



Program

U.S. Shopping Center Law Conference

Attend. Connect. Learn.

JW Marriott Orlando Grande Lakes | Orlando, FL

October 24 — 27, 2018

#ICSCLaw



U.S. Shopping Center Law Conference

SESSION DESCRIPTIONS

I. General Sessions

General Sessions are intended to provide a broad, general perspective of the topic. Sessions are held in large rooms and led by a panel of three or four speakers. There is limited interaction with the audience as a result of the size and scope of the presentation.

II. Seminars

Seminars are intended to be a more in-depth discussion of the topic. They are led by two or three practitioners with substantial prior experience on the topic. Interaction with the audience is encouraged, but the session speakers are expected to control and limit discussion as well as cover all of the subject matter described in the outline of the session.

III. Workshops

Workshops are intended to be interactive and are typically led by two practitioners with a substantial level of experience in the topic area. Interaction between the workshop leaders and the audience is encouraged and expected, with the freedom to stray from the outline and address audience concerns in a more specific and detailed fashion.

IV. Peer to Peer

Eleven workshops have been designed as Peer to Peer Forums and will involve breakouts into small group discussions with reporting back to the entire workshop. All Peer to Peer workshops are considered to be advanced. Advance review of the hypotheticals is highly encouraged as they will form the basis for the discussions at each of these sessions. **Attendance at these programs will be strictly limited to the first 40 attendees.**

V. Roundtable Discussions

The Roundtables are organized as informal discussions among industry professionals regarding specified topics. The Roundtable leader is not expected to have prepared any written materials. The leader is there to guide the discussion and ask questions of the Roundtable participants for discussion among themselves. Roundtable leaders are chosen for their prior experience with the topic.

VI. Leasing Symposium

The Saturday morning sessions focus on the most popular topic – leasing issues. Conference attendees will want to make every effort to attend these timely and insightful leasing sessions.

VII. Advanced Level Sessions **ADV**

Advanced Level Sessions are recommended for attendees with an intermediate level of knowledge of the topic.

WEDNESDAY, OCTOBER 24

Registration

12:00 – 7:00 pm

CLE Information Desk

12:00 – 5:30 pm

GENERAL SESSION

2:00 – 3:15 pm

General Session 1 **ETHICS**

Bordering on the Edge: Multijurisdictional Practice Issues for Inside and Outside Counsel

None of us have a practice that is confined to a single state; we're all working on matters across the country all the time. The client needs our knowledge and experience, and there's certainly nothing wrong in handling deals in other states where we're not licensed as long as we have some involvement by a local lawyer, right? Wait! Are you really sure that this is the right "ethical" answer? With his unique blend of scholarship and humor, and with one of the most unusual multimedia presentations you'll ever see, Mike Rubin will challenge your thinking, raise issues to ponder, and give you something to smile about.

PANELIST

Michael H. Rubin

McGlinchey Stafford PLLC
New Orleans, LA

SEMINAR

2:00 – 3:15 pm

Seminar 1

Three's Company (or a Crowd?) – Issues in Franchise Leasing

Franchise systems are often prominent consumer brands, but negotiating a lease for an independently owned and operated franchise, as opposed to a corporate-owned location, comes with unique issues and complications, due to the addition of a franchisor to the lease process and to the ongoing leasing relationship. Sometimes a behind-the-scenes participant and sometimes an active one, the addition of the franchisor and franchise concept to the lease creates a three-party relationship, in which all three perspectives need to be weighed and addressed to reach a satisfactory solution. Come ready to participate, as we will encourage questions and sharing of tips and solutions.

PANELISTS

Christine Hines

Lerner Corporation
Rockville, MD

Courtney Seely

Orangetheory Fitness
Boca Raton, FL

WORKSHOPS

2:00 – 3:15 pm

Workshop 1

Three's Company! How do Landlords, Tenants and Mortgagees Interact during the Negotiations of Estoppels and SNDAs

This workshop will explore the perspectives of landlords, tenants and mortgagees in the processing of tenant estoppel certificates. We will also examine the interplay of the competing interests of each of these three parties in the context of negotiating SNDAs. This workshop will encourage participants to evaluate the conflicting interests of the parties and discuss drafting compromises that work for everyone.

FACILITATORS

Melissa McBain

Daoust Vukovich LLP
Toronto, ON, Canada

Sally Piotrowski

P.F. Chang's China Bistro, Inc.
Scottsdale, AZ

Workshop 2 **ADV**

Don't Assume Anything: Navigating the Loan Assumption Process and its Pitfalls

This workshop will focus on all aspects of the loan assumption process, from negotiating the loan assumption provisions in a purchase and sale agreement (including for property that is subject to CMBS debt), to closing the loan assumption and efficiently addressing the lender's diligence requirements and the cash management structure for the property. Discussion topics will include: the provisions in the original loan documents which are frequently renegotiated by the new borrower; how to negotiate the loan assumption agreement and allocate liability under the loan between the original borrower and guarantor and the new borrower and guarantor; understanding the roles, requirements and restrictions of the servicers (master and special) and rating agencies that may be involved in

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the loan assumption process; and how to negotiate the original loan documents at origination to make the loan assumption process smoother and less costly.

FACILITATORS

Arren Goldman
Seyfarth Shaw LLP
New York, NY

Joel M. Krugel
Honigman Miller Schwartz and Cohn LLP
Bloomfield Hills, MI

GENERAL SESSION

3:30 – 4:45 pm

General Session 2

What's Trending? Recent Case Law Affecting Shopping Centers

This general session will highlight court cases decided within the past year to eighteen months that are likely to affect shopping center practices and/or real estate law in general. The panel will discuss how these decisions should dictate best practices both from a transactional and litigation perspective. Further, the panel will suggest drafting tips on how to avoid problems on the front end.

PANELISTS

Neil B. Oberfeld
Greenburg Traurig LLP
Denver, CO

Lila Shapiro-Cyr
Ballard Spahr LLP
Baltimore, MD

Consuella S. Taylor
Baker Botts LLP
Houston, TX

SEMINARS

3:30 – 4:45 pm

Seminar 2

Leasing Boot Camp: Show Me the Money!

This seminar is intended for leasing professionals and attorneys who are fairly new to the industry, and for those with more experience who would like to hear a current take on the clauses they negotiate every day. We will cover the topics from both the landlord and tenant perspective, share war-stories, and suggest negotiation strategies. We will also discuss how certain clauses may

be specific to certain tenant type uses (such as comparing how certain clauses will be negotiated differently by a restaurant tenant and a retail store).

PANELISTS

Susan Gordon
Underhill & Hodge LLC
New Albany, OH

Margaret K. Sitko
Sitko Bruno LLC
Pittsburgh, PA

Seminar 3

The ABC's of REA's: An Introduction to Shopping Center Reciprocal Easement Agreements

This seminar will provide newer lawyers a detailed introduction to the use of reciprocal easement agreements (REAs) in shopping centers. The panelists will cover the basic REA framework and the goals of the various parties with ownership interests of portions of a shopping center. In addition to a substantive discussion of the key provisions of REAs, the seminar will also feature several real life examples and fact patterns to illustrate the challenges of negotiating REAs.

PANELISTS

Thomas B. Cahill
Thomas B. Cahill Attorney at Law
Naperville, IL

Jared E. Oakes
Benesch, Friedlander, Coplan & Aronoff LLP
Cleveland, OH

WORKSHOPS

3:30 – 4:45 pm

Workshop 3

ADV

Is There Too Much Space Between Us? Challenges and Opportunities in Tenant Downsizing

Existing tenants may determine that they are operating in too much space relative to a current prototype or may seek to reduce occupancy costs by downsizing their space. In such circumstances, landlords and tenants must consider and work through a number of issues and problems. This discussion will cover downsizing opportunities and challenges for tenants and landlords in traditional department stores, junior anchors and in-line stores.

