

# 2012 ICSC U.S. Shopping Center Law Conference

## Program

October 24 – 27, 2012  
JW Marriott Grande Lakes  
Orlando, FL



**REGISTER NOW** for the 2012 ICSC U.S. Shopping Center Law Conference to be held October 24-27, 2012 at the JW Marriott Grande Lakes in Orlando, Florida where more than 1,200 legal professionals in the retail real estate industry are expected to be in attendance. The four-day program will have over 65 sessions that will enable attendees to gain specific industry knowledge and insight from some of the country's leading authorities on subjects such as:

- Leasing – many leasing related sessions, including a full morning symposium devoted to hot topics in leasing
- Recent Developments – including financing hot topics
- Up-to-Date Information on insurance, center management and other important issues

Benefits on attending this annual conference include:

- Enhancing your knowledge by providing an in-depth, real-time look at today's issues
- Obtaining CLE credits for both general requirements and ethics
- Networking with industry peers from around the country

This is the 42nd anniversary of the ICSC Law Conference and will be a first-class program with engaging and expert speakers making the 2012 Law Conference a must-attend event.

Hope to see you there,



**ANN PELDO CARGILE**

Chair, U.S. Shopping Center Law Conference Planning Committee  
Bradley Arant Boult Cummings LLP



**LINDA K. SCHEAR**

Co-Chair, U.S. Shopping Center Law Conference Planning Committee  
Gregory, Greenfield & Associates, Ltd.

## Wednesday, October 24

12:00 noon – 8:00 pm

### Registration

2:00 – 3:15 pm

### Seminars

#### **Seminar 1: The CAM Games: The Fight Over CAM, Taxes and Other Operating Expenses**

This session will explore the negotiation of CAM, taxes and other operating expenses. It will include the landlord's and the tenant's perspective, and will also cover tenant's proportionate share, exclusions and CAM caps. The session will additionally review fixed, non-fixed and hybrid approaches to CAM.

#### **RONALD GERN**

Pyramid Management Group, LLC  
Syracuse, NY

#### **MARGARET M. JORDAN**

Kane Russell Coleman & Logan, PC  
Dallas, TX

#### **Seminar 2: REAs 101: The Shopping Center Real Estate Owners' Manual**

This seminar will provide an introduction to the basics of reciprocal easement agreements ("REAs"), also known as operating and easement agreements ("OEs") and various other monikers. These instruments create a roadmap by which multiple contiguous landowners co-exist in an integrated shopping center. We will cover the spectrum of REAs, from the simple single-anchor community center to the multi-owner regional mall.

#### **KATHLEEN A. FURLONG**

Macy's, Inc.  
Cincinnati, OH

#### **ADAM C. HIRSCHFELD**

Hirschel, Savitz, Parker & Hollman, PA  
Gaithersburg, MD

#### **JAMES A. MOOMAW**

The Howard Hughes Corporation  
Dallas, TX

2:00 – 3:15 pm

### Workshops

#### **Workshop 1: How to Get Traditional Retail, Restaurant, Entertainment and Non-Traditional Uses to Just Get Along**

This workshop will focus on the interplay among traditional retail stores and other types of uses, such as restaurants, entertainment venues, and non-traditional users in "mixed use" projects. This discussion will center on two different aspects of the interplay among various users: issues specific to specialty retailers, restaurants, entertainment uses and non-traditional uses, as well as issues for traditional retailers caused by the presence of these other uses. This interactive workshop will cover both enclosed and open air centers and is perfect for both landlords and tenants.

#### **NANCY M. DAVIDS**

Goulston & Storrs  
Boston, MA

#### **HANK ROUDA**

H&M Hennes & Mauritz AB  
New York, NY

#### **Workshop 2: When a Sublandlord Defaults: Plan for the Worst and Avoid those Sleepless Nights**

One of the primary factors causing a subtenant not to get a good night's sleep is the question "What happens if my sublandlord defaults under the primary lease?" In this interactive workshop, we will discuss provisions in the primary lease that can reduce or eliminate the anxiety for all of the parties – the prime landlord, the tenant/sublandlord and the subtenant. We will also discuss use and negotiation of subtenant nondisturbance (a/k/a recognition) agreements. Lastly, we will examine some possible alternatives if all else fails.

