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Florida Commercial Landlord-Tenant Law

Publication 80530 Release 36

June 2013

HIGHLIGHTS

Updates throughout the treatise include new discussion relating to

- Private Transfer Fees (*new* § 6.06)

Additional topics include

Case Law Developments:

Berdick v. Costilla; 97 So. 3d 316 (Fla. 2d DCA 2012). The landlord argued that a corporation that operated a business on the property for the named tenant was “essentially an assign or sublessee” of that named tenant, however, the court rejected that argument. It held that pursuant to the statute of frauds, an assignment or sublease with a term of more than one year had to be in writing and signed by the party to be bound with two subscribing witnesses and thus, by operation of the statute of frauds, the corporation was neither a sublessee nor assignee of the lease since there was no written agreement to that effect.

Maida Vale, Inc. v. Abbey Road Plaza Corp., 96 So. 3d 1027 (Fla 4th DCA 2012).

When the tenant’s counterclaims or affirmative defenses overlap or are “inextricably interwoven” with the issues that have to be decided in the eviction action, it is error to rule on the eviction claim without resolving the counterclaims or defenses raised by the tenant.

Plakhov v. Serova, 2012 Fla. App. LEXIS 18503 (Fla. 4th DCA, October 24, 2012): Although a tenant may be inconvenienced by being served in a foreclosure action against the landlord, that inconvenience would not ordinarily rise to the level of constructive eviction since the property would not be rendered unsafe, unfit, or unsuitable for occupancy in whole or substantial part.

New Discussion of Private Transfer Fees

New section § 6.06 discusses the ban in Florida on private transfer fees and the exceptions applicable to commercial leasing.

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