

2019

**BROKER / OWNER**

*Conference & Expo*



# **Body Armor for Property Managers**

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# Reality

**You  
will be  
sued.**





**Where does the  
liability come from?**

**Language, documents and  
strategies to reduce it.**

# Small “a” vs Big “A” Agency



**agent**

**Listing for sale**  
**Execute**  
**Assistant**  
**Make no decisions**



**Agent**

**Stand in their shoes**  
**Act as them**  
**Authority in PMA**  
**Make decisions**



**The reason  
sales agents  
are safe  
is because  
they make no  
decisions for  
the owner.**

# Small “a” Manager

**Owner sets qualifying guidelines**

**Owner approves and denies applicants**

**Owner holds security deposit**

**Owner decides terms of the lease**

**Owner signs lease as Landlord**

**Manager doesn't sign**

**Owner documents move-in condition**

**Owner dictates response to all maintenance**

**Owner decides when to file eviction**

**Owner decides when to take partial rent**

**Owner decides how much deposit to return.**





# **Your Honor**

**I'm just the agent  
The owner made  
all the decisions  
I simply executed  
their decisions**

**SAFE.**





# PROBLEM

When you start making decisions, the liability changes.



agent



Agent





# **Ask Yourself**

**Am I safer with the  
owner making  
decisions?**

**Can I scale?**

**Can I be  
profitable?**



# **Your Liability Changes**

**Judges are  
smarter than  
you think  
Opposing  
council asks  
questions.**



# Reality

**You're going to  
be named in  
litigation**

**Make a strategic  
decision**

**Co-management  
is HIGH RISK!**

# *Conclusion*

**What works for  
the sales model  
works for property  
management.**

# Conclusion

**Small “a” agency in  
property management  
protects you**

**But co-management  
doesn’t.**

# Conclusion

**The rules and  
structure of the  
sales relationship  
will keep you safe.**



**You MUST make  
the shift to  
Big A agent**

**Get permission to  
make operational  
decisions**

**Then make good  
decisions.**



**Your Honor  
I followed best  
practices**

**I looked out for  
tenant's health and  
safety**

**I protected the  
owner's long term  
interests.**







# **6 Strategies for Operating Safely in Property Management**

**As a Big A agent.**





# **Get Permission to Make Critical Decisions**

**Owner appoints Manager  
as his/her true and lawful  
Limited Power of Attorney  
to lease and manage  
the property.**