#### **ROBERT R. DIVITA**

Sills Cummis & Gross P.C.  
Newark, NJ

#### **STEVEN J. ROBERTS**

Ahold USA  
Quincy, MA

## Wednesday, October 24 (continued)

### **A** **Workshop 3: Leasehold Mortgage Overview**

This program will cover the rating agencies' requirements for a credit ground lease in connection with underwriting a leasehold mortgage. We will also discuss sample leasehold mortgage lease clauses from a landlord and tenant perspective and key leasehold mortgage provisions.

#### **JEFFREY RHEELING**

Kirkland & Ellis LP  
Chicago, IL

#### **TARA A. SCANLON**

Holland & Knight LLP  
Washington, DC

3:15 - 3:30 pm

#### **Networking Break**

3:30 – 4:45 pm

#### **General Session**

#### **General Session 1: Lease “Remediology”**

As famously quoted by the Greek philosopher “Defaultless,” there is no effective right without a remedy. This panel of experienced real estate lawyers will explore the intricacies of a default clause and the various remedies that oftentimes are found throughout the lease - not just in the default clause. In fact, many of the most effective post-default offensive and defensive strategies derive from language in various sections of the lease ranging from the radius restriction clause to the “boilerplate.”

#### **KATHLEEN A. CROCCO**

SL Green Realty Corporation  
New York, NY

#### **JONATHAN J. HUNT**

City of Atlanta, Law Department  
Atlanta, GA

#### **JEFFREY H. NEWMAN**

Sills Cummis & Gross P.C.  
Newark, NJ

3:30 – 4:45 pm

#### **Seminars**

#### **Seminar 3: Anatomy of a Lease 2012: “What’s Different about Retail Leases?”**

This session is intended for the practitioner who is new to shopping center leasing. The panelists will discuss basic economic lease provisions and explain the underlying rationales for the positions taken by landlords and tenants

on uniquely retail oriented leasing issues, such as restrictive use clauses, exclusives, radius restrictions, percentage rent, continuous operation, co-tenancy and anchor tenant subsidy provisions. You’ve heard lawyers haggle over these issues, and we’ll explain the “why” behind all of the haggling.

#### **PETER M. DIGIOVANNI**

Lewis, Rice & Fingersh, L.C.  
Kansas City, MO

#### **EDWARD KRASNOVE**

Griffin Fletcher & Herndon LLP  
Carlsbad, CA

#### **Seminar 4: Borrower Beware: Pitfalls and Protections in Shopping Center Financing**

Don’t get stuck with your hands tied or in a Catch-22 because off-the-shelf loan documents do not provide adequate flexibility to operate your shopping center. Mortgaging a shopping center requires understanding necessary carve-outs, areas of tension and appropriate “asks” to make. This seminar will discuss what to look out for and how to negotiate the best shopping center loan from both sides of the table.

#### **RACHEL S. BROWN**

Kirkland & Ellis, LLP  
Chicago, IL

#### **ANITA SABINE**

O’Melveny Myers LLP  
Los Angeles, CA

3:30 – 4:45 pm

#### **Workshops**

#### **Workshop 4: Thinking Outside the Box to Fill the Big Box**

This workshop will focus on some of the legal and practical difficulties encountered when a big box vacancy is remerchandised with non-big box tenants, including topics such as co-tenancy, site plan restrictions, use restrictions, store layout constraints and REA limitations. The discussion will include shared experiences on running the legal gauntlet between dated operating agreements and current tenant lease expectations.

#### **NANCY SCHIRMER RENDOS**

The Macerich Company  
Excelsior, MN

#### **ROBERT J. STEWART, III**

Pyramid Management Group, LLC  
Syracuse, NY

## Wednesday, October 24 (continued)

### Workshop 5: Letters of Intent: Considerations for Leasing and Deal Transactions

This interactive workshop will focus on letters of intent for both leasing and deal transactions. We will review the difference between binding and nonbinding LOIs, strengths of both short and long forms, and the difference between LOIs for leases and those for purchase and sale transactions.

#### JOHN I. CADWALLADER

Frost Brown Todd LLC  
Columbus, OH

#### KATHERINE HALE DONNELLY

General Growth Properties, Inc.  
Chicago, IL

### Workshop 6: Who Says that Brokerage and Management Agreements Are Not Negotiable?

This workshop will discuss, from the owner's and manager's/broker's perspectives, many of the major issues in negotiating brokerage and management agreements. Our goal is to educate the audience on how to respond to the first draft of these documents, recognize the major issues from both parties' perspectives and how to negotiate them. The resulting agreement will hopefully be a fair and equitable document where both sides have adequate protections but are also able to carry out their respective duties.

