans will earn revenue based on actual monthly reported protection plans purchased with quarterly adjustments.

The following is an example of a typical quarterly report that includes a California state surplus lines tax and policy fees using a .65 annual premium:

Example of monthly cost calculation using an earned premium scenario

Facilities	Declared Value						Total
	January	February	March	Cost per Location	Declared Value	Cost per Location	
StorageLand - LA, CA	\$199.42	\$219.48	\$228.13	\$219.48	\$526,750	\$228.13	\$547,500
StorageLand - SD, CA	\$217.28	\$259.79	\$272.81	\$259.79	\$623,500	\$272.81	\$654,750
StorageLand - Fresno, CA	\$336.52	\$355.94	\$359.06	\$355.94	\$854,250	\$359.06	\$861,750
Total	\$1,812,530.00	\$2,004,500.00	\$2,064,000.00				\$13,416.00
Sec. 1 Rate	\$11,781.00	\$13,029.00	\$13,416.00				\$11,118.00
Monthly - Divided by 12	\$981.79	\$1,085.77	\$1,118.00				\$27.95
Admin Fee	\$24.54	\$27.14	\$27.95				\$6.37
Stamping Fee	\$1.96	\$2.17	\$2.24				\$55.90
SL Tax	\$49.09	\$54.29	\$55.90				\$1,204.09
Current Monthly Total	\$1,057.38	\$1,169.38	\$1,204.09				\$3,430.85
Current Total Balance	\$1,057.38	\$2,226.76	\$3,430.85				\$3,430.85
Less Paid							
Total Cost*	\$1,057.38	\$2,226.76	\$3,430.85				\$3,430.85

The operator enters the total amount of the protection plans limits in the Declared Value column for each location monthly. The spreadsheet will calculate the exact cost to insure the risk and deduct it from the premium deposit. This gives the operator a set cost to insure protection plan risk and allows for accurate allocation of the monthly expense for each location.

*Total quarterly cost to insure protection plan risk.

Sample Financials cont.

Realized Profits:

The following is a typical annual cash flow pro forma utilizing the same annual premium rate (.65 of declared value) and California surplus lines taxes used in the monthly reporting scenario. This example assumes a mandatory program with an average of 500 units at 90% occupancy rate, 80% tenant participation and charging \$10 per month for a \$2,000 protection plan:

This is provided as an example only, financial results are not guaranteed.

Example of the profit potential of a typical protection plan program

Facility	Total Units	Occupied Units Participating (90% occupied/ 80% participation)	Monthly revenue (\$10 per plan)	Monthly Cost	Annual Revenue	Annual Cost	Annual Profit
StorageLand LA	543	391	\$3,909.60	\$423.54	\$46,915.20	\$5,082.48	\$41,832.72
StorageLand SD	642	462	\$4,622.40	\$500.76	\$55,468.80	\$6,009.12	\$49,459.68
StorageLand Fresno	308	236	\$2,361.60	\$255.84	\$28,339.20	\$3,070.08	\$25,269.12
Total	1,513	1,089	\$10,893.60	\$1,108.14	\$130,723.20	\$14,161.68	\$116,561.52
					Annual Cost	Policy Fee	\$354.04
						Stamping Fee	\$28.32
						Surplus Tax	\$424.85
					Total Annual Cost		\$14,968.90

Conclusion:

The time is right to offer a protection plan at your facility.

On The Move Insurance Agency has brought to market a policy that insures the risk of offering a tenant protection plan at favorable terms. The policy is underwritten by a quality A-Rated syndicate of Lloyds of London and is offered in most states as a surplus lines product. On The Move also provides a complete SecureLease addendum prepared for your use with marketing tools to help you promote your protection plan product.

The terms and conditions of the policy offered by On The Move Insurance Agency is so generous that we can even insure the tenant protection risk that you may already have with a different protection plan provider. The transition is as easy as going from paying your current carrier to paying ours. Whether you offer our SecureLease program or use your own branded protection plan, contact the experts at On The Move Insurance Agency to help you ramp up your rental.

Scan this QR code to learn more!



800.645.9949

www.getsecurelease.com
28825 IH 10 West | Boerne, Texas 78006

PROOF OF SERVICE
(Non-attorney -- State and Federal)

I am over age 18 and not a party to this cause. I am employed at, and my business address is, 515 Pier Avenue, Hermosa Beach, Los Angeles County, California 90254, in the office of a member of the bar of this court at whose direction service was made.

On September 19, 2016 I served the foregoing document:
 APPLICATION FOR LEAVE TO FILE AMICI CURIAE BRIEF AND
 AMICI CURIAE BRIEF OF BAKER BURTON & LUNDY, PC, ZAKARI
 LAW & DALE E. WASHINGTON, ESQ. IN SUPPORT OF PLAINTIFF
 AND APPELLANT SAMUEL HECKART on the interested parties listed
 below:

X By placing a true copy thereof enclosed in a sealed envelope
 addressed as follows:

Office of the District Attorney Appellate Division P.O. Box X-1011 San Diego, CA 92112 <i>Attorneys for The People of the State of California – Notification as per Bus. & Prof Code Sec 17209</i>	John T. Brooks, Esq. Sheppard Mullin Richter & Hampton LLP 501 West Broadway, 19 th Floor San Diego, CA 92101-3598 <i>Attorneys for A-1 Self-Storage Inc., Caster Group LP, Caster Properties, Inc., Caster Family Enterprises, Inc.</i>
Office of the Attorney General PO Box 85266 San Diego, CA 92186-5266 <i>Attorneys for The People of the State of California – Notification as per Bus. & Prof Code Sec 17209</i>	John. R. Clifford, Esq. David J. Aveni, Esq. Wilson, Elser, Moskowitz, Edelman & Dicker LLP 655 West Broadway, Suite 900 San Diego, CA 92101-8484 <i>Attorneys for Deans & Homer</i>
Finkelstein & Krinsk Jeffrey R. Krinsk William R. Restis David J. Harris Trenton R. Kashima 550 W. C Street, Suite 1760 San Diego, CA 92101 <i>Attorneys for Plaintiff & Appellant Samuel Heckart</i>	Court of Appeals Fourth District, Division One 750 B. Street, Suite 300 San Diego, CA 92101

San Diego Superior Court Appeal Court Division 3d Floor, Room 3005 220 West Broadway San Diego, CA 92101	San Diego Superior Court Attn: Hon. John S. Meyer 330 West Broadway, Dept 61 San Diego, CA 92101
ZAKARI LAW Raymond Zakari, Esq. 301 E. Colorado Blvd, Suite 407 Pasadena, CA 91101 <i>Counsel for Amici Curiae</i>	Dale E. Washington, Esq. 5942 Edinger Avenue 113/1325 Huntington Beach, CA 92649 <i>Counsel for Amici Curiae</i>

X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Hermosa Beach, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 19, 2016 at Hermosa Beach, California.


ASHLEY KNIGHT