



REAL PROPERTY LAW SECTION

REBUILDING THE DREAM:

Michigan Real Estate Revitalized

Grand Traverse Resort & Spa • Traverse City, Michigan

July 16-19, 2014

Program Co-Chairs:

Leslee M. Lewis, Dickinson Wright PLLC

Michael A. Luberto, Chirco Title Agency, Inc.

WEDNESDAY, JULY 16, 2014

6:30 – 8:00 p.m. ~ Welcoming Reception

THURSDAY, JULY 17, 2014

8:00 – 8:15 a.m. ~ RPLS Lobbyist Update: Tabitha J. Zimney, Karoub Associates

8:15 – 9:00 a.m. ~ Round Robin Rapid Introductions

9:00 a.m. – Noon ~ Feature Presentation: Wonderful World of Construction

Moderator: Mark Makower, Makower Abbate, PLLC

Construction Contracts: John G. Cameron Jr., Dickinson Wright

Construction Liens: Sean P. McNally, Kotz Sangster Wysocki, P.C.

Permitting/Planning: Richard D. Rattner, Williams, Williams, Rattner and Plunkett, P.C.

Title Underwriting: Dawn M. Patterson, First American Title National Commercial Services

Noon – 12:15 p.m. ~ Newer Practitioners: Special Panelist Q&A Opportunity

FRIDAY, JULY 18, 2014

8:15 – 8:45 a.m. ~ Round Table Discussions (Choose One): Selected members of the Section will chair discussions.

8:45 – 9:45 a.m. ~ State of the Law

Melissa N. Collar, Warner Norcross & Judd LLP

Mark P. Krysinski, Jaffe Raitt Heuer & Weiss, P.C.

9:45 – 9:55 a.m. ~ Section Annual Meeting

Ronald E. Reynolds, Verduyse Murray & Calzone PC, Chairperson

Land Title Standards Meeting, Brian J. Page, Dykema

10:00 a.m. – Noon ~ Workshops (Choose Two)

Real Estate Ownership: Choice of Entity and the Consequences of Subsequent Transfers

Thomas A. Kabel, Butzel Long PC

Paul J. Walters, Jr., Deloitte Tax LLP

Rural Real Estate Challenges: Roads, Divisions, Waterfront & More

Lorri B. King, Law Offices of King & King PLLC

Clifford H. Bloom, Bloom Sluggett Morgan P.C.

Restrictive Covenants and Easements: Overview for Commercial and Residential Property

William E. Hosler, Williams Williams Rattner & Plunkett PC

C. Kim Shierk, Myers Shierk & LaBelle PLLC

For Our Newer Practitioners (Choose one for each hour):

(10:00 – 11:00 a.m.) Fundamentals of Purchase Agreements

John T. Schuring, Dickinson Wright

Patrick A. Karbowski, McDonald Hopkins

(11:00 – Noon) Fundamentals of Leasing

Alexander J. Clark, Miller Canfield Paddock & Stone PLC

Lawrence R. Shoffner, Lawrence Shoffner & Associates

SATURDAY, JULY 19, 2014

8:30 – 9:30 a.m. ~ Round Table Discussions (Choose Two): Selected members of the Section will chair discussions.

9:40 – 10:40 a.m. ~ Special Presentation: Craig Fahle, WDET
Ben Franklin was right: "We must, indeed, all hang together or, most assuredly, we shall all hang separately."



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REBUILDING THE DREAM: *Michigan Real Estate Revitalized* HIGHLIGHTS

Feature Presentation: Wonderful World of Construction

Lenders are lending. Cranes are in sight. Concrete is on the move. And Michigan is rebuilding. The 'Wonderful World of Construction' will address various aspects of the construction process: contracting for design and construction services, peculiar aspects of construction lending, negotiating the minefield of permitting, nuances of the construction lien act, common draw issues, and much more. Experts in these fields will share with you their knowledge of the intimacies of the construction world and leave you well prepared to start building.

Real Estate Ownership: Choice of Entity and the Consequences of Subsequent Transfers

A critical consideration in structuring the acquisition, development and ownership of rental real estate is the choice of entity. This session will compare and contrast the differences between the forms of ownership typically employed by developers, owners and operators to limit exposure to business risk with a focus on the federal income tax implications. Even after choosing the appropriate form, however, risks await practitioners who are not aware of the many potential consequences that may arise from later transfers of interests in the ownership entity. This session will also discuss the tax implications, including the transfer tax and property value reassessment (i.e., "uncapping") implications of subsequent transfers of an entity's ownership interests—including so-called "upstream" transfers.

Rural Real Estate Challenges: Roads, Divisions, Waterfront and More

Practicing law in rural areas presents unusual challenges. This session covers areas of real property law likely to be encountered by rural attorneys (as well as "city slicker" lawyers who must represent a client in a rural area!). The topics include plat issues along the waterfront (i.e., road ends, parks, etc.), land division challenges, zoning that affects rural properties, private roads and access issues.

