

Please turn your phone
back

ON when
class is
over.



A photograph showing a man in a white shirt being restrained by several men in dark suits. The man in white is lying back, his face contorted in pain or distress, with his hands near his face. The men in suits are surrounding him, with some holding his arms and others his torso. The scene appears to be in a formal setting, possibly a courtroom or a government building, with wooden paneling visible in the background.

Policies and Procedures for

Managing Litigation

Robert M. Locke, RMP, MPM





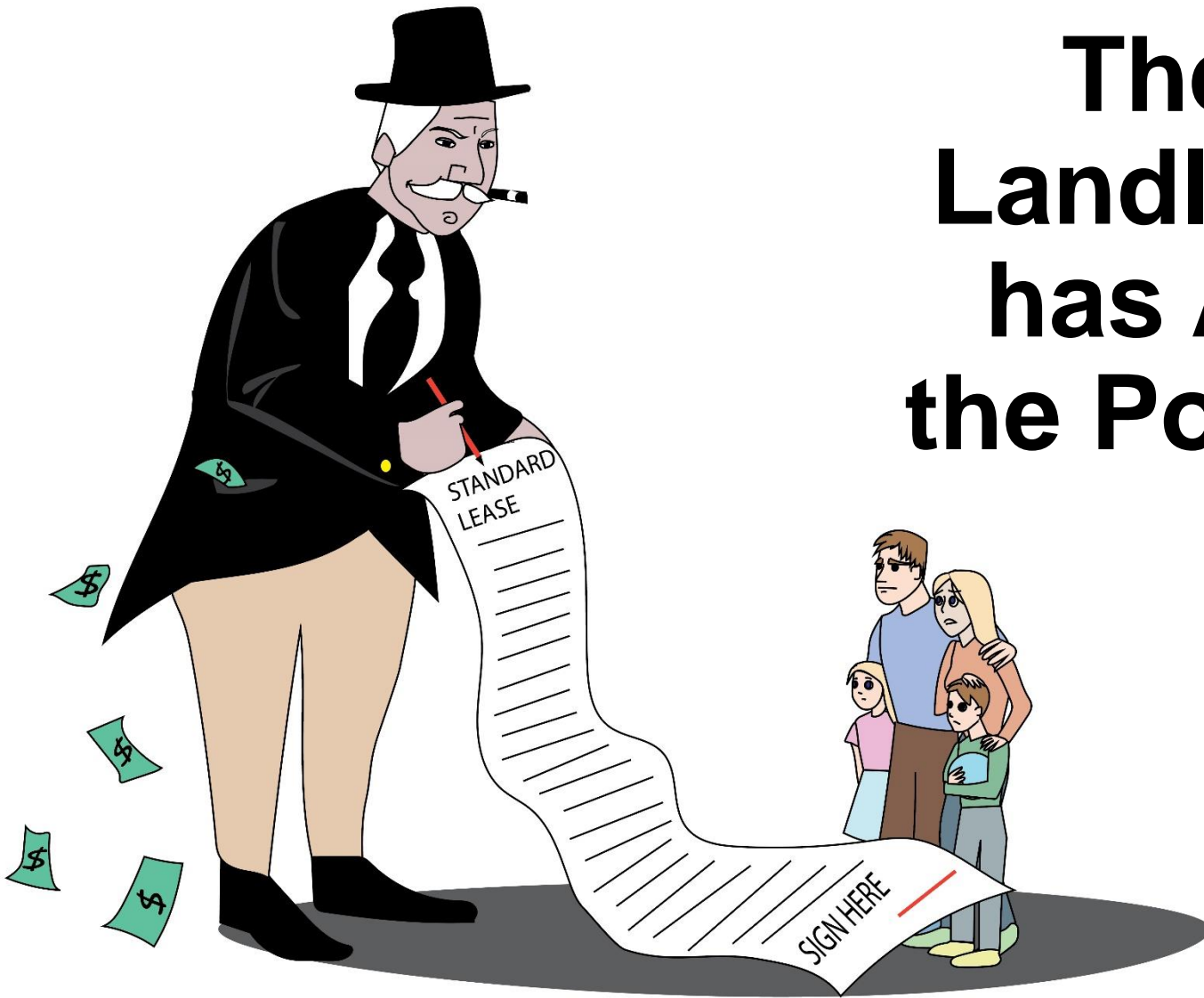


why?

