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Florida Commercial Landlord-Tenant Law

Publication 80530 Release 41 December 2015

HIGHLIGHTS

Updates throughout the treatise include new discussion relating to

- Terminating Lease When Tenant Is Failed Financial Institution (new § 7.12)
- New Sample Commercial Lease Provision on Early Termination (new § 8.03[18])

Case Law Developments:

Edge Pilates Corp. v. Tribeca Aesthetic Med. Solutions, LLC, 162 So. 3d 246 (Fla. 4th DCA 2015). A sublease provided that rent would include “marketing efforts” by the tenant for the subtenant, but did not itemize the amount of the rent designated for use of the premises and the amount recognized as the value of those marketing services. When the tenant filed a complaint for eviction after the subtenant failed to pay the rent, the subtenant claimed the tenant breached the agreement by failing to provide the marketing efforts described in the sublease. The subtenant counterclaimed to determine the fair market value of the rent

for the premises and to receive reimbursement pursuant to an action for unjust enrichment for the value of the marketing services not provided. The trial court found for the subtenant on the unjust enrichment claim and awarded the subtenant \$100,000. The appellate court reversed. It found the award was not supported by competent substantial evidence. It said that to determine the amount of the reimbursement, the lower court had to apportion the amount of the rental payment that was directed towards use of the property and the amount directed towards the marketing services. Only after taking testimony and evidence relating to that apportionment could the court have properly determined the amount of unjust enrichment, if any, received by the tenant. Given the lack of sufficient evidence about the rental value of the property and the value of the marketing services that were not provided, the decision to award the \$100,000 was not supported by the evidence.

Maggiano v. Whiskey Creek Prof'l Ctr., LLC, 160 So. 3d 535 (Fla. 2d DCA 2015).

Damages are not liquidated if determination of their exact amount requires taking testimony to ascertain facts on which to base value judgment; conclusory allegation of monetary damages in complaint did not render damages liquidated; where testimony was required to establish facts on which to base exact amount of damages, but no testimony was taken, lower court decision was reversed and remanded for new determination of damages.

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December 2015

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