

1995

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Recommended Citation

Jane Cady *State Law Preempts Housing Authority's Lease Provision*, 8 Loy. Consumer L. Rev. 73 (1995).

Available at: <http://lawcommons.luc.edu/lclr/vol8/iss2/10>

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concert of action liability results from an express or tacit understanding of a common agreement among all defendants to carry out a tortious act. Furthermore, each defendant must have committed a tort, and at least one defendant must have committed a tortious act stemming from the agreement among the defendants. However, mere parallel activity among the defendants, such

as in marketing and product development, the court noted, fails to prove the agreement required to maintain a concert of action theory. The court found that the plaintiffs' reliance on the defendants' marketing methods and statements to governmental entities were misplaced. The court found that the defendants' activities were parallel and therefore precisely the type of

activities that fail to establish concert of action liability. Furthermore, the court noted that the plaintiffs made no showing of an express or tacit agreement to carry out a tort, nor had proof surfaced of any action taken pursuant to such an agreement. Thus, the court dismissed plaintiffs' claim based on a concert of action theory.

State law preempts Housing Authority's lease provision

by Jane Cady

In *Doe v. Portland Housing Authority*, 656 A.2d 1200 (Me. 1995), the Supreme Court of Maine denied a request to invalidate a provision contained within a Portland Housing Authority ("PHA") lease. The lease provision banned the possession of all firearms on leased premises. The court held that Maine law preempted the PHA regulation because the state law overrode the PHA lease clause. Me. Rev. Stat. Ann., tit. 25, § 2011 (West 1994). Because of the preemption, the court found it unnecessary to explore any of the constitutional issues raised by the appellants.

The appellants, Jane and John Doe, were both skilled and licensed gun users who possessed firearms in their PHA residence. They contended the PHA lease violated several of their constitutional rights, including the right to bear arms, the right to defend life and liberty, and equal protection of the laws. The trial court held the lease provision did not violate these constitutional guarantees. Additionally, the trial court found state law did not preempt the PHA ban on firearms. Therefore, the court upheld the lease provision and denied the Does' request.

PHA qualifies as a political subdivision

The Supreme Court of Maine decided if the PHA qualified as a political subdivision within the

meaning of Me. Rev. Stat. Ann., tit. 25, § 2011 (West 1994), it was not necessary to examine the constitutional issues raised by the appellants. State law preempts regulations of its constituents' political units if there is an expressed intent to do so. Thus, if PHA is a political subdivision, title 25, section 2011 of the Maine Code preempts its firearm regulation.

The PHA contended there is no preemption because only orders, ordinances, rules, and regulations of political subdivisions are affected. The PHA argued it is not a political subdivision because it is not specifically enumerated in the statute. Secondly, the purpose of title 25, section 2011 of the Maine Code is to make firearm regulations uniform so that hunters traveling through Maine will not be subjected to different regulations when they cross town lines. Therefore, the PHA claimed that the legislature had no intent to preempt the PHA lease.

The statute is not clear on its face whether the PHA is a political subdivision. The PHA is neither defined within the statute nor specifically named as one of the enumerated examples. However, the statute makes it clear that the enumerated agencies are only examples and the list is nonexclusive. Therefore, the Maine Supreme Court turned to the legislative history to assist in the interpretation of the statute.

Legislative history indicative of uniformity of regulations

The legislative history of title 25, section 2011 of the Maine Code supports the conclusion that the legislature intended to preempt the regulation of firearms by the PHA. The principle thrust of the legislation is to make Maine's firearm laws uniform for all Maine citizens. Title 25, section 2011 of the Maine Code was passed on the heels of a Maine constitutional amendment changing Maine's constitutional right to bear arms from a collective to an individual right. The statute was enacted to reinforce the amendment and ensure uniformity in the regulation of guns for all Maine citizens. Therefore, the legislative history is consistent with title 25, section 2011 of the Maine Code's expressed intent to occupy and preempt the entire field of legislation concerning the regulation of firearms.

Although two exceptions to title 25, section 2011 of the Maine Code exist, the PHA does not qualify for either one. The first upholds municipal ordinances if they conform exactly with state law or only concern the

discharge of firearms. The second permits law enforcement agencies to regulate the type or use of firearms issued to its employees. Furthermore, there is no indication that the PHA lease provision should be exempted. The legislature even rejected the possibility of exempting municipalities of over 15,000 from the ordinance.

The PHA also claimed that by enacting the United States Housing Act, Congress intended to override any preemption under state law. Under the Housing Act, federal law gives housing authorities management responsibilities over their projects. The Maine Supreme Court, however, rejected this argument because title 25, section 2011 of the Maine Code does not conflict with federal law.

Therefore, the PHA lease provision is contrary to the legislature's intent to ensure the equal treatment of all Maine citizens concerning firearm regulations. Because the PHA had broad powers consistent with its mission of carrying out public and essential functions, it qualified as a political subdivision. Therefore, the court held state law preempted the PHA lease provision and was unenforceable.

Credit reports updated in 30 days meet reasonable standard

by Melissa Jerves

In *Elliott v. TRW, Inc.*, 889 F. Supp. 960 (N.D. Tex. 1995), the United States District Court for the Northern District of Texas held that a credit reporting agency acted reasonably under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §1681, when it deleted an outstanding judgment from a credit report within 24 days of receiving notice that the judgment had been paid.

On May 13, 1988, a \$200 judgment was entered against the plaintiff, Gary Elliott ("Elliott"), for failure to pay rent. Elliott satisfied the judgment on June 20, 1991, and immediately gave TRW, Inc. ("TRW"), a credit reporting agency, a copy of the release of judgment so that TRW could update his credit report. TRW

requested that Elliott obtain a statement verifying his payment because the date on the release of judgment was unclear. On July 8, 1991, Elliott provided TRW with a letter confirming that he had paid the judgment. TRW claimed that it requested that the judgment be deleted from Elliott's credit report on July 31, 1991; on August 1, 1991, the report was updated. Elliott alleged that TRW acted unreasonably in the length of time it took TRW to delete the judgment from his credit report and that as a result, three creditors denied him credit. He also claimed that there was a genuine issue of fact for trial regarding the accuracy of the information on his credit report about the judgment after June 20, 1991.