**Permission To...**  
**Approve/deny applications**

**Execute/deliver leases**

**Handle maintenance**

**Document condition**

**Collect rent**

**Make decisions regarding  
tenant- caused damages.**

# **Looking Out for the Owner**

**On behalf  
of the owner**

**In their name,  
place and stead**

**Standing in  
their shoes.**



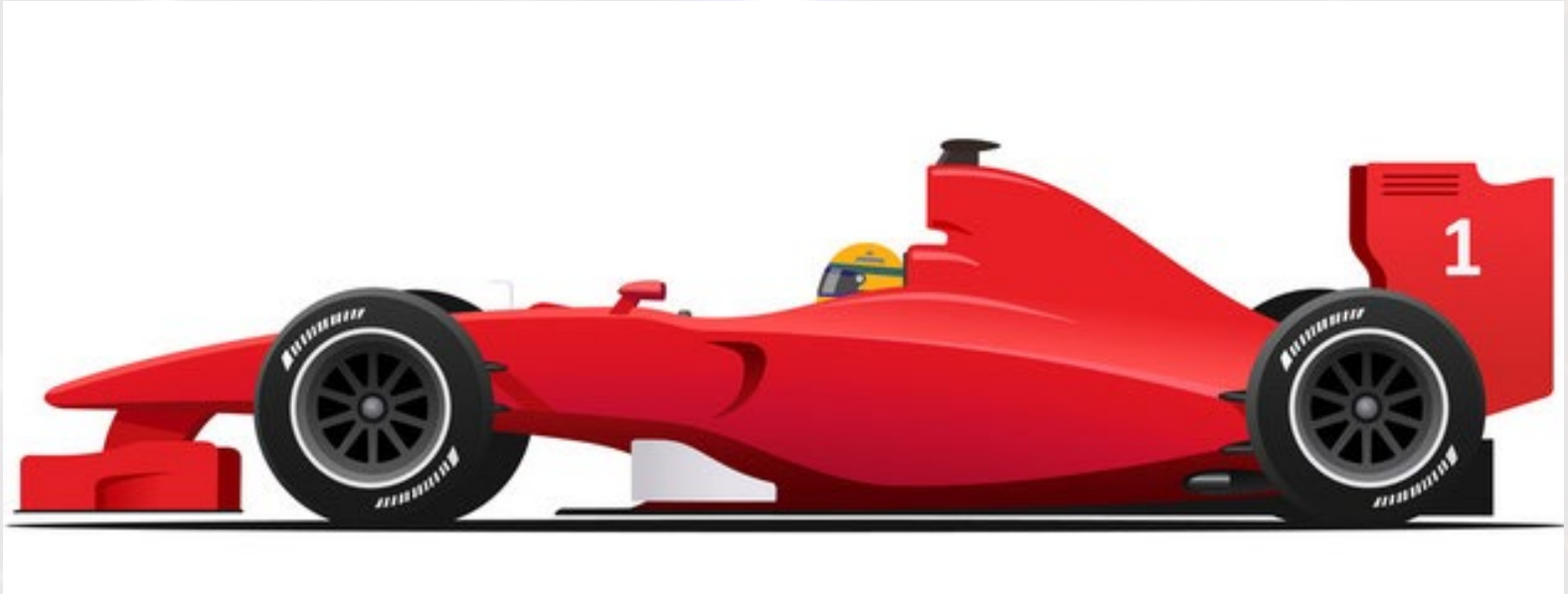
# **Decisions are Made by a Trained Professional**

**Driven by written policies  
and procedures**

**Industry best practices**

**Looking out for the health  
and safety of the occupant.**







# **Limit the Owner's Involvement in Maintenance**

**“Owner can manage exterior maintenance  
while property is occupied and interior  
issues while vacant”**

**“Owner agrees to have no contact with  
Resident while under this Agreement.”**





# Regarding Rent Collection

**“Owner authorizes Manager to collect rent, File evictions, Settle accounts, attend court and accrue attorney fees for same.”**





# Labels

**Use “Manager”  
as your label in  
the PMA NOT  
“Agent” or  
“Broker”.**



# Have the Right to Terminate

**Don't be timid  
about bailing out  
on short notice  
to protect  
yourself.**





# **Exculpatory Language**

**Hold harmless**

**Agreement not to sue**

**Indemnification**

**Limits on liability.**







# Be Careful

**Just because you say it  
And they sign it  
Doesn't make it true.**





# Documents

**Body armor  
Protect yourself  
from litigation,  
tenants and  
owners.**





# STOP

**Putting things in your  
lease you can't track,  
monitor or enforce.**

# **DISCLOSURE**

**Of unenforceable terms  
managers put in their leases  
Protect yourself.**



# Release of Liability for Personal Property

**“Owner releases Manager for loss or destruction of real or personal property.”**





# Housekeeping Document

Personal Property  
Disclosure.



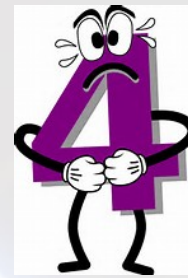
# HOA Disclosure

**Owners not always  
forthcoming**

**Third party  
that doesn't  
recognize you**

**Protect yourself.**





# Mortgage Disclosure

**If current  
Will notify  
Indemnify you  
Attorney fees  
Stay engaged.**





# Maintenance Disclosure

How much you  
can spend

Quotes vs. estimates

Mark up on  
large projects

Define emergencies.