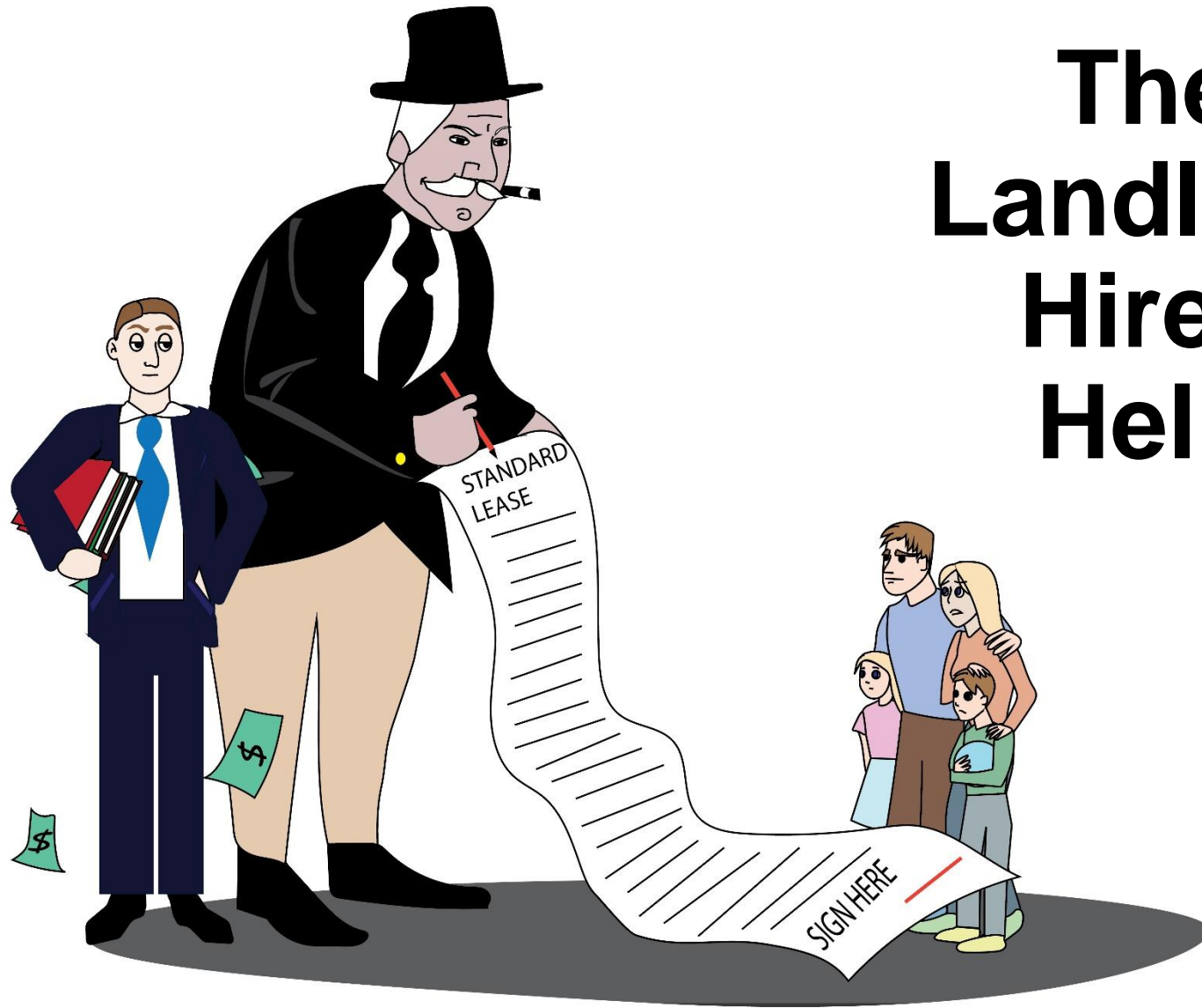
- 3. We live in a litigious society
- 4. Landlord/tenant relationship is toxic.