Restrictive Covenants and Easements: Overview for Commercial and Residential Property

Both restrictive covenants (deed restrictions) and easements are important tools in the development and use of real property, both commercial and residential. This workshop will address how they are generally defined, created, enforced, interpreted, imposed, waived, avoided and/or terminated. War stories are welcome!

FOR OUR NEWER PRACTITIONERS Fundamentals of Purchase Agreements

This interactive workshop will focus on the essential elements of a commercial purchase agreement as well as highlighting those provisions that may be characterized as "pro-seller" or "pro-buyer" and where the middle ground might be.

Fundamentals of Leasing

Leasing is the lifeblood of commercial real estate development. Join us as we provide an overview of the major types and terms of commercial leases and key issues in residential leases. The panel will offer practical drafting and negotiation tips that you can use to help your clients navigate through challenging lease issues.

SPECIAL PRESENTATION By Craig Fable, WDET

Title: Ben Franklin was right: "We must, indeed, all hang together or, most assuredly, we shall all hang separately."

A lack of compromise, or even a willingness to hear each other is causing significant problems for Michigan, and the country. Infrastructure, education, the environment... all need attention, yet our polarization is preventing us from coming up with long term solutions. Without a change in attitude, the quality of life in our communities will be impacted more than it already has. That said, its not too late to fix it.



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FACULTY

Program Coordinators



Leslee M. Lewis, Co-Program Coordinator, is a Member of the Governing Board of Dickinson Wright PLLC and managing partner of its Grand Rapids office. She is honored in *Chambers USA*, *Best Lawyers in America* and *Super Lawyers*, was selected for the 2013 Women in Law Award and 2013 YWCA Tribute Award, and is an elected member of the American Law Institute. She recently concluded her term as Practice Department Manager of Dickinson Wright PLLC's Real Estate, Environmental, Energy and Sustainability practices in North America. Ms. Lewis has extensive experience as counsel to major national clients in multi-million dollar strategic real estate leasing, development, finance, construction, acquisition and disposition projects. She is a nationally recognized expert on green building and leasing projects and wind farms. Ms. Lewis is also counsel to top national and regional banks in large corporate and middle market loan originations and modifications, and in complex post-foreclosure/REO commercial property dispositions. She is real estate and contracts counsel to major health systems, senior living organizations and other significant nonprofits, and leads teams in handling cross-border REIT, lending and real estate investment work. She is an author for LEXIS/NEXIS, national speaker and author for the ABA, ALI-CLE, ICSC, USGBC, GVSU, Michigan Community Resources and the State Bar of Michigan. Ms. Lewis is on the National Editorial Board for ALI-CLE's *The Practical Real Estate Lawyer*, is past Co-Chairperson of the RPLS Residential Transactions Committee, and is a member of the national Women Lawyers Association. She is also Chairman Emeritus of the Board of Directors of Lake Michigan Academy, a grades 1-12 school for students with learning disabilities.



Michael A. Luberto, Co-Program Coordinator, is President of Chirco Title Agency, Inc. He leads the company's commercial and residential title and escrow operations, and its tax-deferred exchange intermediary business. He has structured affiliated business

arrangements under RESPA and other joint ventures. As an attorney, he represented sellers, buyers and developers of many types of properties, including industrial, retail, office and hospitality. Mr. Luberto represented lenders and borrowers in various financing transactions, including asset-based lending, tax-exempt bond financing, sale-leaseback transactions, loan workouts and foreclosures. His experience also includes representing businesses in mergers, acquisitions and other business transactions. Mr. Luberto is the Co-Chair of the Real Property Section's Special Committee on Conveyancing and Title. He is the author of "Tax-Deferred Exchanges of Second Homes and Mixed-Use Properties" and "Title Insurance Policy Endorsements" in the *Michigan Real Property Review*, and "Title Insurance for the General Practitioner" in the *Michigan Bar Journal*.

THURSDAY, JULY 17, 2014

Faculty



Mark Makower of Makower Abbate, PLLC is entering his 33rd year of practice in the field of real estate, construction and association law. A licensed residential builder for over 28 years, Mark is the only community association lawyer in Michigan to be a member of the American College of Real Estate Lawyers. He is also one of only two lawyers in Michigan to be a member of the College of Community Association Lawyers. He served as Chairman of the State Bar of Michigan's Real Property Law Section and was responsible for the substantial rewrite of the Michigan Condominium Act in 2001 and 2002. He is a frequent speaker on association law for the Institute of Continuing Legal Education, Real Property Law Section of the State Bar of Michigan, Lorman and Community Associations Institute, and has written numerous articles on condominium law in national and local publications.

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Faculty continued



John G. Cameron, Jr. of Dickinson Wright successfully represented a mortgage lender in the United States Court of Appeals for the Seventh Circuit in connection with a property forfeiture sought by the federal government. He serves as general counsel to a major mixed-use, community transforming real estate development, which faces challenges involving all aspects of law. John negotiated a sophisticated subcontract for the installation of material handling equipment for what was anticipated to be a \$500 million nationwide project. He has also developed standard construction contracts for a well-known institution of higher learning and a major international corporation.