FACILITATORS

Matthew Davis

The Hirschel Group, PC
Gaithersburg, MD

Michael H. Freese

Simon Property Group
Indianapolis, IN

Workshop 4

Which Hat am I Wearing Today? Bouncing between Landlord and Tenant Positions, and In-House and Private Practice – Strategies to Seamlessly Exchange Hats

We all want the same thing: To zealously represent the interests of our clients, whether we are representing landlords or tenants, and whether we are in-house or in private practice. This workshop includes three attorneys who began their careers on one side of the table (developer/landlord or tenant/retailer), and now find themselves on the other side of the table. Also, the presenters will discuss perspectives of switching back and forth from in-house and private practice, or switching between advocating for a developer/landlord and for a tenant/retailer. The presenters will address the main differences in focus and challenges of the two sides of the negotiating table, and how to maintain that zealous representation despite previous professional empathies for the opposing side. There will also be discussion on how changing roles between an in-house position and private practice may modify strategies in representation.

FACILITATORS

Brian A. Auger

Tanger Factory Outlet Centers, Inc.
Greensboro, NC

Renee J. Magnant

AZT Corporation, Inc.
Dallas, TX

Joseph Núñez

Vantage Law Group PLLC
Minneapolis, MN

Workshop 5

Measuring Omnichannel/Internet/E-commerce Gross Sales of Customers You Can't See – Do they Count? Should they Count? The Sales, that is.

Shopping center owners and retailers alike are working and collaborating to meet changing buying behavior

and increasing customer expectations and requirements. In an open discussion format, we will give you the definitive and comprehensive definition of omnichannel/internet/e-commerce gross sales. Also, the "gross sales" provision in the lease is 15 years old, and that's a problem. We will debate what to do about it. Also, the rent relief amendment or "kick-out" provision is based on "gross sales" – did the owner and retailer talk through and address all the right issues? This workshop will focus on the evolution of retail sales and what may be up next in this rapidly evolving area.

FACILITATORS

David Graham

Chico's FAS, Inc.
Fort Myers, FL

Kenneth S. Lamy

The Lamy Group, LTD
Mandeville, LA

Workshop 6

ADV

Stranger Things: Keep Your Clients Out of the Upside Down when Negotiating Joint Venture Agreements

An interactive discussion of material provisions in real estate joint venture agreements by two veteran real estate attorneys who have been to the "Upside Down" universe and back with their clients. The program will focus on capital, management, exits (buy/sell/ROFO/forced sales) and dispute resolution provisions, and how to avoid going to the "Upside Down" universe.

FACILITATORS

Peter M. Oxman

Seyfarth Shaw LLP
Houston, TX

Lee Samuelson

Hogan Lovells US LLP
New York, NY

PEER TO PEER

3:30 – 4:45 pm



Peer to Peer 1

"Subject to Review by Risk Management": Earn Confidence in Your Ability to Review Insurance and Indemnity Provisions

This peer-to-peer session will explore the key issues presented by insurance, indemnity, waiver and casualty provisions in the context of retail leases. Designed

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to lessen the fear of reviewing insurance and risk management provisions, we will dive into hypotheticals in small groups and report back to the larger group. The facilitators will guide the discussion to deepen your understanding of, and ability to negotiate, these risk management provisions.

FACILITATORS

Abe Freeland

Willis Towers Watson
Nashville, TN

Karen O'Malley

Goulston & Storrs, PC
Boston, MA



Peer to Peer 2

My "Pop-Up" is Cool but my Landlord is Hot: Maneuvering through the Assignment and Subletting Clause of Your Lease

This peer-to-peer session will present two hypotheticals focused on the recent popularity of third-party concessions being integrated into larger format operations and how such operations reconcile with the assignment and subletting provisions of a lease. The first hypothetical explores a troubled tenant's desire to draw traffic into its store using multiple short-term licenses for "pop up" concessions and the challenges it faces under the "assignment and subletting" provision of its lease. The second hypothetical explores the troubled tenant's decision to enter into a long-term sublease with its most successful "pop up" and the "pop up's" (surprising) desire for a recognition agreement from the master landlord.

FACILITATORS

Elizabeth Hamilton

Office Depot, Inc.
Boca Raton, FL

Marc E. Wasser

Goldfarb & Fleece LLP
New York, NY

First Timers & Next Generation Orientation

5:00 – 6:30 pm

Get inside tips on how to make the most of your first Law Conference at this special orientation and welcome reception. Longtime attendees will host small discussion tables to share their insights and answer your questions. This is a great networking opportunity to kick off your conference experience. *Business casual attire is recommended.*

Welcome Reception

6:30 – 8:00 pm

It's the opening night of the conference and all registrants are invited to get together for networking under the stars.

Business casual attire is recommended.

THURSDAY, OCTOBER 25

Registration and CLE Information Desk

7:00 am – 4:00 pm

Continental Breakfast

7:00 – 7:30 am

Welcome Remarks

7:30 – 7:45 am

Keynote Address

7:45 – 8:45 am



John U. Bacon

New York Times Best Selling Author

In a frank and refreshing discussion on diversity, inclusion and issues we face in the workplace, John challenges us to face our fears, shines a spotlight on what we need to understand about each other, and makes it clear why expanding opportunities to more people makes us stronger. John's ideas on diversity come from his research and writing about sports, from Jackie Robinson to Title IX to the NFL's Rooney Rule. His speech is surprisingly, but appropriately, funny -- often at his own expense. The bottom line is simple, however: we don't seek to diversify to be charitable, but to be more successful.

GENERAL SESSION

9:00 – 10:15 am

General Session 3

Traps for the Unwary with Property and Liability Insurance

Reusing tried and true insurance provisions in leases and loan documents can create unintended problems. This program will cover selective property and liability insurance issues, including types of property insurance and events covered by each type of property insurance, "insurance terms" that should be stricken from all documents, what liability insurance covers, insurance exclusions, additional insureds (what that

status does and does not provide), loss payee, insured contract, replacement cost, actual cash value, primary coverage, excess and umbrella coverage and waivers of subrogation.

PANELISTS

Charles Comiskey
Risk Tech, Inc.
Houston, TX

Jo-Ann M. Marzullo
Posternak Blankstein & Lund LLP
Boston, MA

Marie A. Moore
Sher Garner Cahill Richter Klein & Hilbert LLC
New Orleans, LA

SEMINARS

9:00 – 10:15 am

Seminar 4

Common Problems and Pitfalls with Letters of Intent: Mean What You Say and Say What You Mean

Properly handled, letters of intent can facilitate transactions and save the parties time, trouble and money. Improperly handled, they are time-wasters that can cause more problems than they solve. This seminar will discuss common problems and pitfalls with letters of intent and how to avoid them.

PANELISTS

Stephanie Malayil
Satterthwaite Malayil Legal Group, PC
Santa Monica, CA

Richard R. Spore, III
Bass, Berry & Sims PLC
Memphis, TN

Seminar 5

Retail Chapter 11s: Quick Moving Cases and First Day Hazards

As the use of Chapter 11 bankruptcy by retailers continues this year at a heated pace, this seminar will open with a brief overview of current trends, case profiles and the motivations and dynamics of the major players. The discussion will then explain the critical importance of reacting to “first day” motions and quick case milestones that may impair landlord rights and ultimately drive case outcomes. The presentation

will then move to strategies for responding to lease modification/rent relief requests and lease and real estate auction strategies.

PANELISTS

Robert L. Lehane
Kelley Drye & Warren LLP
New York, NY

Kevin M. Newman
Barclay Damon LLP
Syracuse, NY

Seminar 6

I Missed What? The Ongoing Saga of ADA Challenges and Claims

This seminar will discuss trends in ADA litigation, including what constitutes “a place of public accommodation” outside of the typical brick and mortar business location. The panel will provide an update regarding recent court decisions and legislative developments and initiatives, and will explore various strategies for navigating the ADA to resolve disputes from the perspective of both the landlord and the tenant.