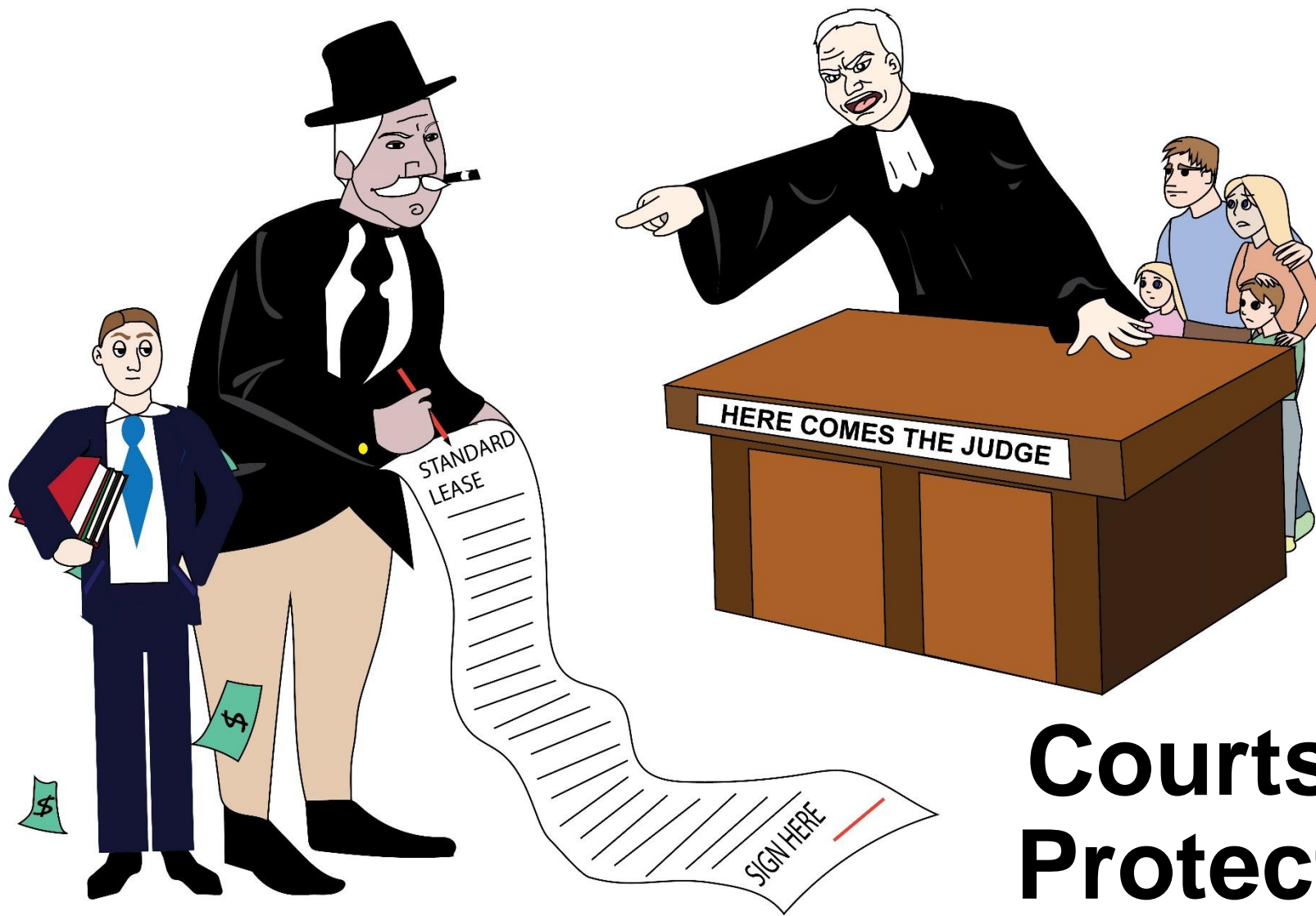


The Landlord has All the Power



The Landlord Hires Help





Courts Protect Tenants



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Why?



3. We live in a litigious society

4. Landlord/tenant relationship is toxic

5. Owners don't respect low-paid professions.



E...g

IMPOSSIBLE

...g



OUR HISTORY



Crown Realty &
Management

35 Years

3,000 Owners

9,000 Tenants



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Lawsuits

7 from tenants

3 from owners

0 fair housing

18,000 applications

Average \$3,000/year

SOLD with 1,000 properties





Question

How did we
accomplish that?

Answer

With strategies,
policies and
procedures to
manage the
threats of (and
actual) litigation.





Identify strategies
(policies and procedures)
for managing, minimizing,
and resolving litigation
and the threat of litigation.



A black and white photograph of a man with glasses, wearing a white shirt and a dark bow tie. He has a surprised or overwhelmed expression. He is surrounded by numerous handguns, all pointed directly at him from various angles. The guns are held by multiple hands, some of which are visible on the right side of the frame. The background is dark, making the man and the guns stand out.