Sean P. McNally is the Construction Practice Group leader at Kotz Sangster Wysocki P.C., where he maintains a national construction litigation practice. Mr. McNally has extensive experience litigating all types of construction and real estate disputes representing owners, real estate developers, general contractors, subcontractors, and suppliers. He also has significant experience handling all types of transactional matters in the construction and real estate areas, including construction contracting, risk mitigation, real estate development, project financing and commercial leasing. Mr. McNally is a frequent lecturer and author on topics relating to construction law, including construction liens. He has also been an active member of the State Bar of Michigan, including being a Member of the Representative Assembly, an Executive Council Member of the Young Lawyers Section and a long standing Member of the Civil Procedure and Courts Committee.



Dawn M. Patterson is National Counsel for First American National Commercial Services in Troy, Michigan. Prior to this position, she worked with Agency and Direct Operations serving as underwriting counsel for commercial

and residential transactions. Her experience includes appointments as State and Regional Counsel for another title insurer and serving as Michigan Division Manager for an IRC Section 1031 qualified intermediary. She has been a frequent speaker on title issues. Dawn's publications include "Title Insurance: 2006 ALTA Owner's Policy Continues Coverage for Post-Policy Transfers of Real Estate to Insured's Trust", 494 *Laches* 9 (2007), "Title Insurance: Post Policy Transfers of Real Estate to a Trust", 481 *Laches* 13 (2006), "Explore the Benefits of Consideration of IRC Sections 121 & 1031 Before the Seller of Real Estate Reaches the Closing Table", 32 *Mich Real Prop Rev* 150 (2004), "New Legislation Impacts Tax Treatment of Principal Residence Converted from a 1031 Replacement Property", 32 *Mich Real Prop Rev* 221 (2004) and a co-authorship entitled "Michigan Eliminates Witness Requirement", 29 *Mich Real Prop Rev* 75 (2002). Dawn is the past Chair of the Education Committee of the Michigan Land Title Association, and has previously served as the Chair of the Real Estate Committee of the Oakland County Bar Association, Co-Program Coordinator for the State Bar of Michigan Real Property Law Section 2008 & 2009 Summer Conferences and as a Board Member of the Incorporated Society of Irish American Lawyers. She holds a Residential Builder License and a Real Estate Associate Broker License. Dawn may be contacted at dmpatterson@firstam.com or 248-458-7211.



Richard D. Rattner of Williams, Williams, Rattner & Plunkett, P.C., specializes in real estate transaction law, land use and zoning law, and corporate law. He is actively involved in a number of professional organizations, including the State Bar of Michigan: Member of the Governing Council of the Real Property Law Section; Co-Chair of the Real Property Law Section's Membership Committee; past Co-Chair of the Continuing Legal Education Committee; and a member of the Subcommittee on Zoning and Land Use Planning. He is an adjunct professor at the Thomas M. Cooley Law School, where he teaches Modern Real Estate Transactions, and is also an adjunct professor at Wayne State

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Faculty continued

University where he teaches the Business of Music. He is a frequent lecturer on land use, zoning and real estate transactional issues. Most recently, he gave presentations at events sponsored by the International Council of Shopping Centers, Real Property Law Section and Michigan Planning Association, and was a guest lecturer at Wayne State University's Department of Urban Studies and Planning. He is listed in the *Best Lawyers in America*, where he was honored to be named the Lawyer of the Year for 2012 and 2014 in the area of land use and zoning law in the Detroit area. He is also listed as a member of the Top 100 Michigan Lawyers in *Super Lawyers*. Rick can be reached at (248) 642-0333 or by e-mail at rdr@wwrplaw.com.

FRIDAY, JULY 18, 2014

State of the Law



Melissa N. Collar, Warner Norcross & Judd LLP, is a Michigan native and partner in our Grand Rapids office. She is chair of Real Estate Services Group as well as the firm's Condominium practice group. Melissa was admitted to the State Bar of Michigan in 1994 and also is a member of the Grand Rapids Bar Association. Melissa serves on the Real Property Section's Council of the State Bar of Michigan, and is the current Secretary. Melissa is a member of Commercial Real Estate Women, Commercial Alliance of Realtors, Homebuilders Association of Greater Grand Rapids and American Institute of Architects. She assists clients in the acquisition, development, construction, leasing and sale of real property with special expertise in the health care and life sciences industries. She is listed in *The Best Lawyers in America* and *Michigan Super Lawyers*. She is a frequent teacher on real estate and construction matters. She regularly prepares architect and construction contracts for owners, architects and contractors, condominium documents, tax incentive and abatement applications and leases, as well as handles Land Division Act documentation and real estate brokerage matters. Melissa can be reached at 616.752.2209 or mcollar@wnj.com.