PANELISTS

Alisa N. Carr
Leech Tishman Fuscaldo & Lampl LLC
Pittsburgh, PA

Stacey McKee Knight
Katten Muchin Rosenman LLP
Los Angeles, CA

WORKSHOPS

9:00 – 10:15 am

Workshop 7

It’s Your Center, but it’s also My Business: The Evolving Concept of Exclusives and Restricted Uses

As the retail world continues to evolve, the concepts of competition, how to protect against undue competition and how to ensure that a center retains its retail nature are evolving along with it. We’ll look at the current thinking on Exclusives and Restricted Uses to see how leases can be drafted to protect the tenant while still giving the landlord the flexibility to quickly and effectively reshape its project. A properly structured set of rights will ultimately benefit everyone and enable both parties to compete in today’s highly competitive and rapidly changing retail world.

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FACILITATORS

Ellen B. Friedler

Strategic Leasing Law Group LLP
Chicago, IL

Hank Rouda

Giorgio Armani Corporation
New York, NY

Workshop 8 **ADV**

Anchored in Place – Is there such a thing anymore? Co-Tenancy and Operating Issues

This workshop will explore the critical provisions and concepts included in co-tenancy, opening and operating covenants. We will discuss these issues from the positions of both landlord and tenant and identify concerns that should be addressed to allow for the successful operation of both the retail business and the shopping center in today's ever changing retail environment.

FACILITATORS

Julia Kreyskop

Womble Bond Dickinson (US) LLP
Tyson Corner, VA

Karen R. Pifer

Honigman Miller Schwartz and Cohn LLP
Bloomfield Hills, MI

Workshop 9

Digital Disruption: Internet and Smartphone Impacts on Retail Leasing

This workshop will explore the recent effects of technology on retail leasing (for example, the shift toward retail spaces becoming "showrooms" for the products, which are then purchased online, or dedicating specific areas within a store for fulfillment centers), and the trickle-down impacts on both landlords and tenants. The workshop will also analyze related issues of data collection and cybersecurity and how to address those issues in retail leases. Be prepared for tomorrow's leases today!

FACILITATORS

Jason E. Grinnell

Dykema Gossett PLLC
Los Angeles, CA

Daniel J. Mitchell

Bernstein, Shur, Sawyer & Nelson, P.A.
Portland, ME

Workshop 10

Do I Think That? Unconscious Bias – How to Spot It and Become an Inclusive Leader

Learn about unconscious bias in real estate deals and at the office. Understand how it impacts our ability to be productive. Identify types of unconscious bias and discuss how to respond in the workplace. Through the exploration of these and other issues, learn how to cultivate a more inclusive and ultimately more successful practice.

FACILITATORS

Patricia Voith Blankenship

Foulston Siefkin LLP
Wichita, KS

Oscar R. Rivera

Siegfried, Rivera, Hyman, Lerner, De La Torre, Mars & Sobel, P.A.
Plantation, FL

Terri K. Simard

Target Corporation
Minneapolis, MN

Jane Snoddy Smith

Norton Rose Fulbright US LLP
Austin, TX

PEER TO PEER

9:00 – 10:15 am

Peer to Peer 3

I Surrender, but I'm Not Giving Up! Drafting and Negotiating Effective Surrender Provisions

For the most part, lease surrender provisions are not heavily negotiated. Should they be? Attend this peer-to-peer session to discuss topics such as (a) whether surrender occurs upon the vacation of the space, or the satisfaction of specified conditions; (b) which improvements must be removed upon expiration or earlier termination of the lease (with a special focus on whether an item constitutes a "fixture"); (c) whether a failure to surrender in accordance with the requirements of the lease constitutes a holdover; and (d) potential damages in connection with a failure to vacate.

FACILITATORS

David S. Lima
Real Solutions PLLC
Minneapolis, MN

Ruth A. Schoenmeyer
Pircher, Nichols & Meeks LLP
Chicago, IL

 **Peer to Peer 4**

Never Accept “no” as an Answer (unless you really have to): Negotiating Representations and Warranties in Shopping Center Purchase and Sale Agreements

Clients are often frustrated by the length of time it takes to produce a signed purchase and sale agreement. Understanding issues from both the seller and buyer perspectives can help finalize contracts more efficiently. This session will present hypotheticals that frequently can become sticking points when negotiating purchase and sale agreements.

FACILITATORS

Charles A. Brake, Jr.
Miller & Martin PLLC
Atlanta, GA

Anthony Grimaldi
Teachers Insurance and Annuity Association of America
New York, NY

GENERAL SESSION

10:30 – 11:45 am

General Session 4

Prophets and Profits: Shopping Center Development for the Multi-Channel, Mixed-Use Future

This panel will provide an overview of legal challenges facing the shopping center industry today. Topics will include a discussion of REAs (ancient and nouveau), dealing with existing leases, operational matters, parking problems, construction complexities, governmental permitting, access nightmares, permitted uses and convincing the public to support the renovations.

PANELISTS

Danielle Meltzer Cassel
Vedder Price, PC
Chicago, IL

Adam C. Hirschfeld
Rudolph Fields LLP
Bethesda, MD

Liz Holland
ICSC Past Chair
Abbell Associates LLC
Chicago, IL

Scott P. Kadish
Ulmer & Berne LLP
Cincinnati, OH

SEMINARS

10:30 – 11:45 am

Seminar 7

The Fun and Games (Not!) of Shopping Center Use Restrictions: Sorting Out Exclusive, Prohibited, Obnoxious, and Downright Unattractive Use Restrictions

Shop owners historically relied on zoning restrictions to maintain an acceptable retail and low-impact commercial market “bubble” around their stores. However, the introduction of planned shopping centers controlled by one or more owner-landlords or a recorded restrictions document (or both) allowed further “use mix and control” refinement by way of documented use restrictions to control the permitted uses and prohibited or restricted undesirable uses in a center. This seminar will address issues and challenges in managing the myriad of shopping center use restrictions (exclusives, prohibited, restricted, and the like), including the problems some traditional restrictions pose as shopping center uses evolve and other conundrums in managing the vast array of use restrictions in shopping center leases.

PANELISTS

Thomas C. Barbuti
Whiteford, Taylor & Preston LLP
Columbia, MD

Margaret Dearden Petersen
Petersen Law PLLC
Ann Arbor, MI

Seminar 8

Top 10 Common Misconceptions in Ordering Title Insurance

This seminar will involve a discussion about these top 10 title misconceptions attorneys may hold or

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mistakes attorneys may be making regarding title and survey in commercial real estate transactions. Whether representing a seller, a purchaser, a lender or a borrower, these helpful tips will enable attendees to more effectively protect their client and save them money.

PANELISTS

Peter Buonocore

Commonwealth Land Title Insurance Company
New York, NY

Marjorie F. Gannett

Holland & Knight LLP
Washington, DC

Seminar 9

Rolling, Rolling, Keep those Doggies Rolling: The Issues with Limited Guarantees including Rolling Guarantees

This seminar will look at limited guarantees from the drafting and litigation perspectives and from the landlord and tenant perspectives. Among the guarantees considered will be rolling guarantees. The panel will consider issues that arise with such guarantees when encountering the fact patterns found in the real world and how lease language on guarantees plays out in the real world.

PANELISTS

Gregory D. Call

Crowell & Moring LLP
San Francisco, CA

Thomas B. Smallwood

Stinson Leonard Street LLP
St. Louis, MO

WORKSHOPS

10:30 – 11:45 am

Workshop 11

Pleasures of the Palate: From the Food Court to White Table Cloths

How landlords and tenants navigate the seas of food. Together we will discuss negotiation tactics, permitted and exclusive uses and liquor licenses, as well as the pitfalls and “must haves” in the world of food uses.

FACILITATORS

Michael Lickerman

Panda Restaurant Group, Inc.
Rosemead, CA

Stacy Moskowitz

Unibail-Rodamco-Westfield
Los Angeles, CA

Workshop 12

ETHICS

Ethics and Professionalism: You Make the Call

Vignettes of professional and unprofessional conduct using newly released videos produced by the Colorado and Denver Bar Associations will be shown. Topics will include: client and counsel communication differences, client focus failure, client control, and professionalism in transaction deals. Attendees will have voting devices. The voting results will be followed by discussions on the pros and cons of each point.