Owners

HUD

Tenants

REC

Vendors

Staff

Managing Litigation

A close-up photograph of a person's hand, wearing a dark suit sleeve and a white shirt cuff, carefully placing a light-colored wooden block onto a tall, slightly wobbly tower of similar blocks. The background is a blurred office setting with another person in a blue shirt visible on the right.

**Strategies
are the
SAME**

Managing Litigation

6 Stages

1. Prevention
2. Managing threats
3. Managing suits
4. Autopsies
5. When YOU sue
6. How to develop a relationship with a lawyer.





Is it better to
WIN a lawsuit
or
PREVENT ONE?



Prevention

8 Strategies

1. Litigation Alerts



TRAIN

Investigation Alert Training

Tenant

Eviction
Constructive eviction
Wrongful dispossession
Move-out disputes

Property

Rodents
Mold
Brokers
Key

Owner

TRAIN

Violence
Worker compensation
General liability
Theft - property

HUD

Complaints
ADA
Compliance
Investigation
Fines
Cash checks
Cash management

TRAIN





Prevention

8 Strategies

1. Litigation Alerts
2. Incident Reports



Incident Report - East 2016

1575 Wynfield Drive - Possible Mold

12/09: Tenant reports leak in garage on maintenance request

1/25: Insurance company reports that they do not handle mold

1/27: TS emails tenant requesting photos of area

1/28: TS calls tenant to follow up. Tenant said he will send pictures. Insurance adjuster told him not to go in attic above garage that their was a serious mold concern

1/28: TS places work order with Capital Restorations

1/28: TS notifies owner of concern

2/01: Tenant emails photos of concerning areas to TS

2/01: TS sends photos to owner, and Capital. Also, saves positive

2/01: TS receives estimate from Capital and sends to owner

2/05: TS sends owner email that we need reschedule by 2/16 @ 3pm

2/08: Owner calls TS informing that Insurance has agreed to cover all work. Owner supposed to contact capita to get a new window to replace the roof

2/08: TS sends owner email to confirm phone conversation.

2/12: TS coordinates meeting for owner and Capital to meet at property --- Patrick meeting them at the house on 2/12

2/17: Patrick meets Capital, owner, and tenant at property

3/15: TS requests update from Owner and Capital

3/15: Colin replies : Yes, the roof has been replaced and was completed on 2-28-16. The remediation was also completed this week finished 3-4-16. We have submitted the mortgage paper work and are currently waiting for completion before proceeding with the rebuild portion of the property.

2065 Harvest Ridge

2/11: Property inspection report notes discoloration on basement flooring. Looks like possibility of mold

2/11: TS sends to capital for them to inspect

2/11: TS informs tenant that Capital will be contacting her to coordinate an inspection

2/11: Capital confirms that work order was received. They will coordinate with tenant.

2/11: Capital emails to update that they are scheduled to go out on 2/16

2/18: Capital sends their notes/estimate from inspection.

Upon inspection of the basement we noticed light AMG growth on the exterior walls, some efflorescence at the bottom sill plate and cement. The resident pointed out where some water was coming of the foundation wall, this may need to be addressed by a foundation company. All the exterior walls with 2x4's need insulation.



Prevention

8 Strategies

1. Litigation Alerts
2. Incident Reports
3. Steps to a Lawsuit



Steps to a Lawsuit



Prevention

8 Strategies



1. Litigation Alerts
2. Incident Reports
3. Steps to a Lawsuit
4. Establish a cleanup fund and process.



Prevention

8 Strategies

- 5. Carry E&O
- 6. Take NARPM Risk Management classes
- 7. Dispute Resolution Agreement
- 8. It Takes 2.





Response to Threats Of Litigation



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Cut out all
Responders
but???



Put all Conversations in *Writing*



Email

Phone

Text



4575 Any Street - Timeline

02/24/14 - KP notifies Misty that the homeowner received an HOA violation about the possibility of a day care being run out of the residence and the possibility of unauthorized occupants. KP states that owner handles their own maintenance, so they have been inside the home.

2/24/14 - Misty responds confirming that Patrick should proceed with a property visit.

3/14/14 - Chanelle emails owner the letter that was sent to the tenants in regards to the lease violation. And a informing owner that a property visit is scheduled for 3/20/14.

3/28/14 - Misty emails owner requesting any documentation that they have received and that she will follow up with the Broker regarding options on having the resident vacate the property.

