

Are All Your Safe Deposit Doors Locked?

Have you ever wondered what the “perfect” safe deposit lawsuit might look like? Picture this. A safe deposit renter signs the access record. You verify the signature and escort him to his box inside the vault. You insert the guard key into the lock. The box door is locked, but, to your amazement, you realize that his door is not completely closed. Simultaneously, the renter comes to the same horrifying conclusion. “Who’s been in my safe deposit box?” demands the irate customer. The “you” in the scenario is the safe deposit attendant who, needless to say, has no satisfactory explanation.

Many frightening scenarios

Unfortunately, this safe deposit horror story is being played out repeatedly in financial institutions nationwide. In every case, these institutions are consistently ignoring one major access mandate - never allow renters to finalize their access transactions by replacing their container and relocking their box doors without the supervision of safe deposit personnel. In some instances, the renters don’t know how to return their box and lock their doors properly. It is also believed that, in other cases, renters’ “mistakes” are not accidental; they are done intentionally, thus setting the stage for disappearance claims and/or lawsuits.

A second problem arises when ‘multiple’ renters are allowed to return their box containers unsupervised. If several renters remove their boxes and view the contents at the same time, a safe deposit box can accidentally be replaced in the wrong opening. The renter, unaware of his error, leaves the vault with another renter’s safe deposit key. This disturbing event will definitely destroy your unfortunate safe deposit attendant’s day.

More liability unfolds

Unsupervised safe deposit access can, and often does, result in mistakes and oversights that open the door to legal action against the financial institution. Recently, I conducted a nationwide telephone seminar. During this program, I shared specific details surrounding a case in which a financial institution is being sued because a renter discovered that his safe deposit container had been returned, but the box door was locked open for one year.

Nationwide problem

How do I hear about these frightening situations? They are shared with me by participants in my training programs or during panicked phone calls to my safe deposit consulting company. In every case, I strongly recommend that these institutions contact their liability insurance carrier and consult their legal counsels. At this point, seeking professional advice is imperative. If possible, assistance should be obtained before your renter becomes aware of this security breach.

Do-It-Yourself solution

In one recent “locked (but not secure) safe deposit door” situation, the financial institution did not avail itself of legal advice. Instead the safe deposit manager merely drafted a short in-house “Release of Liability” form. After the contents of the box had been inspected, found to be intact, the financial institution would be expected to be relieved of all further liability. In this case, the renter did sign the “in-house” form and the financial institution is probably out of the woods. However, if the renter is an unscrupulous and reasonably knowledgeable opportunist, he could still file a claim for missing contents. If he sues, this “Release of Liability” form will probably be viewed as inadequate in a court of law. The financial institution will also face many difficult and uncomfortable questions concerning accountability which it must now address. Questions like:

- How many people have been inside your safe deposit vault over the last month (or year) while this box door was open?
- Have your tellers, new accounts personnel, loan collateral clerks, safe deposit attendants or other safe deposit box renters been in this vault area, by themselves, over this period of time?
- Can you prove that none of these people had the opportunity or desire to open this box door, pull out the container and remove the items that this renter now says are missing?

The most important thing this institution must realize is, THERE IS NO SATISFACTORY DEFENSE AGAINST THIS TYPE OF DISAPPEARANCE CLAIM.

Simple solution

How can you prevent these disasters from occurring in your safe deposit vault? The solution is simple. A renter should never be allowed to close and lock his box door unless a member of your safe deposit staff is present to witness and supervise the door relocking. The best way to ensure that this procedure is followed every time is to instruct your staff to remove the guard key and the renter's key each time the door is opened. The renter's key is then returned to him, and the guard keys always remains with your staff. When the renter completes his access transaction, the box is returned to its proper opening and both of the individuals and keys must be present when the door is relocked.

In conclusion

Successfully proving in a court room that proper access procedures are systematically followed by your institution will always bolster your position and provide a proper legal defense if your procedures are ever scrutinized during a lawsuit.

About the Author: David P. McGuinn, President of Safe Deposit Specialists, is a former banker and is often referred to nationwide as the safe deposit GURU. In all 50 states he has trained over 200,000 safe deposit personnel since 1969 and has served as President of the American Institute of Banking and the American, Texas and Houston Safe Deposit Associations. He has created numerous safe deposit manuals, training videos, products, compliance forms and other products. During the past 35 years, McGuinn's safe deposit manuals, videos, products and forms have been recognized as the national standard for the financial industry.