FACILITATORS

Joseph N. Gross

Benesch, Friedlander, Coplan & Aronoff LLP
Cleveland, OH

Workshop 13

ADV

Mixed-Up and Mixed In: Creating and Co-Existing in an Integrated Project

This workshop will explore the development, leasing and operation of retail mixed-use projects having office, residential and/or service co-elements. The program will emphasize operational and construction issues that often occur with these co-existing uses, and suggest drafting solutions to solve these problems. Commonly occurring entitlement and financing issues will also be addressed.

FACILITATORS

Louis Raymond

Irvine Company Retail Properties
Irvine, CA

Melissa Rivers

Goulston & Storrs PC
Boston, MA

Workshop 14

ADV

Relocation of Existing Tenants in Connection with a Repurposing and Redevelopment of a Shopping Center

Both landlords and tenants need to understand how to keep their commercial development current and attractive and to make sure that their business model stays ahead of the curve. Landlords need to make their commercial property competitive while tenants need to know how to keep up with changing demographics and consumer expectations. This session will focus on relocating one or more tenants within an existing shopping center and the issues related to any such

relocation in order to accommodate the repurposing and redevelopment of an existing shopping center.

FACILITATORS

Stephen J. Messinger

Minden Gross LLP
Toronto, ON, Canada

Bradley J. Walent

Kayne Law Group
Columbus, OH

PEER TO PEER

10:30 – 11:45 am

 **Peer to Peer 5**

One Man's Trash is Another Man's Treasure: The Art of Shopping Center Maintenance and Repair

To maintain, repair or replace – that is the question. While it may seem obvious to some, with differing standards and expectations, shopping center maintenance is much more an art than a science. This peer-to-peer session will give us the chance to dig deep into the nuances of shopping center maintenance, while working through a series of hypotheticals that illustrate the most current issues.

FACILITATORS

Kathleen D. Boyle

Meltzer, Purtil & Stelle LLC
Chicago, IL

Bradley I. Dallet

Husch Blackwell LLP
Milwaukee, WI

 **Peer to Peer 6**

The Sleeves off Your Vest? Think Again: The Latest on Non-Recourse Carve-Outs in Loan Documents

This peer-to-peer session will examine the liabilities undertaken in a so-called "non recourse carve out" loan. We will seek to gain a deeper understanding of the risks a lender seeks to mitigate as well as the risks on the flip side of that mitigation for borrowers and guarantors. We will examine the latest trends in real estate loan covenants the breach of which can lead to full recourse or a damages remedy in favor of the lender.

FACILITATORS

Susan C. Cornett

Thompson Hine LLP
Cincinnati, OH

J. Adam Rothstein

Honigman Miller Schwartz and Cohn LLP
Bloomfield Hills, MI

GENERAL SESSION

12:00 – 1:15 pm

General Session 5

Financing Your Shopping Center in Today's Real Estate Capital Markets from Term Sheet to Closing: Negotiating a Loan You will Not Regret

This session will highlight issues that a shopping center owner should address when negotiating its term sheet and loan documentation in today's market, including, among other things, permitted equity transfers and pledges, sponsorship requirements, loan assumptions, contemplated construction or alterations at the center and financial reporting. The discussion will also focus on current requirements on cash management and how to maximize a borrower's access to funds in reserves/escrows as well as the examination of the financial tests that trigger a cash sweep. Finally, the panelists will discuss recourse carve-out guarantees and current loan document issues.

PANELISTS

Michele Knapp Boal

Zeisler Morgan Properties
Cleveland, OH

Ellen M. Goodwin LLP

Alston & Bird
New York, NY

Mark S. Levenson

Sills Cummis & Gross, PC
Newark, NJ

SEMINARS

12:00 – 1:15 pm

Seminar 10

Making Lease Remedies Great Again; Lessons Learned from Litigating Lease Clauses

The lease has been breached and the lawyers think they drafted an "ironclad" remedy, but did they?

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Rogue tenants, self-help evictions and repossession of the tenant's property, non monetary breaches and bankruptcy will be discussed along with strategies to avoid fatal results for landlords and tenants. Deal lawyers and litigators alike will find this seminar informative and filled with great ideas to make their remedies great again.

PANELISTS

Howard K. Jeruchimowitz
Greenberg Traurig LLP
Chicago, IL

John J. Wiles
Wiles & Wiles LLP
Marietta, GA

Seminar 11

You are Buying WHAT?—Avoiding Pitfalls in Purchases and Sales

The traps we may encounter in purchase and sale agreements don't always jump out at us. Come learn how the provisions interact with each other and what circumstances to avoid. We will discuss how provisions can be modified to avoid liability and unnecessary cost.

PANELISTS

Richard S. Friedman
Resch Polster & Berger LLP
Los Angeles, CA

Clint Kakstys
Sills Cummis & Gross, PC
New York, NY

WORKSHOPS

12:00 – 1:15 pm

Workshop 15

No Contract, No Coverage: Common Mistakes that Lead to Uninsured Claims

This workshop will connect the dots between lease and contractual requirements, certificates of insurance and required endorsements, the tripod that is key to an insurance program that works. Leading industry consultants together with counsel will drive this practical discussion of what works and what does not. Dramatic examples of when the tripod fails and claims are uncovered will help to bring form insurance documents and sample lease/contract language to life.

FACILITATORS

Janis K. Cheezem
Akerman LLP
Miami, FL

Bryant Eaton

Alliant Insurance Services
Newport Beach, CA

Matthew Shatzkamer

Associated Agencies, Inc.
Rolling Meadows, IL

Workshop 16

Cannabis Leasing: Business Opportunity and Legal Conundrum

The business of cannabis is exploding across the United States. An ever increasing number of states are embracing both medical and recreational cannabis use, while the Federal government continues to criminalize it. Issues include navigating inconsistent state and Federal laws, ethics, malpractice insurance, engagement letters, and all-cash business and security concerns.

FACILITATORS

Mark S. Hennigh

Greene Radovsky Maloney Share & Hennigh LLP
San Francisco, CA

Kevin P. Murphy

Walter | Haverfield LLP
Cleveland, OH

Workshop 17

Catch a Plane, Ride the Rail, Hop a Subway or Roll the Dice: Unusual Provisions in Retail and Food Leases in Non-Traditional Locations

Negotiating outside of the traditional shopping center lease is quite a unique experience. This workshop will explore select issues that arise during the negotiation of airport, transportation center, casino, college campus, military base, hospital complex and public area setting leases. Leasing concepts will be viewed from various and non-traditional perspectives, and standard (shopping center) and non-standard responses and negotiating tactics will be discussed. We encourage participation from representatives of all venues that will leave you with new and interesting outlooks and strategies for your non-traditional retail location leasing practice.

FACILITATORS

Richard M. Heller

Legal Sea Foods, Inc.
Boston, MA

Arnold L. Mayersohn

Mayersohn Consulting LLC
St. Louis, MO

Lisa Rolnick

Unibail-Rodamco-Westfield
Wheaton, MD

Workshop 18

Outwit, Outplay, Outlast: How to be a Survivor when Creating Outparcels in Existing Shopping Centers

This challenge is on! This workshop will identify and discuss common issues that arise when outparcels are created in an existing shopping center, including the delicate balance of the competing interests within your tribe (i.e., the existing owners and occupants of the shopping center). Using hypotheticals, this workshop will help us anticipate the issues and discuss ways to mitigate or resolve the issues so our torches (and outparcel development) won't be snuffed out.

FACILITATORS

Jay Douglas

S. J. Collins Enterprises
Fairburn, GA

Michelle Gierke

Target Corporation
Minneapolis, MN

PEER TO PEER

12:00 – 1:15 pm

 **Peer to Peer 7**

Any Which Way but Use: Prohibited and Exclusive Use Provisions in the Evolving Landscape of Retail Development

In this peer-to-peer session we will explore how we as lawyers can assist our clients in achieving flexibility and adaptability when negotiating use restrictions, while preserving essential protections. We will discuss and evaluate the risks of common and uncommon use restrictions. And, we will examine our role as advocates and the part we play in balancing the legal and business considerations during negotiations.