3/31/14 - Misty sends owner an email informing him that based off the property visit we cannot prove that the tenants are running a daycare out of the home. She requests that the owner sends any more documentation that he receives from the HOA.

Start a
Timeline



T
H
E



Litigation!



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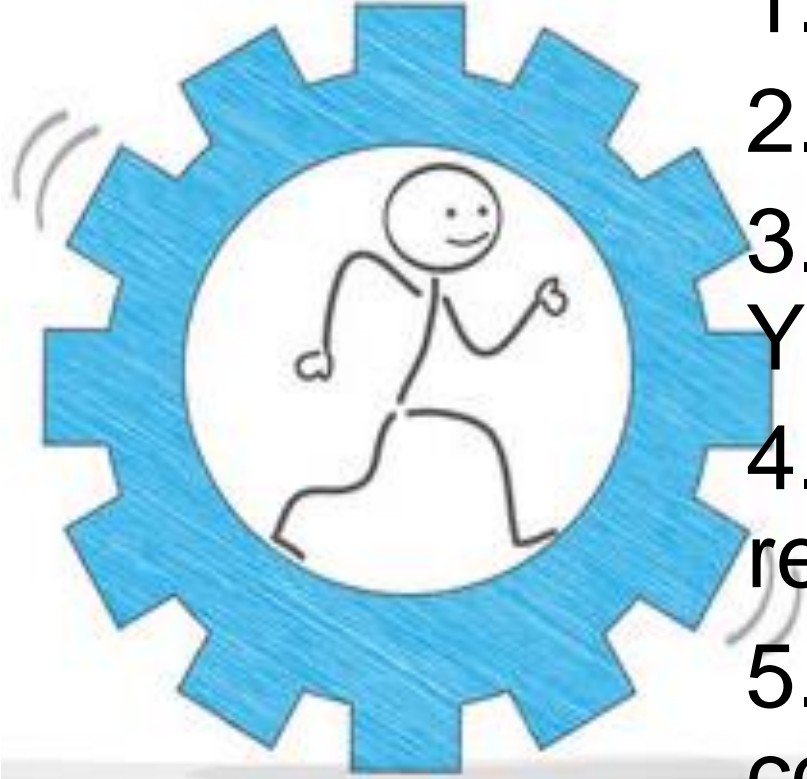
Managing a Lawsuit



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Managing the Suit Checklist



1. Meet with YOUR lawyer
2. Notify the owner
3. Connect owner with YOUR lawyer
4. Let YOUR lawyer respond to action
5. Notify your E&O company and connect them with YOUR attorney



Managing the Suit Checklist



6. Provide attorney a timeline, notes to the file, emails, texts and letters in chronological order highlighting key issues

7. End ALL conversations with the party suing you.



Strategies for Settling Lawsuits



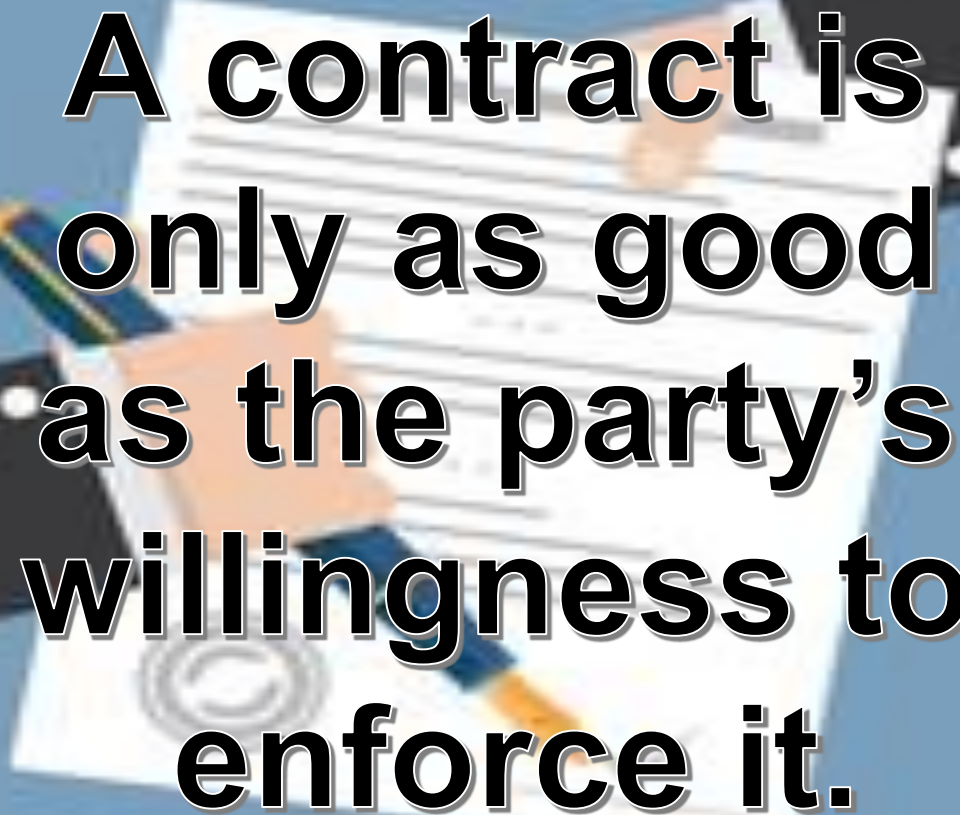
1. Fight to the end
2. Fight and settle
Write a check
Waive some fees
3. Run up THEIR attorney's fees
4. Drag it out.