Mark P. Krynski is a partner in the Southfield office of Jaffe Raitt Heuer & Weiss. He has served as a member of the Firm's Board of Directors and Chairman of the Real Estate Practice Group, specializing in commercial development and leasing of real estate; financing and leasing of office, industrial, apartment and retail projects nationwide; complex mixed-use condominium developments, manufactured housing communities and multi-family housing communities. Mark is a past Chair of the Real Property Law Section of the State Bar of Michigan and the Commercial Leasing Committee. He is listed in *The Best Lawyers in America*, Chambers Best Lawyer, Top Rated Lawyer by *The American Lawyer* and Corporate Counsel, AV rate (Pre-eminent 5.0) by Martindale Hubble, Michigan Super Lawyers and Order of the Coif. He is a member of the Firm's Opinion Letter Committee, a former head of the Attorney Development Committee and a member of the Finance Committee. Mark is fellow of the American Collage of Real Estate Lawyers and an Adjunct Professor at the University of Michigan Law School in Ann Arbor and is a frequent speaker for the State Bar of Michigan, ICSC, BOMA and the Institute of Continuing Legal Education in Ann Arbor, Michigan on leasing, development and condominium issues. Mark can be reached at 248.727.1419 or mkrynski@jaffelaw.com.

Workshops



Clifford H. Bloom of Bloom Sluggett Morgan P.C. practices primarily in the areas of real estate, riparian law and municipal/public sector law. Cliff has over 30 years of legal experience. Originally from Grand Rapids, he received his undergraduate and law degrees from the University of Michigan and was admitted to the Michigan bar in 1983. He has practiced law in Grand Rapids ever since. Cliff is the general legal counsel for the Michigan Lake & Stream Associations, Inc. and is co-counsel for the Michigan Waterfront Alliance. Among his various printed works, Cliff also authors a regular column

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Workshops continued

for the Michigan Riparian Magazine and wrote the recent book "Buying and Selling Waterfront Property in Michigan". Having lectured on a variety of real estate and municipal topics, Cliff has served as general legal counsel for over 20 Michigan townships, and is general counsel for the City of Newaygo, the City of Stanton, and the Village of Lake Isabella. He has extensive experience in zoning and planning matters and has lectured on those issues for various organizations including the Michigan Townships Association (MTA).



Alexander J. Clark is a senior attorney in Miller Canfield's Troy office and counsels clients with respect to all aspects of their transactional real estate needs with a particular focus on commercial leasing, acquisitions, dispositions, construction, and development. He also has considerable experience in the sale of REO properties for national banking clients. A native of Troy, Michigan, Alex is a graduate of Case Western Reserve University Law School and the University of Notre Dame. Alex is listed in *The Best Lawyers in America* and as a rising star in *Michigan Super Lawyers*. He participated in the Georgetown CLE Advanced Commercial Leasing Institute as a rising star in 2012.



William E. Hosler is a partner of Williams Williams Rattner & Plunkett PC with over 25 years of experience in general civil litigation and business transactions. His practice is focused on the areas of real property law and title insurance law. He also has extensive experience in the fields of municipal law, small business counseling, and has successfully represented several clients in family law matters. Mr. Hosler's publications include: "Deed Restrictions and Restrictive Covenants in Michigan - 2012," Michigan Real Property Review, Winter 2011; "Deed Restrictions in Michigan," Michigan Real Property Review, Spring 2007; and "Restrictive Covenants in Michigan," Michigan Real Property Review, Summer 1998. He has authored

several real property law articles for the Oakland County Bar Association's monthly publication, *Laches*, and is a frequent lecturer on real property law related topics. Mr. Hosler is a longstanding professional member of the Michigan Land Title Association. He is an active member of the State Bar of Michigan Real Property Law Section, as well as its standing committee on Land Title Standards where he authored various sections of the most recent Michigan Land Title Standards - 6th Edition. He served as Chair of the Real Estate Law Committee of the Oakland County Bar Association, Chair of the City of Royal Oak Charter Review Committee, and a member of the Oakland County Bar Association's Public Advisory Committee on Judicial Candidates. He currently serves as a member of the State Bar of Michigan's Standing Committee on Character and Fitness, having previously acted as the Chairperson of the District I Character and Fitness subcommittee. He is also a member of the Zoning Board of Appeals for the City of Bloomfield Hills. Mr. Hosler is frequently appointed as an Oakland County circuit court case evaluator.



Thomas A. Kabel is a shareholder based in Butzel Long's Bloomfield Hills office. He concentrates his practice in the area of commercial real estate and real estate-related finance. He has been involved in all facets of acquisition, disposition, leasing, financing and development of real property throughout his career. Mr. Kabel has extensive experience representing both developers and commercial lenders in conventional financing and has also served as bank and bond counsel on numerous industrial revenue and other tax-exempt financings. He has also represented Michigan colleges and community colleges in various financing transactions, including tax-exempt bonds, tax anticipation notes, financing under Michigan's New Jobs Training Program and financing with the Michigan State Building Authority. Mr. Kabel is certified by the National Association of Development Companies (a trade association of companies that have been certified by the Small Business Administration to provide funding for small businesses) to close SBA loans

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Workshops continued

under the SBA's 504 Loan program, and closes many such loans each year. Mr. Kabel is currently co-chair of the Real Property Law Section's Special Committee on Commercial Leasing and is an active member of the Real Property Law Section of the State Bar of Michigan.