FACILITATORS

Joseph B. Conn

Five Star Development
Scottsdale, AZ

Audra Esrey

Stanley, Esrey & Buckley LLP
Atlanta, GA

Optional Activity: Group Yoga, Walking or Light Jogging

3:00 – 4:30 pm

Join us for one of three optional group activities that will culminate in refreshing smoothies and light snacks. It's a great afternoon activity for all levels of skill and experience. Registration is required. Please refer to the Registration Form for details.

FRIDAY, OCTOBER 26

Registration and CLE Information Desk

7:00 am – 3:00 pm

Continental Breakfast

7:00 – 7:30 am

ICSC Update

7:30 – 7:45 am

Roundtable Discussions

7:45 – 8:45 am

Be sure to join the "So You Want to Be a Speaker" Roundtable to learn about potential speaking opportunities available at future Law Conferences for attendees of almost all experience levels, the requirements and, if selected, what it takes to be a successful Law Conference speaker.

All other topics and roundtable leaders will be announced in September and included in the Conference Directory distributed on site at registration.

GENERAL SESSION

9:00 – 10:15 am

General Session 6

David v. Goliath: Negotiating the Small Tenant Lease (without Resorting to Slingshots)

This session will discuss the "do or die" issues for small tenants, and what they can reasonably expect to negotiate in their leases. We will consider both the operational issues and being prepared for future business needs, such as sale of the business and exit strategies. We will also look at the how the type of center (regional mall, Class A, Class B, etc.) may impact what can be negotiated.

PANELISTS

Ann Peldo Cargile

Bradley Arant Boult Cummings LLP
Nashville, TN

U.S. Shopping Center Law Conference

Lee Kolber
RCG Ventures LLC
Atlanta, GA

Leslie Ann Watkins
Norton Rose Fulbright US LLP
Dallas, TX

SEMINARS

9:00 – 10:15 am

Seminar 12

The Doctor is in: Leasing to Medical Related Uses

Shopping center developers, owners and investors are increasingly turning to medical related uses as tenants. Why this trend? This seminar will explore the basis of this trend (rent, rent, rent!), the issues related to leases to medical related users (e.g., urgent care, doc in a box, drug stores), and impediments posed by existing REA restrictions, leases and related issues.

PANELISTS

Stephen K. Cassidy
Powlan Cassidy Law
Walnut Creek, CA

Patricia J. Hartman
Hanson Bridgett LLP
Sacramento, CA

Edward R. Krasnove
Griffin Fletcher & Herndon LLP
Palm Desert, CA

Seminar 13

ADV

Mixed-Up about Mixed-Use? Sorting out Unique Leasing and Development Issues in Mixed-Use Projects

This seminar will look at unique issues that need to be addressed in leasing and development documents for mixed-use projects. We will discuss and outline mixed-use issues that we have encountered and how those issues have been addressed.

PANELISTS

Scott A. Fisher
Arnall Golden Gregory LLP
Atlanta, GA

Linda Madway
Shopcore Properties
Philadelphia, PA

Seminar 14

Passport Revoked: How to Ensure Your Brands Do Not Fail Internationally

A company's brand is an incredibly valuable asset. With the globalization of e-commerce, companies need to protect their brands internationally and to think about international operations much sooner than anticipated. Our seminar will provide strategies for efficiently and economically protecting brands internationally. We will also discuss key considerations for ensuring a successful international brand expansion, such as understanding how local culture, consumer preferences, supply chains and real estate considerations will impact a brand and its goodwill.

PANELISTS

Janet L. Derbawka
McMillan LLP
Vancouver, BC, Canada

Hara K. Jacobs
Ballard Spahr LLP
Philadelphia, PA

WORKSHOPS

9:00 – 10:15 am

Workshop 19

Who's "in" – Who's "out": How to Use Outside Counsel Effectively

This session will explore the use of outside counsel by in-house shopping center lawyers. We will discuss the different ways that companies commonly use outside counsel, and will examine issues that frequently arise. We will also discuss ways to navigate the attorney – client relationship, and how to determine which outside counsel best fits the needs of the company.

FACILITATORS

Kathryn Sherwood
Macerich
Santa Monica, CA

Kristen Wachtman
Ascena Retail Group, Inc.
New Albany, OH

Workshop 20

Value-Added Title Insurance: Secrets from the Underwriter's Crypt

An interactive discussion using hypotheticals and background materials to navigate three complex real estate transactions. Participants will learn the

underwriter's perspective on a variety of challenging title insurance issues. Risk analysis, negotiation: discover the pathways to the most complete coverage.

FACILITATORS

Marion A. Aaron

Stewart Title
San Francisco, CA

Spencer Compton

First American Title Insurance Company
New York, NY

Workshop 21 **ADV**

Entity Purchase Agreements: What to Have in Hand when You're Not Buying the Land

This workshop will focus on what to consider when buying the existing entity rather than the Shopping Center. We will discuss how these transactions differ from traditional property purchases, including differences in representations and warranties and closing requirements. We will also discuss how entity purchase agreements will vary depending on whether we're buying 100% of the entity or a significant interest.

FACILITATORS

George A. Schmidt

Husch Blackwell LLP
Dallas, TX

Francesca Weindling

TIAA
Charlotte, NC

Workshop 22

Thinking Outside of the Traditional Box: What to do when Your Anchor Tenant goes Dark

Filling an empty anchor tenant space can be a challenge. Governing documents, other tenant leases and the empty anchor tenant's lease itself often include terms, conditions and requirements that can make it difficult to re-lease a dark anchor tenant premises. This workshop will identify many of the issues that are encountered when an anchor tenant ceases operations and propose strategies as to how to navigate such issues. We will also explore some of the recent trends in non-traditional uses that are operating within shopping centers and investigate the challenges that these non-traditional uses create for landlords and tenants. The format for our workshop will be instructional, but will be designed to permit and encourage attendees to question and pose hypothetical situations for more in-depth discussion.

FACILITATORS

Robert C. Ondak

Benesch, Friedlander, Coplan & Aronoff LLP
Cleveland, OH

Susan A. Winchurch

Burlington Stores, Inc.
Burlington, NJ

PEER TO PEER

9:00 – 10:15 am



Peer to Peer 8

Remedies, Recoverable Damages and Creative Solutions: What You Want vs. What You Need vs. What You Can Get

Clients sometimes present dispute scenarios that do not fit neatly into the "Default" box. Worse, a breach, violation, default, or "occurrence" may be clear, but the remedy provided in the lease may be much less than ideal. The litigation process presents its own uncertainties, expense and delay. Participants in this peer-to-peer session will examine several dispute scenarios, common lease provisions and state law questions. We will then roll up our sleeves to confer and collaborate on Plan A, Plan B and Plan C solutions looking at the risks and benefits that each might afford, evaluating what can be reasonably achieved and managing expectations.

FACILITATORS

Paul S. Magy

Clark Hill PLC
Birmingham, MI

Martin H. Orlick

Jeffer, Mangels, Butler & Mitchell LLP
San Francisco, CA



Peer to Peer 9

Whose Lease is it Anyway? Strategies for Negotiating with a Franchisee and Franchisor

This interactive peer-to-peer session will dive into the fast paced, growing area of franchise leasing, and in particular, unique lease issues arising due to the franchisor-franchisee relationship. We begin by collectively commenting upon a hypothetical lease rider which includes many customary (and some uncustomary) provisions. We then transition into a fast-paced, highly interactive review of multiple scenarios arising in franchisor/franchisee/landlord lease interplay, trying to bring some sanity and reason to what is often a hectic and unpredictable area of commercial real estate law.

