

Rule 8: Provide for recovery of attorney's fees. In general recovery of attorney's fees is an advantage to a restaurant tenant because it provides for recovery of fees to enforce the lease. In no circumstances should a tenant agree to a one-sided attorney's fees clause that allows the landlord to recover attorney's fees but not the tenant. While such clauses are not enforceable in some states, they are enforceable in others.

Rule 9: Do not expand the landlord's default remedies unless you understand what the impact will be. Most states have specific provisions governing a landlord's default (unlawful detainer) remedies. In most states those rights can be modified by agreement.

Rule 10: Make sure that any limitations on remedies are understood before they are agreed to. For example, a lease may contain provisions that limit the recovery from the landlord to the interest of the landlord in the shopping center or put a limitation on recoveries regarding successor or predecessor landlords. While such clauses may not ultimately limit the recoveries that are achieved, they almost undoubtedly provide the landlord an additional argument and will likely be used for purposes of delaying and increasing the expense of any tenant pursuing claims. Avoid such provisions if possible.

Rule 11: Do not agree to provisions that might limit the tenant remedies based on the tenant taking some action, unless you know the restaurant will do it. Perhaps, the most common of such provisions are provisions that limit or seek in some way to limit the relief available to a restaurant if the restaurant fails to audit or otherwise object to billing statements received from a landlord. While such provisions may have a limited legal effect depending on the specific language, they almost invariably create another basis for a landlord to contest a claim, increase expense and delay resolution. Agreeing to such clauses should be understood, and if the restaurant does not as a matter of course take such action, do not agree.

Conclusion

The most important lesson from lease disputes is that the judge, jury or arbitrator will "read the lease." The 11 rules that are identified here follow from that key lesson.

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Firm to Offer Treasury Management and Buying Groups for Banking Services to Franchise Sector

Banking Syndicators, formed in 2006, offers treasury management for small companies, as well as organizing like businesses together to form buying groups for banking services. President and founder **John Szajna** has begun to focus on franchising, because franchisees are often small businesses that need professional treasury management, and can be grouped together to cooperatively buy services to lower overall pricing.

According to Szajna, each group is assigned a treasury management professional and treasury management system to conduct more accurate cash forecasting for each individual business, often a task only larger businesses can undertake. With more accurate forecasting, he says, the franchisee can make better decisions on paying down debt, investing in future endeavors and avoiding cash shortfalls.

"We can improve the franchisee's credit rating, so that no matter where they go, they get a better deal (with financing)," says Szajna. Smaller franchisees can spend more time on their business, and less time managing their cash.

Banking Syndicators also has joined forces with Brinks and their Compusafe program: When a retailer puts money in the safe, it sends an electronic message to the bank concerning how much has been deposited. Brinks will guarantee the amount in the safe, and the bank will make those funds available to the retailer. This eliminates the need for a daily deposit. "It's cheaper, and there are no deposit adjustments," says Szajna. If Brinks picks up all deposits once a week, the retailer can bank anywhere. "It takes geography out of the picture."

"For the multi-unit owner, he can go down to one bank account at one bank," he says. "It provides leverage—you are really driving down the cost of deposits and other banking services, as well. And you are getting more availability of the money, and it's safer."

Banking Syndicators also pools together like businesses so they can access banking services for the best price, after assessing the client's needs. When combining a pool of businesses, they can get a better rate on investments because the overall investment is larger. And, better rates can be had on borrowing when the pool of borrowers is larger, as well.

For more information on Banking Syndicators of America, contact John Szajna, president, at 847-997-0394, or by e-mail at jszajna@bankingsyndicators.com.

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