Patrick A. Karbowski of McDonald Hopkins has more than 26 years of experience practicing business and real estate law. His expertise covers a wide spectrum of complex real estate transactions and litigation involving real estate sales, acquisitions, development, title insurance, leasing, lending, property taxes, foreclosures, and workouts. Patrick, a past Chairperson of the Real Property Law Section of the State Bar of Michigan, was recently awarded the C. Robert Wartell Distinguished Service Award for exemplary contributions to the section over an extended period of time. He is an ex officio member of the section's governing council and serves on many of its committees, including as Chair of the Pro Bono Committee. A Leadership Oakland alumnus, Patrick has served on the boards of several community organizations. He has been an adjunct professor of law teaching real estate transactions at the Ave Maria School of Law, and is on the real estate advisory board for the Institute of Continuing Legal Education. A frequent author and lecturer on real estate topics for professional and industry organizations, Patrick is listed in *The Best Lawyers in America*, *Chambers USA* and *Super Lawyers for Real Estate*.



Lorri B. King practices in the areas of commercial and residential real estate, real estate development, banking, wind energy and estate planning. She represents a variety of clients throughout Northern Michigan. Ms. King is a member of the Council for the State Bar of Michigan's Real Property Law Section and a past Chairperson of the Real Property Law Section Summer Conference. She has been a frequent speaker for the State of Michigan Real Property Law Section and has presented for ICLE and local real estate and builder groups on real estate issues. Ms. King is a member

of the Real Property Law, Business Law and Estate Planning Sections of the State Bar of Michigan. She is also a member of the State Bar of Arizona.



John T. Schuring, is a member in the Dickinson Wright Grand Rapids office, and counsels both small and large businesses with respect to general business and corporate planning issues. John is experienced in implementing and executing mergers, acquisitions and divestitures of corporate assets. He frequently counsels businesses and individuals in real estate purchase, sale, and leasing transactions. John has extensive experience with negotiating, drafting and reviewing contracts of all types, including supply and distribution agreements. He advises lenders and borrowers in connection with commercial loan transactions, and counsels clients with respect to debtor-creditor rights issues. Prior to attending law school, John gained extensive experience in account management for a global advertising agency.



C. Kim Shierk of Myers Shierk & LaBelle, PLLC, practices in the area of real estate law. She is a member and past Chairperson of the State Bar of Michigan's Real Property Law Section Council, member and past Chairperson of the Section's Special Committee on Condominiums, PUDs, and Cooperatives and a current member of the Section's Standing Committee on Michigan Land Title Standards. Ms. Shierk has lectured extensively for ICLE and other organizations on real estate issues and has authored and coauthored a number of articles on real estate law. She is also a contributor to "Michigan Residential Real Estate Transactions" (ICLE).



Lawrence Shoffner practices in the areas of commercial leasing and real-estate-related litigation. Mr. Shoffner is a past Chairman of the Real Property Law Section of the State Bar of Michigan; a member of the Section's Council since 2000; and a past Chairman of the Section's Special Committee on Commercial Leasing. Mr. Shoffner is co-author of ICLE's *Michigan Lease*

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Workshops continued

Drafting and Landlord-Tenant Law (ICLE 2d ed) and the author of numerous articles on commercial leasing and real estate-related litigation for the *Michigan Real Property Review* and *Michigan Bar Journal*. Mr. Shoffner is a frequent speaker for ICLE and other organizations, including the American Bar Association and the International Council of Shopping Centers. Mr. Shoffner is Chairman of ICLE's Executive Committee; a long-time member of ICLE's Real Estate Advisory Board; and a contributor to ICLE's online FormBank. Mr. Shoffner is also a member of the State Bar of Michigan's Publications and Website Advisory Committee.



Paul J. Walters, Jr., Deloitte Tax LLP, has more than 30 years of experience advising both public and privately held businesses and their owners in a variety of industries with an emphasis in real estate. He specializes in partnership taxation and the taxation of real estate investment trusts including federal, state and local compliance requirements. Paul has extensive experience consulting with real estate developers, owners and operators on the tax implications of acquisitions, financing, capital cost recovery, credits and incentives, operations (including accounting periods and methods), workouts and debt restructurings and dispositions, including, sales, like-kind exchanges, deeds-in-lieu and foreclosures. Paul also has significant experience consulting around the formation, restructuring and wind-up of joint ventures including preferred returns, carried interests, complex debt and profit and loss allocations, cash flow waterfalls, redemptions and alternative exit strategies. Paul joined Deloitte in 1999. Prior to Deloitte, he spent 13 years with Cendrowski, Selecky & Reinhart PC, a tax and business consulting firm in Bloomfield Hills, MI and 7 years with Arthur Andersen LLP in Detroit, MI. Paul holds a J.D. from Wayne State University Law School in Detroit, MI and a B.A. in Accounting from Michigan State University. Paul is a member of the State Bar of Michigan the National Association of Real Estate Investment Trusts and the Urban Land Institute.