U.S. Shopping Center Law Conference

FACILITATORS

Jonathan L. Neville

Arnall Golden Gregory LLP
Atlanta, GA

Megan C. Zaidan

Walter | Haverfield LLP
Cleveland, OH

GENERAL SESSION

10:30 – 11:45 am

General Session 7

Food Halls and Entertainment Uses: The New “Anchors” Floating to the Top

As dated shopping centers are repositioned, and as new mixed-use projects emerge from the ground, there’s no denying that food and entertainment uses are being placed front and center. High-end dining, adventuresome food halls and experiential entertainment operators continue to emerge as the new “anchor” tenants within truly vibrant retail developments. But despite all of the fun, these uses can certainly bring along operational and legal complexities. In this general session, the panelists will discuss structuring food hall and entertainment deals as well as the problems, pitfalls, and points of contention they've encountered in negotiating leases and operating agreements within this increasingly important retail segment.

PANELISTS

Abbye M. Dalton

Hartman Simons & Wood LLP
Atlanta, GA

John Gessner

Front Burner Restaurants LP
Dallas, TX

Brian R. Smith

Arnall Golden Gregory LLP
Atlanta, GA

SEMINARS

10:30 – 11:45 am

Seminar 15

What’s Popping with Pop-Up Stores? Assessing the Unique Challenges and Benefits of the Short-Term Pop-Up Trend

Short-term leases were once the last resort of landlords

seeking to fill vacant space, but so called “pop up” stores have become the darling of the retail industry, driving foot traffic to shopping centers, increasing social media visibility and in some cases starring as the main attraction. With sophisticated tenants seeking temporary space, how do you successfully negotiate a seamless lease for a uniquely ephemeral environment like a pop-up? This seminar will address the unique challenges and ever-evolving landscape of pop-up leasing and explore the ways in which pop-ups have become beneficial to tenants and landlords alike.

PANELISTS

Nicholas Dierman

Unibail-Rodamco-Westfield
Los Angeles, CA

Janis B. Schiff

Holland & Knight LLP
Washington, DC

Seminar 16

Don’t Get Lost in the Financial Shuffle: Remembering to Nail Down Often Forgotten Provisions in Financing Agreements

The seminar will identify areas of conflict that can arise between the increased obligations frequently imposed by a mortgagee on leases and leasing, and the restrictions imposed on tenants and owners in the course of negotiation of a mortgage loan. The topics will include leasing covenants, reporting requirements, estoppels and SNDAs, tenant allowances, alterations, assignment and subletting, contest rights, casualty and condemnation, permitted modifications and issues surrounding the owner’s or the tenant’s breach, cure rights, and self help. The discussion is intended to highlight the owner’s balancing act with the differing points of view and goals of the owner, the owner’s lender and the owner’s tenants..

PANELISTS

Stephen E. Friedberg

Mintz Levin Cohn Ferris Glovsky and Popeo, PC
New York, NY

Gregory G. Gosfield

Klehr Harrison Harvey Branzburg LLP
Philadelphia, PA

Seminar 17 **ADV**

How to Avoid Out-Kicking Your Coverage: Construction Risk Management Strategies for Retail Developments

If your approach to construction risk management is a no huddle offense with the occasional Hail Mary, we have a better playbook for you. From design and construction contract provisions to insurance coverage choices to surety bonds, this seminar provides rookies and Pro Bowl veterans alike with the risk management tools necessary to avoid game ending fumbles and “pick sixes”.

PANELISTS

Anthony L. Meagher

DLA Piper
Baltimore, MD

William S. (Trip) Thomas III

Arthur J Gallagher & Co.
Glendale, CA

Bill Toliopoulos

Laurie & Brennan LLP
Chicago, IL

WORKSHOPS

10:30 – 11:45 am

Workshop 23

Commas in the Courtroom: Drafting Trial-Ready Leases by Thinking Backward

Long after the ink on the lease is dry, and long after the parties fail to resolve their disputes informally or constructively, in come the litigators. They twist and turn commas, cross-references, defined terms, and “notwithstanding” this or that into a linguistic soup that creates ambiguities where none may have existed in the minds of the actual parties to the lease. Through an interactive, simulated deposition and trial witness examination process, attendees will learn how careless commas, “including but not limited to,” incorporation by reference, and other legal jargon adopted from form leases create ambiguities that are exploited in litigation and at trial. Thinking backward from trial can (hopefully) allow practitioners to avoid these ambiguities in the first place.

FACILITATORS

Derek B. Domian

Goulston & Storrs, PC
Boston, MA

Michael A. Geibelson

Robins Kaplan LLP
Los Angeles, CA

Workshop 24

When Disaster Strikes – Who You Gonna Call?

While leases talk about insurance and rebuilding should the shopping center experience a casualty, they don't provide the practical or realistic guidelines necessary to navigate through the immediate and often unimaginable concerns. Drawing from decades of experience (think mistakes made), this workshop will explore lease and life responses to natural disasters, mechanical failures, terrorism, shootings and arson—both within and near a shopping center. This workshop will provide opportunities for participants to share their own experiences, ask questions and provide practical tips for dealing with catastrophic events.

FACILITATORS

Barbara Finkle

Bartko Zankel Bunzel & Miller
San Francisco, CA

Walker Kennedy III

Woodbury Corporation
Salt Lake City, UT

Workshop 25 **ADV**

Keep It Running! How to Make Your REA Last for Another Redevelopment

This workshop will focus on the frequent need to amend an REA to accommodate a proposed redevelopment of an existing shopping center versus amending and restating the REA in its entirety. The discussion with address the competing desires and requirements between the developer entity and the other big box/ anchor store parties to an REA for value enhancing properties with additional permissible building areas, outparcels, hotels and residential components. Practical approaches, considerations and solutions will be explored.

FACILITATORS

Tandy C. Patrick

Bingham Greenebaum Doll LLP
Louisville, KY

U.S. Shopping Center Law Conference

Charles E. Schroer
Frost Brown Todd LLC
Cincinnati, OH

Workshop 26

Tax Reform's Impact on Retail Development

Dig into key provisions of the Tax Cuts and Jobs Act to learn the opportunities, and pitfalls, it created. We'll discuss the business interest expense limitation and the exception; bonus depreciation, section 179 and getting the best deduction from tenant improvements; planning for the new carried interest rules; and applying the qualified business income deduction. We'll also discuss what you should be doing now to plan for year-end.

FACILITATORS

Adam Hill
Cohen & Company
Cleveland, OH

Phillips Hinch

International Council of Shopping Centers
Washington, DC

Michael J. Masri

Norton Rose Fulbright US LLP
New York, NY

PEER TO PEER

10:30 – 11:45 am



Peer to Peer 10 **ETHICS**

A Sneaky Peek and a Little Fib: Nothing Wrong with that—Right?

Something about your client's story doesn't seem quite right—do you check it out? The veracity of your client's sworn testimony is challenged by other credible sources—is it time to "come clean"? You've seen what you shouldn't see—now what?

FACILITATORS

John G. Cameron, Jr.
Dickinson Wright PLLC
Grand Rapids, MI

Donald A. Rea

Saul Ewing Arnstein & Lehr LLP
Baltimore, MD



Peer to Peer 11

Medical and Health Care Facility Leasing Issues: Appreciating the Needs of the Parties

Medical and health care related leases present unique challenges in the shopping center environment.

Understanding why certain issues are important to each side will enable us to simplify the process and finalize the lease. This session will explore commonly encountered issues and will seek to present practical solutions that satisfy all parties.

FACILITATORS

Dean J. Papadakis
Kaplan Papadakis & Gournis, PC
Chicago, IL

David C. Skrilow

Law Offices of David Skrilow
New York, NY

GENERAL SESSION

12:00 – 1:15 pm

General Session 8 **ETHICS**

Make a [Shopping] List and Check it Twice: Identifying and Handling Conflicts of Interest in Retail Real Estate Practice

Using real life scenarios that arise in the retail real estate practice, this session will focus on the importance of knowing who the client is, identifying conflicts of interests, applying conflicts and related Rules of Professional Conduct, and obtaining effective waivers. While the Model Rules of Professional Conduct have been adopted by most states, particular rules vary in specific states. Lawyers should consult their state's version of these rules when analyzing conflicts and other ethics issues.

