

# MARKS & WEINBERG, P.C.

## **Dealers Leasing, Inc. v. Allen**

994 F.2d 651 (Kan. 1999)

Allen entered into a leasing agreement with Michael Duranleau who supposedly represented Dealers Leasing, Inc. (õDealersö) for the lease of a used jukebox for her restaurant. Dealers purchased the jukebox from Billiards & Games, and thereafter was to collect payments from Allen. The lease was classified as a õfinance leaseö under Kansas law.

When the jukebox arrived at the restaurant, the page turner for the CDs was broken, the bill changer did not work, and the jukebox could not be hooked up to the speaker system because a part was missing. Billiards & Games attempted to deliver a repaired jukebox a few days later, but refused to hook it up properly. Allen stated that she would not receive the jukebox until Billiards & Games agreed to hook it up. Shortly thereafter, Allen wrote to Dealers asking it to void the contract.

Dealers then sold the jukebox at a loss and sued Allen for the alleged deficiency. Allen counterclaimed against Dealers for breach of contract, lost profits, and violation of the Kansas Consumer Protection Act (KCPA). The trial court granted judgment in favor of Dealers.



On appeal, the Court determined that Allen was entitled to relief under the KCPA, holding that the door-to-door sales requirement under the Act was not limited to home solicitations. Dealers violated the Act by failing to provide Allen with notice of her right to cancel the contract. Under the Act, Allen was entitled to a remedy of the return of any money she had paid to Dealers (\$414).

The Court found that Allen was not entitled to lost profits because she failed to mitigate damages. However, the case was remanded in order to determine whether Duranleau was an agent of Dealers, Billiards & Games, or both.

Marks & Weinberg, PC is a law firm with significant experience in dealing with virtually every type of equipment and facility lease financing. The lawyers of the firm have participated in leasing financings for more than a billion dollars of equipment and are recognized throughout the industry. If you would like more cases or articles on leasing, or have any questions or comments about this Article or other leasing issues, please visit [leaselawyer.com](http://leaselawyer.com) or contact Barry Marks at 205.251.8303 or Ken Weinberg at 205.251.8307.