ROUND TABLE DISCUSSION LEADERS

Friday and Saturday, July 18 & 19, 2014



Eric C. Bartley of Miller Canfield is a principal in the Firm's Real Estate Group and a manager of the Firm's Commercial Real Estate Finance Practice. Eric manages a team of professionals in representing financial institutions in all aspects of commercial real estate finance. Specifically, he has served as counsel for national lenders in commercial mortgage originations across the country on portfolio loans as well as conduit loans intended for securitization in the capital markets. Additionally, Eric has represented national lenders and special servicers in resolving nearly \$1 billion of distressed commercial loans secured by a wide range of property types including multifamily, office, retail, industrial, manufactured housing, and hospitality.



Douglas C. Bernstein, is the managing partner of Plunkett Cooney's Banking, Bankruptcy and Creditors' Rights Practice Group. Doug focuses his practice in the areas of commercial litigation, commercial loan restructuring and documentation, creditors' rights, commercial and municipal bankruptcy, receiverships and other banking-related litigation and appeals on behalf of national and regional lenders and special servicers. Prior to joining Plunkett Cooney, Doug was employed by Michigan National Corporation as an attorney for over 20 years. He subsequently joined the Standard Federal Bank Legal Department when the bank merged with Michigan National Corporation in 2001.



Andrew M. Capelli of Fidelity National Title, has been a practicing attorney in Michigan for over 17 years, focusing primarily in real estate and corporate matters. He has been a lecturer for the Institute of Continuing Legal Education, has taught paralegal classes at the Lawton Career Institute and is a frequent public

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Round Table Discussion Leaders continued

speaker for various professional organizations throughout the Midwest. As a title insurance executive, he has owned his own agency, been a consultant to create agencies for various financial services companies, and is currently an officer with Fidelity National Title, the largest title insurance underwriter in the United States. Married with two children, Mr. Capelli also volunteers with Winning Futures, a Michigan-based nonprofit program which pairs members of the business community with high school students to promote strategic career planning.



Michael P. Donovan, of the Law Offices of Michael P. Donovan PLC, spent many years as a civil litigator before becoming General Counsel for LaMont Title Corporation, where he developed an expertise in finding solutions to title issues common in commercial and urban renewal real estate transactions, including tax foreclosure, mortgage foreclosure, bankruptcy, probate, and other legal matters. At customer request, he also established a legal practice which to date has obtained quiet title judgements or resolved other title issues on more than 1000 parcels. In addition to many lawsuits filed on behalf of private parties, seeking to clear title with respect to tax-foreclosed and other properties, he has also filed approximately 50 mass quiet title actions, on behalf of the Michigan Land Bank Fast Track Authority, the Detroit Land Bank Authority, and many county land bank authorities across the state, as permitted by the Land Bank Fast Track Act, MCL 124.759(9). He has deep knowledge of the tax foreclosure process and the topic of land banks and has been asked to speak by the Michigan Land Title Association, the Michigan State Bar Real Property Section, the University of Michigan / ULI Real Estate Forum Round Table, and the Michigan Land Bank Conference.



Steven R. Fox a partner in the Traverse City law firm of Bishop & Heintz, P.C., has more than 20 years experience representing individuals, businesses, nonprofit corporations and municipalities in business and real estate transactions and litigation, and related estate planning and probate

issues. Mr. Fox's real estate experience includes particular emphasis in commercial real estate and business sales, neighborhood and condominium developments, zoning and land use issues, water rights, tax appeals, insurance litigation, oil and gas rights, and commercial landlord and tenant issues. Mr. Fox helped implement one of nation's most successful historic preservation easement programs for the Michigan Historic Preservation Network, and has represented grantors and grantees in complex historic preservation and conservation easements in residential and commercial transactions for more than 10 years. Steve can be reached at (231) 946-4100, or at steve1@bishopheintz.com.



Benjamin L. Fruchey of Foley, Baron, Metzger & Juip focuses his practice on environmental, toxic tort, and products liability litigation, permitting and compliance with environmental regulations, and defending against alleged violations of environmental regulations. He has presented to various stakeholders in the hydraulic fracturing industry on the liability risks associated with the hydraulic fracturing process, claims management strategies and the current state of hydraulic fracturing-related litigation. He has a Master's Degree in geology and experience exploring for oil and gas while working for a major oil company located in Houston, TX.



Gregory J. Gamalski is a shareholder at Giarmarco, Mullins & Horton, P.C. and a member of the firm's Business Practice Group. He is a 1983 graduate of University of Detroit – Mercy School of Law, a member of the Real Property Law Section Council, former Co-Chair of the Section's Continuing Legal Education Committee and the Section's Condominium Cooperative and Planned Unit Development Committee. He has written extensively on condominium and community association matters, including more recently three articles in the *Michigan Real Property Review* titled: "Legal Considerations Related to Redevelopment, Reconfiguration and Re-Sale of Failed Condominium Projects and Subdivisions", *Michigan Real Property Review*, Vol. 37, No. 1, Spring 2010; "Creation of

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Round Table Discussion Leaders continued

Condominium Projects: the Master Deed Recording Process in the State of Michigan and Comparison to Plat Recording Under the Land Division Act, Michigan Real Property Review Vol. 37, No. 3, Fall 2010; and "A Menagerie of Real Estate Interest: Housing Cooperatives, Chapter 445 Summer Resort Associations, and Less Frequently Seen Homeowner Entities", Michigan Real Property Review, Vol. 40, No. 1, Spring 2013.