PANELISTS

Desmond D. Connall, Jr.
Ballard Spahr LLP
Baltimore, MD

Randy J. Curato

ALAS, Inc.
Chicago, IL

Ashley Steiner Kelly

Arnall Golden Gregory LLP
Atlanta, GA

SEMINAR

12:00 – 1:15 pm

Seminar 18 **ADV**

Minimizing Headaches when Dealing with Excess Space

This seminar will explore a wide variety of advanced issues encountered when negotiating lease assignments and subleases. Additionally, the speakers will offer techniques for aiding in the negotiation from each of the landlord and tenant perspectives, as well as offer compromises that may be acceptable to each.

PANELISTS

Lisa G. Banjak

Sitko Bruno LLC
Pittsburgh, PA

Tara A. Scanlon

Holland & Knight LLP
Washington, DC

WORKSHOPS

12:00 – 1:15 pm

Workshop 27

Rethinking the Common Areas: The New Frontier for Amenities

Common areas have evolved over time to allow for non-traditional uses not previously found in shopping centers such as promotional events, concerts, entertainment areas and greenspace. We will explore categories of common area protections and prohibitions typically requested by retailers and the flexibility landlords and developers now need to use the common areas to create vibrant destinations that attract customers to brick and mortar retailers. A robust discussion will follow on drafting clauses in a clear and concise manner to achieve the objective of balancing the protections required by retailers with the flexibility required by landlords. The workshop concludes with a review of circumstances in which those clauses have been challenged and potential remedies for violations.

FACILITATORS

Ryan P. Rivera

Hartman Simons & Wood LLP
Atlanta, GA

Roy P. Ruda

Kitchens Kelley Gaynes, PC
Atlanta, GA

Workshop 28

Sharing the Sandbox: Grocery Stores, Health Clubs and What We Learned in Kindergarten

For years, grocery stores and health clubs were viewed as being conflicting uses in shopping centers. This workshop will explore how the changing retail environment and a better understanding of shopping behavior has led landlords and tenants to question this long held assumption and to view these uses instead as being complimentary.

FACILITATORS

Susan P. Myers

24 Hour Fitness USA, Inc.
San Ramon, CA

Terrance A. Noyes

Terrance A. Noyes LLC
Aurora, CO

Workshop 29

Management Agreements: Who is Really Managing the Shopping Center?

In this workshop, we will review and discuss, from the owner's and property manager's perspective, many of the major issues in negotiating shopping center management agreements. We will discuss the drafting and negotiation of these documents and issues such as allocation of risk and responsibility, insurance, indemnification and payment.

FACILITATORS

James T. Mayer

Holland & Knight LLP
Chicago, IL

Heather Smith Michael

Jones Lang LaSalle Americas, Inc.
Atlanta, GA

Workshop 30 **ADV**

An Ounce of Prevention – How Proactively Structuring and Documenting Your Mixed-Use Project Can Solve Problems You Never Knew You Had

Selecting the right ownership and governance structure can make all the difference to the success of a mixed-use retail project, and can have a dramatic impact on the marketability of the project to retail and non-retail owners and tenants. In this workshop and in the accompanying materials, we will identify and discuss the most common ownership and governance structures for mixed-use retail projects (including condominiums,

U.S. Shopping Center Law Conference

so-called “air rights” vertical subdivisions, and ground lease structures), and the benefits and pitfalls of each. We will also draw upon the attendees’ experience to devise strategies to anticipate and address the needs of the developer, subsequent owners, operators, and retailers in the project documents.

FACILITATORS

Robert R. DiVita

Urban Edge Properties
Paramus, NJ

Steven L. Dube

Saul Ewing Arnstein & Lehr LLP
Washington, DC

Diversity Reception

4:30 – 6:00 pm

Join the ICSC Partners in Diversity & Inclusion for drinks as we celebrate all dimensions of diversity and connect with companies committed to greater inclusion across the retail real estate industry.

Last Mango in Paradise

7:00 – 10:00 pm

It’s the final evening of the Conference and you won’t want to miss your chance to chill in Margaritaville. Join us for food and drink, live entertainment and a fun and relaxing time with your colleagues inspired by tropical Florida elegance and comfort. Casual attire recommended. The conference registration fee includes admission to the dinner for the Conference registrant. Conference registrants may purchase additional dinner tickets.

SATURDAY, OCTOBER 27

Registration and CLE Information Desk

7:00 – 11:00 am

Continental Breakfast

7:30 – 8:00 am

Roundtable Discussions

8:00 – 9:00 am

All topics and roundtable leaders will be announced in September and included in the Conference Directory distributed on site at registration.

SEMINAR

9:15 – 10:30 am

Seminar 19

The Furious Five of Leasing: Concepts Every Retail Attorney Must Master

This seminar will focus on five critical concepts that every real estate attorney must master in order to successfully negotiate a retail lease, whether representing a landlord or a tenant. The concepts that will be discussed are: (1) delivery conditions, (2) additional rent, (3) permitted, exclusive and prohibited uses, (4) operating covenants and co-tenancy, and (5) assignment and subletting. Whether a recent graduate of Leasing Boot Camp, or an experienced negotiator in need of a refresher, this seminar will elevate us to the Next Level of Leasing.

PANELISTS

David Mansbery, Jr.

Benesch, Friedlander, Coplan & Aronoff LLP
Cleveland, OH

Thomas J. Phillips

Brown Rudnick LLP
Boston, MA

WORKSHOPS

9:15 – 10:30 am

Workshop 31

The ‘Anything-But-Shopping’ Shopping Center: Alternative/Supplemental Uses in the Age of the Internet

This workshop will explore recent evolution in the retail real estate dynamic given the rapidly increasing popularity of e-commerce. In particular, we will take a look at new trends in tenant-mix, and we will probe lease provisions such as use clauses, exclusive and prohibited use covenants and co-tenancy requirements, and we will discuss how each of the foregoing have changed to meet the new landscape, how they pose hindrances to change, and the give and take between landlord and tenant as each look for flexibility to address the ever-changing needs and expectations of today’s (and tomorrow’s) consumers.

FACILITATORS

Sean Dennison

Centercal Properties LLC
El Segundo, CA

Jared H. Rothman

The Flateman Rothman Law Firm LLC
New York, NY

Workshop 32

The Lease Can't Go On; Time to Exit Stage Left

Tenants do not enter into leases intending to break them, but sometimes the unexpected happens. This workshop will explore the reasons why a tenant may break a lease prior to term expiration, and discuss pre-lease execution planning strategies, possible breach of lease exit strategies, as well as mitigation of costs and expenses for exiting a lease early.

FACILITATORS

David P. Vallas

Polsinelli, PC
Chicago, IL

Jennifer E. Zohorsky

Rosenberg Martin Greenberg LLP
Baltimore, MD

Workshop 33

Squaring the Circle of Mistrust: Negotiating through Triple Net Issues

In ancient times, Euclidian geometers contemplated an impossible challenge: constructing a square equal to a circle's area using only a compass and a straightedge. Today, leasing attorneys face a similarly impossible challenge: recasting the circle of mistrust over motives and practices into a few relatively square pages of certainty and parity using an equally limited set of lease tools. In this workshop, we will explore the key contested pass-through provisions, and propose analytical tools that will help us "square the circle" and build trust with adverse parties and clients in lease negotiations.