#### JAMES T. MAYER

Holland & Knight LLP  
Chicago, IL

#### AUBREY WADDELL

Jones Lang LaSalle, Inc.  
Atlanta, GA

### Workshop 7: Servicers, Special Servicers and Receivers: Who is the Boss?

The workshop will focus on the various issues confronting borrowers in this unique real estate climate. Who are the decision makers? How does a borrower get the attention of the decision maker? What authority does each player have to alter loan documents? How does a borrower operate its shopping center with all of these different parties partaking in the process? How does a responsible tenant address these issues and protect itself?

#### JONATHAN A. ADELSBERG

Herrick, Feinstein LLP  
New York, NY

#### DAVID A. BARKSDALE

Alston+Bird LLP  
Los Angeles, CA

3:30 – 4:45 pm

#### Peer to Peer



### Peer to Peer 1: Work Letters after the Great Recession

This Peer to Peer forum will provide an opportunity to discuss issues that have arisen when constructing tenant improvements since the onset of the Great Recession. We will compare and contrast the approach taken by landlords and tenants during the dot.com boom of the late 1990s with the approach taken following the dot.com bust at the turn of the century. We will then review the approach taken by landlords and tenants during the Great Recession. Finally, we will extrapolate from these experiences to enhance our understanding of how work letters should be negotiated today.

#### CRISTINA CORONADO

Ballard Spahr LLP  
Salt Lake City, UT

#### RICHARD C. MALLORY

Allen Matkins Leck Gamble Mallory & Natsis LLP  
San Francisco, CA

5:00 – 6:30 pm



### First Timers & Next Generation Orientation

Get inside tips on how to make the most of your first Law Conference at this special welcome reception. Long time 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.

6:30 – 8:00 pm

### Welcome Reception

It's opening night of the conference! All registrants are invited to join us for cocktails and networking under the stars. Business casual attire is recommended.



## Thursday, October 25

7:00 am – 2:00 pm

### Registration

7:15 – 8:30 am

### Roundtable Discussions

8:30 – 9:30 am

### General Session

#### **General Session 2: Ethics for Road Warriors: The Prickly Thicket of Social Media and Multijurisdictional Practice Issues**

We're all doing deals with and for others around the country, and we're constantly on the go, on the Internet, on our smartphones, iPads and laptops, and on planes. Even 80-year old Rupert Murdoch is on Twitter, so jet setting lawyers or clients who neglect social media will find the world passing them by. But what are the ethical implications of all of this? Back by popular demand, Mike Rubin will lead us through a fast-paced romp through a number of hypotheticals. You won't need caffeine to stay awake for this presentation!

#### **MICHAEL H. RUBIN**

McGlinchey Stafford PLLC  
 Baton Rouge, LA

9:45 – 11:00 am

### General Session

#### **General Session 3: An Insurance Presentation You Can Use: How to Write Your Lease Correctly**

A transactions lawyer, an owner of one of the largest insurance brokerage firms in the Southwest, and a law professor will explain landlord and tenant insurance, insurance specifications, and lease insurance provisions and insurance industry standard forms will be annotated, terms defined and practical advice given.

#### **CHARLES E. COMISKEY**

Brady Chapman Holland & Associates, Inc.  
 Houston, TX

#### **WILLIAM H. LOCKE, JR.**

Graves, Dougherty, Hearon & Moody, P.C.  
 Austin, TX

#### **TANYA MARSH**

Wake Forest University School of Law  
 Winston-Salem, NC

9:45 – 11:00 am

### Seminars

#### **Seminar 5: Franchise Leasing: The Play Book for Your Match with the Big Guys and the Small Fries**

Franchise organizations are some of the biggest players in the retail real estate game. This session will explore key issues in negotiating leases with franchise organizations and the pros and cons of dealing directly with franchisors and franchisees. We will also address the unique development, operational and financial issues in a franchise deal, assess risk management in each category, and examine potential conflicts between shopping center policies and regulations and franchise agreements.