Who Pays Legal Expenses?

Tenants



A hand holding a blue and yellow pen is positioned over a white document with text and a circular stamp. The document is placed on a dark surface against a blue background. The text is overlaid on the document.

**A contract is
only as good
as the party's
willingness to
enforce it.**

Who Pays Legal Expenses?

Tenants
Owner



MANAGER



TENANT



Who Pays Legal Expenses?

Tenants

Owner

HUD

REC

Vendor

Staff





Autopsies



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Autopsy Report

Address/Party: 365 Taylor Court / Owner

Author: Senior Property Manager Stephanie

Date: August 22, 2015

Incident that caused a problem:

Owner took a property back after a move out and is angry that we did not make him aware of a window leaking in the foyer that caused sheetrock damage, hard wood floor damage and window sill damage. He claims we should have made him aware of it and we are negligent in our duty to him as the property manager.

What was the outcome of the incident?

Owner is mad. Took the house away from Crown. We were a negative impression of Crown. Hurt our reputation.

Research found that

Same tenant was in property for 6 years.

Property visits had been done for the first 4 years but not the last 2.

Person doing the property visits claims she was accosted by tenant, didn't say anything to their supervisor and refused to go back to the property.

We didn't do a property visit for 2 years (4 visits).

Did we screw it up?

Absolutely. We should have done property visits as promised no matter what. It's our job to do these.

What should have been done?

Person being accosted should have reported it to the broker.

Another person should have done the property visits.

What did we do to try to rectify our error?

Sent our contractor to the property to access the cost to make it right. Sent the owner a check for the estimate with a letter of apology from the broker.



Autopsies

1. Institutionalizes
2. Forces you to think it through
3. Have staff draft
4. Have staff read
5. Have staff train others.



When YOU Sue



Enforce



Don't
Enforce




A photograph of a legal consultation. In the background, a person in a dark suit is seated at a white table, signing a document with a black pen. Another person, wearing a light blue shirt, sits opposite them with their hands clasped. In the foreground, a black wooden gavel with a gold band around its head rests on the table. A clipboard with a white sheet of paper is also visible. The scene is brightly lit, suggesting an office environment.

Develop a
relationship with
a lawyer
**BEFORE YOU
NEED THEM.**



How to develop a relationship with a lawyer

Here's the Challenge

- 
1. Lawyers are business people before they are lawyers
 2. All lawyers specialize
 3. There's no money in property management
 4. All lawyers understand contract law
 5. Litigation teaches lawyers how to prepare good management agreements and leases

Conclusion

Develop a relationship with a lawyer who has landlord tenant litigation experience.





How to develop a relationship with a lawyer

Do's
and
Don'ts



Bring them clients
(owners, investors, capital
groups, local property managers,
closings, LLCs and trusts)

Invite them to speak

Schedule quarterly meetings
(include staff)



DO's

Bring a written agenda
Bring them timelines,
notes to the file and
records of communications
(make their job easy).



Don'ts

Ask them to train you in
property management
Expect their services
for free.



The **TAKEAWAY**

You WILL have litigation
Spend time and money on prevention
List litigation alerts and TRAIN
Build a relationship with an attorney
before you need them.



TrainingPropertyManagers.com/ Orlando2017



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PropertyManagers
.com**

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CrownOnTheWeb**