R. Craig Hupp of Bodman, has 30 years experience on a wide variety of environmental matters for public and private clients. He counsels clients on due diligence in real estate transactions, environmental compliance, dealing with releases and disposal of hazardous wastes, and often acts as lender's environmental counsel on financing transactions. He is regularly ranked by his peers as one of Michigan's Super Lawyers. He served two terms on the State Bar's Environmental Law Council. He is co-author of the chapter on ADR in Environmental Disputes in the Section's Environmental Law Deskbook, has offered a number of courses in State Bar environmental training programs, and authored articles on environmental topics including federal "All Appropriate Inquiry" regulations, natural resources damages under CERCLA, and a preview of issues affecting creation of a regional water and sewer authority in Southeast Michigan. He has published two articles on hydraulic fracturing. He is a property owner and oil & gas lessor in northwest Michigan and, consequently, follows current hydraulic fracturing developments in Michigan closely.



Kevin A. Kernen of Stout Risius Ross is a Managing Director in the real estate practice within the Valuation & Financial Opinions Group. He is responsible for management of the real estate practice, client liaison, business development, and the internal systems and operations for the group. His concentration is in commercial real estate valuation and advisory services, where he has 15 years of national and international appraisal, review, and management

experience. Mr. Kernen's experience encompasses a wide range of commercial real estate engagements for local and national clients for a variety of purposes including financing, estate and gift taxation, proposed developments, litigation, marital dissolution, property tax appeal, purchase price allocation, goodwill impairment, and property insurance placement. Mr. Kernen's experience also includes public speaking engagements and he has been qualified as an expert witness and has testified in state and local jurisdictions. Mr. Kernen has appraised numerous property types, including office, industrial, retail, hotel, healthcare, vacant land, residential, and many special purpose facilities such as golf courses, country clubs, bowling centers, movie theaters, parking garages, and resorts. Mr. Kernen has also completed market analyses and market rental rate determinations. In addition to real estate valuation and consulting, Mr. Kernen also has experience in business valuation for a variety of purposes including financing, estate and gift taxation, Subchapter C to Subchapter S conversions, and shareholder disputes. Mr. Kernen is a designated member of the Appraisal Institute and Royal Institution of Chartered Surveyors (RICS) organizations. He is a member of the International Association of Attorneys and Executives in Corporate Real Estate (AECRE). He is also a member of CoreNet Global and is the Secretary on the executive board of the Michigan Chapter.



Howard A. Lax of Bodman, concentrates his practice in financial institutions consumer compliance and regulatory affairs and real property law. His clients include banks, mortgage lenders, real estate developers, and title insurance companies. Before joining Bodman he practiced with other highly regarded southeast Michigan business law firms and served for 10 years with the Legal Services Division of NBD Bank where he was counsel to NBD Mortgage Company and consumer lending counsel to various other departments within the bank. Mr. Lax is AV[®] Peer Review Rated by Martindale Hubbell, has been listed as a "Top Lawyer" by *DBusiness* magazine, and has been listed in *Michigan Super Lawyers* under Banking and Real Estate. In law

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school, he received the Bronze Key Award and the Silver Key Award for scholarship and the American Jurisprudence Award in Torts. Mr. Lax is a member of the Master Lawyers, Business Law, and Real Property Law sections of the State Bar of Michigan. He was a member of the Real Property Law Section Council for 14 years, served as chair of the Residential Transactions Committee, and co-edits the Real Estate Section's e-newsletter.



Michael A. Luberto is President of Chirco Title Agency, Inc. He leads the company's commercial and residential title and escrow operations, and its tax-deferred exchange intermediary business. He has structured affiliated business arrangements under RESPA and other joint ventures. As an attorney, he represented sellers, buyers and developers of many types of properties, including industrial, retail, office and hospitality. Mr. Luberto represented lenders and borrowers in various financing transactions, including asset-based lending, tax-exempt bond financing, sale-leaseback transactions, loan workouts and foreclosures. His experience also includes representing businesses in mergers, acquisitions and other business transactions. Mr. Luberto is the Co-Chair of the Real Property Section's Special Committee on Conveyancing and Title. He is the author of "Tax-Deferred Exchanges of Second Homes and Mixed-Use Properties" and "Title Insurance Policy Endorsements" in the Michigan Real Property Review, and "Title Insurance for the General Practitioner" in the Michigan Bar Journal.



David H. Martyn is a Senior Legal Counsel for Michigan for First American Title Insurance Company. He received his J.D. degree from Emory University and his B.A. degree from Cleveland State University. Mr. Martyn has practiced in the real estate and title insurance industries for more than 18 years in Michigan and Georgia, and is a member of the Real Property Law Section and is a past Chair of the Oakland County Bar Association (OCBA) Real

Estate Committee. He has been a speaker for the Real Property Law Section, the OCBA, Albany State University, the Cleveland-Marshall College of Law, and the Cleveland Affordable Housing Roundtable.



