



CASE STUDY

Bornstein Law Victory: Jury Trial - Alameda County Superior Court



In a jury trial, Bornstein Law secures another victory in Alameda County Superior Court after our client sought to remove a bad actor from the rental unit. After the landlord attempted to correct the tenant's behavior, it went from bad to worse.

With the possible exception of Los Angeles, Alameda County has the most draconian eviction moratorium in the state of California, but there is an exception when an occupant causes a nuisance that threatens health and/or safety.

In this case, we argued that the defendant's conduct was so egregious that it passed this test and a jury of the defendant's peers unanimously agreed.

Facts of the case

Our client - the plaintiff landlord - rented an apartment to a gentleman who later subleased the premises to the defendant.

The landlord was not aware of this unauthorized subletting until it cascaded into many harrowing problems.

Although the lease prohibited any unauthorized occupants, the defendant nonetheless entered into a 30-day, month-to-month sublease with the original tenant and made himself home.

As part of the unauthorized sublease agreement that was entered into (mind you, this arrangement was unbeknownst to the landlord), the defendant had access to the tenant's home furnishings, appliances, and personal belongings. The relationship quickly went sour.

The defendant took over the rental unit through force and intimidation. The subtenant told the master tenant that he had changed the locks, leaving the decade-long master tenant unable to access his apartment.

The master tenant continued to be harassed by the defendant, who enjoyed the use of the tenant's personal possessions and refused to vacate or even restore the tenant's personal effects.

Enough is enough. But it gets more shocking.

Our client was aghast to learn that the property was sublet out to an unknown person, but even more startling was that the original tenant was, seemingly, locked out of the premises. This was a morass that required the assistance of a landlord attorney.



Bornstein Law initially prepared a "Notice to Cease" on the defendant demanding that the rogue occupant stop his nuisance conduct. The process server - a wonderful woman - became terrorized during the lawful service of the paperwork.

Upon serving the notice, the process server was held against her will by the defendant. The defendant attempted to justify this false imprisonment by making the preposterous claim that he was effectuating a citizen's arrest.

On behalf of our client, Bornstein Law escalated the matter by filing a 3-Day Notice to Quit and thereafter, an unlawful detainer action for the defendant's nuisance misconduct of locking out the rental unit's original tenant. This lock-out forced the rightful tenant out of possession and deprived him of his personal property. Harassing behavior by the defendant, moreover, caused the displaced master tenant to fear for his safety.

Another ground for eviction, of course, was the disturbing act of accosting and detaining the landlord's agent. This frustrated our client's efforts to resolve the violations without further legal action.

Up until trial, the defendant continued to hold over the rental unit and continued his campaign of harassment against the tenant legally entitled to live there.

It was our strong belief that our client's matter was neither barred by the Alameda County Eviction Moratorium nor the City of Oakland Eviction Moratorium.

Accordingly, Bornstein Law filed an ex parte application requesting an order determining that the action at hand was necessary to protect public health and safety. The court granted this request and we proceeded to trial.

In an impassioned closing argument, Daniel Bornstein reminded the jury of the shared values our community hold dear and that these values must be reinforced.

The defendant flouted those community values without any remorse or contrition. His conduct was so despicable, we submitted, that he must find a new place to live.

Daniel urged the jury to uphold the values we hold on to as a community and set a precedent for future tenants in the building and indeed, other buildings, that certain conduct is not permitted.

The jury did just that.

The result

The landlord prevailed, obtaining a judgment entitling our client to possession of the premises, along with monetary damages for the defendant's unlawful detainer of the premises.

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