

Civil Code Requirements Regarding Unclaimed Cleaning

the number of recent calls to the CCA Office regarding what to do with unclaimed garments and other cleaned items, indicates it is time to review the California Civil Code requirements for dry cleaner responsibilities in this area.

Civil Code Section 3051 lists a number of liens on personal property including the lien of a launderer and retail dry cleaner for performing services in cleaning or repairing garments or other items brought in by the owner for service. This establishes the basic tenet that a dry cleaner assumes a lien holder's rights and duties upon acceptance of the garment or item to perform service as requested by the owner.

The dry cleaner's rights and duties as the lien holder—when the owner does not return to claim the cleaned item within a reasonable period of time—are spelled out in Civil Code Section 3066 and applies specifically to launderers and dry cleaners. It reads:

§3066. [Sale of garment or clothing to pay charges for cleaning or alterations]

(a) Any garment, clothing, wearing apparel, or household goods remaining in the possession of a person, firm, partnership, or corporation, on which cleaning, pressing, glazing, or washing has been done or upon which alterations or repairs have been made, or on which materials or supplies have been used or furnished, for a period of 90 days or more after the completion of such work may be sold to pay the reasonable or agreed charges and the costs of notifying the owner or owners. Provided, however, that the person, firm, partnership, or corporation to whom such charges are payable and owing shall first notify the owner or owners of the time and place of such sale. Provided further, that property that is to be placed in storage after any of the services or labors mentioned herein, shall not be affected by the provisions of this section.

(b) All garments, clothing, wearing apparel, or household goods placed in storage, or on which any of the services or labors mentioned in the preceding section of this act have been performed and then placed in storage by agreement and remaining in the possession of a person, firm, partner-

ship, or corporation without the reasonable or agreed charges having been paid for a period of 12 months, may be sold to pay said charges. Provided that the person, firm, partnership, or corporation to whom the charges are payable, shall first notify the owner or owners thereof of the time and place of sale. Provided, however, that the persons, firms, partnerships, or corporations operating as warehouses or warehousemen shall not be affected by this section.

(c) The posting or mailing of a registered letter, with a return address marked thereon, addressed to the owner or owners, at their address given at the time of delivery of the article or articles to a person, firm, partnership, or corporation to render any of the services or labors set out in this act, stating the time and place of sale, shall constitute notice. Said notice shall be posted or mailed at least 30 days before the date of sale. The cost of posting or mailing said letter shall be added to the charges.

Where the address of an owner is unknown, a posting of notice, for a period of 30 days, at a prominent place in the receiving office of the person, firm, partnership or corporation required to give the notice is sufficient.

(d) The person, firm, partnership, or corporation to whom the charges are payable, shall, from the proceeds of the sale, deduct the charges due plus the costs of notifying the owner and shall hold the overplus, if any, subject to the order of the owner and shall immediately thereafter mail to the owner thereof at his address, if known, a notice of the sale, the amount of the overplus, if any, due him, and at any time within 12 months, upon demand by the owner, pay to the owner said sums or overplus in his hands.

(e) All persons, firms, partnerships, or corporations taking advantage of this act must keep posted in a prominent place in their receiving office or offices at all times one notice which shall read as follows: "All articles cleaned, pressed, glazed, laundered, washed, altered, or repaired and not called for in 90 days shall be sold to pay charges." "All articles stored by agreement and charges not having been paid for 12 months will be sold to pay charges."

Notice of Sale

To: _____ [owner]
_____ [address]

Notice is hereby given, pursuant to subsections (a) and (c) of Section 3066 of the California Civil Code, that more than 90 days have elapsed since completion of the _____ [cleaning] of your _____ [description of property] which remains uncalled for in the possession of the undersigned. _____ [Agreed or Reasonable] charges in the amount of _____ Dollars (\$_____) remain unpaid for this _____ [cleaning].

Notice is further given that if these charges and the costs of this notice are not paid within 30 days after the _____ [mailing or posting] of this notice, the above-described goods will be subject to sale in payment of such charges, and will be sold at _____ [location] on _____, 20____, at _____ a.m./p.m. [to the highest bidder for cash].

Dated _____, 20____.
[Signature]

There are other sections of the Civil Code that deal with lien holders' procedures in general, including Section 3052 (selling unclaimed property at public auction) and Section 3052 (b) providing an alternative procedure to 3052 including a \$2.00 per day storage charge after 30 days from the date of first notification of intent to sell to the owner. Following a second notice—with another 30 day wait period before sale—the lien holder may sell the property at a bona fide public or private sale to satisfy base charges, interest at 12 percent and the expenses of sale. Sale proceeds must be applied to cover the base charges, interest and sale expenses with any excess paid to the owner upon demand.

Section 3066 is silent on the specific matters of per day storage charge, interest, and recovery of sale expenses. While 3066 is specific to dry cleaners and should serve as basic guidance, it would appear that the quantified expenses mentioned in 3052 (b) may provide a guide for dry cleaners who may wish to adopt a policy regarding such charges. Those considering such a policy should check with legal counsel before proceeding.