Brian H. Phinney of Foley, Baron, Metzger & Juip focuses on environmental litigation and regulatory matters, toxic tort litigation, products liability litigation, OSHA compliance, insurance coverage, and real estate transactions. He has extensive experience litigating environmental claims throughout the country involving soil and groundwater contamination. He has presented to various stakeholders in the hydraulic fracturing industry on the liability risks associated with the hydraulic fracturing process, claims management strategies and the current state of hydraulic fracturing-related litigation. He is the author of the "Transactions" chapter of the Environmental Law Deskbook, 2nd Edition published by the Environmental Law Section.



John Redash of Giffels Webster, oversees and directs the day-to-day operations of the surveying and mapping staff, encourage development of new technologies and quality control procedures, and monitor client product satisfaction. Just as important, he is inspired every day working with team of professionals and entrepreneurs who strive to give people a higher standard of living through the development or redevelopment of properties that improve health, safety and welfare. He began his career and college studies enjoying the outdoors while working on survey crews throughout southeast Michigan. Redash became enamored with our state's changing seasons. This, in combination with his interests in history, law, astronomy and mathematics, led to a degree in surveying. Today he bring extensive experience in field operations and coordination, and office management, to the survey group as well as interaction with his design teams, developers and contractors.

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Anthony J. Viviani is Associate Corporate Counsel for Attorneys Title Agency and its family of companies. Tony is a Real Estate Attorney and has worked in the real estate and land title industry since 1992 in a variety of capacities including: escrow, examining, and residential, commercial and national underwriting for large title agents and national title underwriters as well as 1031 Exchange Counsel for major 1031 Exchange companies. Mr. Viviani is Past President of the Michigan Land Title Association, Past Chair of the Legislative Committee, a member of the Legislative Steering Committee, and recipient of the associations Robert J. Jaye Award and Presidents Award. Additionally, he is Co-Chair of the Residential Transactions Committee of the State Bar's Real Property Section and a member of the Michigan Land Title Standards Committee having also written a number of articles for the Real Property Section, Michigan Real Property Review and has also authored the 2004 Supplement for Michigan Residential Real Estate Transactions, Remedies Chapter as well as co-authored the Foreclosure Chapter of the 2010 edition, published by the Institute of Continuing Legal Education (ICLE). Tony has been named a Super Lawyer in Real Estate, is a frequent speaker at statewide seminars, a faculty member of the Institute of Continuing Legal Education, and has also been a guest speaker on WJR's popular Real Estate 411 radio program as well as the Macomb Bar Associations television program, "Legally Speaking" and Grosse Pointe Television's "The Legal Insider". Tony is an active member of the Italian American Bar Association of Michigan as its Past President and is the recipient of the coveted Philip F. Greco Memorial Award and the Presidents Award, the State Bar of Michigan, Macomb County Bar Association, Catholic Lawyers of Michigan, and other church and civic organizations.



Meredith H. Weingarden is Michigan State Counsel for the Fidelity National Title Group, which encompasses Chicago Title Insurance Company, Fidelity National Title Insurance Company, and Commonwealth Land Title Insurance Company. Meredith is a member of the State Bar

of Michigan, the Women Lawyers Association, the Real Property Law Section, the Oakland County Bar Association, and the Legislative Steering Committee of the Michigan Land Title Association. She also serves as Co-Chair of the MLTA Legislative Committee, has served on the Board of Directors of the MLTA, and is the Case Law Coordinator for the Residential Transactions Committee of the Real Property Section. In addition to providing underwriting support, Meredith has acted as claims counsel, prepared and presented educational materials at both company sponsored and MLTA sponsored seminars, conducted individual training sessions for agents and direct operations as requested, and written numerous articles for the MLTA publication, The Title Examiner. Meredith received her B.A. in Political Science from the University of Michigan, and her Juris Doctor from The Detroit College of Law. Meredith can be reached at weingardenm@ctt.com, or (800)229-3310x1170.

SPECIAL PRESENTATION BY CRAIG FAHLE



Ben Franklin was right: "We must, indeed, all hang together or, most assuredly, or we shall all hang separately."

Craig Fahle was raised, and still lives in Grosse Pointe. After studying Political Science and history at Western Michigan University, Craig attended the Specs Howard School of Media Arts. While there, Craig turned an internship at WDET into a paid job covering Detroit Mayor Coleman Young and the Detroit City Council. In 1994, Craig went to work covering the State Capitol and the Engler administration for the Michigan Public Radio Network. He returned to Detroit and WDET in 1996, where he was a reporter, and eventually local host of Morning Edition, a post he held for nine years. He left WDET for a second time, for an editorial position at public radio station WFAE in Charlotte, North Carolina. In 2007, Craig found himself returning home to WDET to handle his dream job of hosting a daily talk show. In addition to his role as a daily show host, Craig is now the General Manager of Programming and Operations for the station.