FACILITATORS

Lisa T. Blackburn

CEC Entertainment, Inc.
Irving, TX

Jeffrey I. Horowitz

Crain Caton & James
Houston, TX

Conference Adjourns

10:30 am



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U.S. Shopping Center Law Conference

Program Planning Committee

ICSC sincerely thanks the following individuals of the 2018 U.S. Shopping Center Law Conference Program Planning Committee for their valuable assistance in developing this year's program:

Conference Chair

Alan J. Salle, Chair, Honigman Miller Schwartz and Cohn LLP, Bloomfield Hills, MI

Conference Co-Chair

Nancy M. Davids, Co-Chair, Goulston & Storrs PC, Boston, MA

General Sessions Subcommittee

Jo-Ann M. Marzullo, Co-Chair, Posternak Blankstein & Lund LLP, Boston, MA

Jonathan L. Neville, Co-Chair, Arnall Golden Gregory LLP, Atlanta, GA

*Elizabeth H. Belkin, Belkin Law Offices, Skokie, IL

*Ann Peldo Cargile, Bradley Arant Boult Cummings LLP, Nashville, TN

Sara Hansen Wilson, Drinker Biddle & Reath LLP, San Francisco, CA

Seminars Subcommittee

Robert L. Crewdson, Co-Chair, DLA Piper LLP, Atlanta, GA

Maria Manley-Dutton, Co-Chair, DDR Corp., Beachwood, OH

*Jo Anne M. Bernhard, Law Office of Jo Anne M. Bernhard, Sacramento, CA

Richard S. Friedman, Resch Polster & Berger LLP, Los Angeles, CA

*Ronald L. Gern, Pyramid Management Group, LLC, Syracuse, NY

Neil S. Kessler, Troutman Sanders LLP, Richmond, VA

James T. Mayer, Holland & Knight LLP, Chicago, IL

Nancy S. Rendos, Macerich, Broomfield, CO

*Raymond G. Truitt, Ballard Spahr LLP, Baltimore, MD

Workshops Subcommittee

Jerry M. Cyncynatus, Co-Chair, Irvine Company Retail Properties, Irvine, CA

David B. Matthews, Co-Chair, Bartko, Zankel, Bunzel & Miller, San Francisco, CA

Lester M. Bliwise, Seyfarth Shaw LLP, New York, NY

*Deborah Stear De Luca, Kin Properties Inc., Boca Raton, FL

Mark E. Florak, Taylor English, Atlanta, GA

Margaret Jordan, Kane Russell Coleman & Logan, Dallas, TX

Renee J. Magnant, AZT Corporation Inc., Dallas, TX

Rory A. Packer, Unibail-Rodamco-Westfield, LLC, Los Angeles, CA

*Linda K. Schear, Gregory Greenfield & Associates Ltd., Atlanta, GA

*Jane S. Smith, Norton Rose Fulbright US LLP, Austin, TX

J. Theodore Smith, Vorys Sater Seymour & Pease LLP, Columbus, OH

Peer to Peer Subcommittee

Eric D. Rapkin, Co-Chair, Akerman LLP, Fort Lauderdale, FL

Mindy Wolin Sherman, Co-Chair, Perkins Coie LLP, Chicago, IL

Robert M. McAndrew, Ross Stores, Inc., Dublin, CA

*Harold D. Piazza, Jr., Glen Ridge, NJ

Roundtables Subcommittee

John I. Cadwallader, Co-Chair, Frost Brown Todd LLC, Columbus, OH

Joseph S. Finkelstein, Co-Chair, Interstate Outdoor Advertising, L.P., Cherry Hill, NJ

Nina L. Kampler, Kampler Advisory Group, Teaneck, NJ

Recent Developments

Lila Shapiro-Cyr, Chair, Ballard Spahr LLP, Baltimore, MD

Neil B. Oberfeld, Greenberg Traurig, LLP, Denver, CO

Consuella S. Taylor, Baker Botts LLP, Houston, TX

Monitoring & Evaluations Subcommittee

Brian D. Huben, Chair, Ballard Spahr LLP, Los Angeles, CA

Carol Kauffman, L Brands, Inc., Columbus, OH

Margaret K. Sitko, Sitko Bruno, LLC, Pittsburgh, PA

Session Materials Subcommittee

Kathleen A. Crocco, Chair, Williams Legal Advisory Group, LLC, Oakland, NJ

Paul Ledbetter, Cinemark Holdings, Inc., Plano, TX

Joseph Núñez, Vantage Law Group, Minneapolis, MN

Robert J. Stewart III, Pyramid Management Group, Syracuse, NY

First Timers and Next Generation Subcommittee:

David J. Rabinowitz, Chair, Goulston & Storrs PC, New York, NY

Aubrey Waddell, JLL, Atlanta, GA

Past Chairs Council

*Lawrence D. McLaughlin, Chair, Honigman Miller Schwartz and Cohn LLP, Detroit, MI

Nominating Subcommittee

*Robert R. DiVita, Chair, Urban Edge Properties, Paramus, NJ

Jerry M. Cyncynatus, Irvine Company Retail Properties, Irvine, CA

Nancy M. Davids, Goulston & Storrs PC, Boston, MA

*Deborah Stear De Luca, Kin Properties Inc, Boca Raton, FL

Alan J. Salle, Honigman Miller Schwartz and Cohn LLP,

Bloomfield Hills, MI

Emeritus Members

*Victoria S. Berghel, Victoria S. Berghel Law Offices, Chattanooga, TN

Lester M. Bliwise, Seyfarth Shaw LLP, New York, NY

*Thomas P. Bloch, Samuels & Associates, Boston, MA

*Richard J. Burstein, Honigman Miller Schwartz and Cohn LLP, Bloomfield Hills, MI

*Stephen K. Cassidy, Powlan Cassidy Law LLP, Walnut Creek, CA

*Jay A. Epstein, DLA Piper LLP, Washington, D.C.

*Morton P. Fisher, Jr., Ballard Spahr, LLP, Baltimore, MD

Richard S. Friedman, Resch Polster & Berger LLP, Los Angeles, CA

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*Ronald G. Galip, Youngstown, OH

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REGISTRATION FORM

How to Register

Fax: +1 732 694 1800

Online: www.icsc.org/2018LC

Mail: ICSC | P.O. Box 419822 | Boston, MA 02241-9822

Registration Fees

Advance On-Site

Member*	\$795	\$975
Non-Member	\$1,050	\$1,295
Student Member**	\$50	N/A
Dinner Admission***	\$100	\$125

*Must be an ICSC member or affiliate member—visit www.icsc.org/ membership or call +1 646 728 3800 to join.

**On-site student registration is not available—advance registration is required.

***The conference registration fee includes admission to the Friday night dinner for the registrant. Additional dinner guests may register using this same form.

Optional Events (please check)

Thursday October 25, 2018 (3:00 – 4:30 pm)

- Group Yoga** \$30 (Limited to first 30 registrants)
- Walking** Free
- Light Jogging** Free

For Faster Registration

Visit www.icsc.org/2018LC or fax this form to +1 732 694 1800, 24 hours a day, 7 days a week (credit card orders only). Please register one person per form; photocopy for additional registrants. Payment must accompany this registration. All registrations must be received by **October 17, 2018** to receive the Advance Registration Rate.

Fee

Includes all sessions, Wednesday evening cocktail reception, Friday evening dinner reception, three networking breakfasts, the conference directory and access to the session materials.

Please Check: Member Non-Member Student Member Dinner Admission

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Deadline

Advance registrations must be received by **October 17, 2018**.

Hotel Reservations

To make a reservation, you will need to first register for the Conference. Upon your registration being completed, you will receive a Law Conference registration confirmation email containing a custom link to book your hotel room at the JW Marriott Orlando Grande Lakes through OnPeak. This link will be valid to book one room only under the name of the confirmed Law Conference registrant.

To make a reservation, visit www.icsc.org/2018LC. For assistance, call +1 877 541 9876, or internationally at +1 312 527 7300.

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If you attend the ICSC U.S. Shopping Center Law Conference, you may be eligible for Continuing Legal Education credits in your state. We will apply for credits for this Conference in the following states: Alabama, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia and Wisconsin. The approval of this event for credit is pending the decisions of the regulatory agencies in each of these states.

Cancellations

Cancellations received before **October 10, 2018** are subject to a **\$100.00** fee. No refunds will be given for cancellations received after **October 10, 2018**. All requests must be received by ICSC in writing.

Special Needs

Anyone desiring an auxiliary aid for this meeting should notify **Kelsey Lloyd** at **+1 646 728 3542** no later than **September 14, 2018**.

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