**Shrinks the PMA**

**Say more about wormy issues**

**Get owner signing but not you**

**What vs. How**

**Protect yourself.**





# **Home Warranty**

**Owner must  
stay engaged**

**Charge for managing**

**Manager resolves  
if delays**

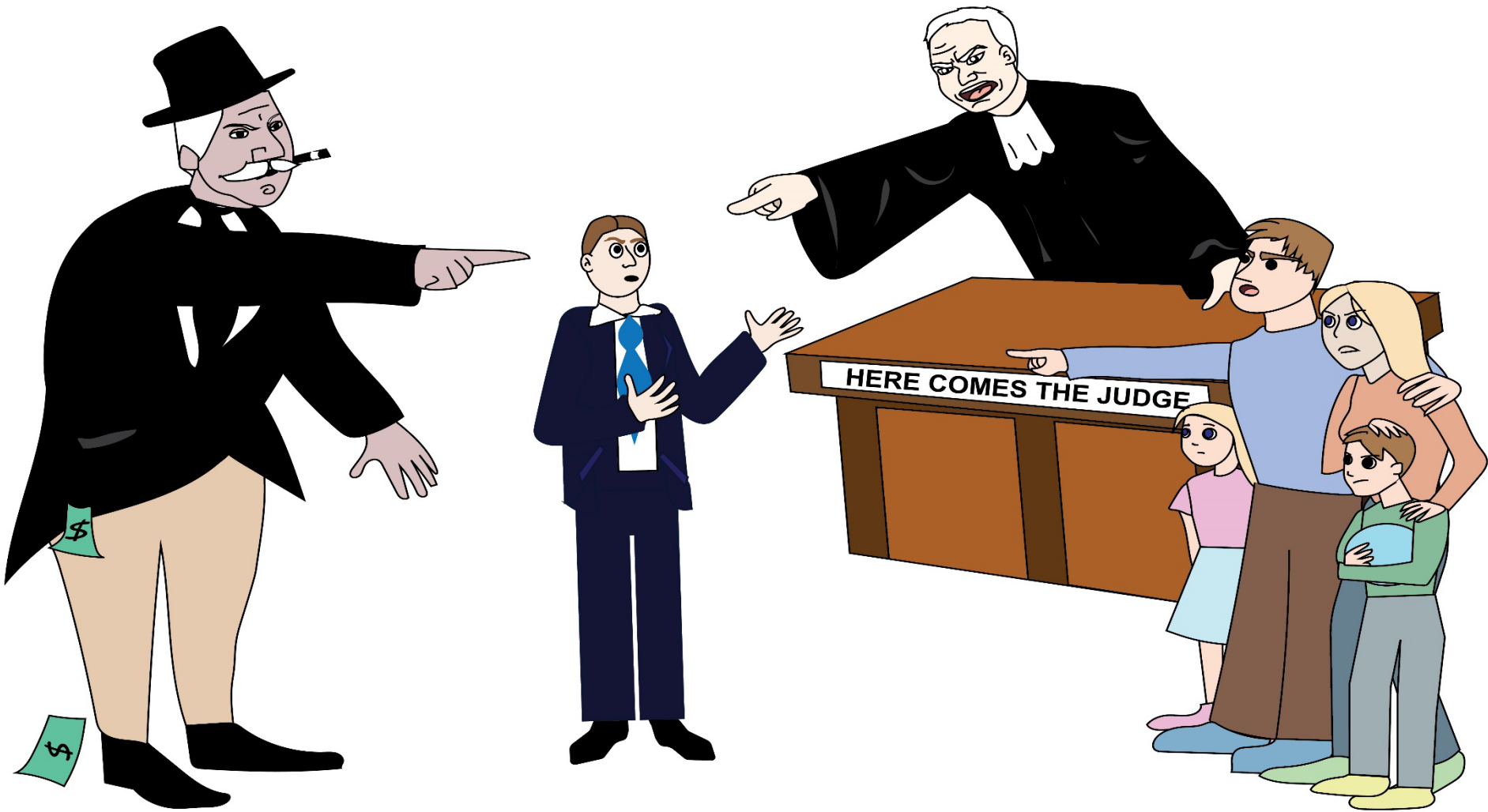
**Indemnification and  
pay attorney fees.**



# Reality

**You  
will be  
sued.**





# Protect Yourself

Become “small a”

Become “Big A”.



agent



Agent



**Protect**  
**Your owner**  
**Your tenant**  
**Yourself**



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