#### **SUSAN M. GORDON**

The Wendy's Company  
 Dublin, OH

#### **ELIZABETH D. SANTIS**

The Edelman Law Firm, P.C.  
 Chicago, IL

#### **Seminar 6: Watching Out for Big Brother: How to Plan for Government Regulation Impacting Shopping Centers**

Owners, developers and operators of shopping centers and retailers regularly encounter federal, state and local laws, regulations and ordinances that create the potential risk of fines, citations or even civil lawsuits for failure to comply. These government regulations arise at all stages of the shopping center's life cycle: from its inception with zoning and entitlements, through ongoing operations of the existing center, and finally in the expansion and/or redevelopment of the center. This seminar is intended as an overview, rather than in-depth analysis of any one area. It will address how to deal with the issues as they arise, how to develop best practices for liability prevention and control, and how to determine when it is time to seek advice from the experts.

#### **RENEE J. MAGNANT**

J.C. Penney Corporation, Inc.  
 Plano, TX

#### **THOMAS H. PETRIDES**

K&L Gates LLP  
 Los Angeles, CA

#### **BRETT A. RENDEIRO**

Varnum LLP  
 Novi, MI

## Thursday, October 25 (continued)

**Seminar 7: Non-Recourse Carve-Outs, “Bad-Boy” Guaranties and Personal Liability after *Cherryland***

This panel will examine some of the more troublesome provisions at the heart of disputes (and litigation) between borrowers and their lenders spawned by the Great Recession, including the more commonly used carve-outs contained in non-recourse provisions, as well as the operative provisions in so-called “bad boy” guaranties, together with a discussion of recent court cases dealing with such provisions. Finally, the panel will discuss strategies for resolving disputes involving these provisions.

**THOMAS W. COFFEY**

Tucker Ellis LLP  
Cleveland, OH

**PAUL S. MAGY**

Clark Hill, PLC  
Birmingham, MI

**JAMES H. SCHWARZ**

Benesch Friedlander Coplan & Arnoff LLP  
Indianapolis, IN

**DANIEL K. WRIGHT, II**

Tucker Ellis LLP  
Cleveland, OH

9:45 – 11:00 am

**Workshops****A Workshop 8: 2, 4, 6, 8 – Do We Really Have to Litigate? Arbitration and ADR**

This workshop will focus on drafting appropriate alternative dispute resolution provisions for your contracts and leases. Representative samples of the good, bad and ugly arbitration clauses will be the basis for interactive discussion on the various clauses. The discussion will also address such issues as myth v. reality in the dispute resolution spectrum, cost considerations and ethical considerations for counsel regarding the use of alternatives to litigation.

**DOUGLAS J. DANZIG**

Fulbright & Jaworski, LLP  
New York, NY

**STANLEY P. SKLAR**

Dispute Resolution Services  
Chicago, IL

**Workshop 9: Site Plan Issues: Permissible Building Areas, No Change Areas, Parking Rights, Outparcels and Promotional Events**

This workshop will explore the essential role of the site plan in the retail lease negotiation. Numerous practical issues will be addressed, with emphasis on proposed compromises that both landlord and tenant can accept.

**MARK E. FLORAK**

Hartman Simons & Wood, LLP  
Atlanta, GA

**ALAN M. FREEMAN**

Bed, Bath & Beyond Inc.  
Union, NJ

**Workshop 10: A Candid Evaluation of Critical Lease Issues for Non-Anchor Tenants**

This will be a highly interactive session that attempts to find a middle ground between “No” and “Yes” on the important issues that often stall lease negotiations between landlords and smaller tenants.

**WALKER KENNEDY, III**

Woodbury Corporation  
Salt Lake City, UT

**ABE SCHEAR**

Arnall Golden Gregory LLP  
Atlanta, GA

**Workshop 11: The Changing World of Title Insurance Underwriting**

In the aftermath of the Great Recession, title insurance companies have stepped back to reconsider underwriting standards for transactions that have generated increased claims exposure such as construction projects, foreclosures, and deals impacted by bankruptcy and litigation. This program will provide lawyers with a better understanding of title insurance underwriting concerns presented by such transactions. Our discussion will also address requirements for mortgage modifications, bankruptcy sales and financings, workouts and deeds-in-lieu.

**MATTHEW S. BLIWISE**

Chicago Title Insurance Company  
New York, NY

**WILHELMINA F. KIGHTLINGER**

Old Republic National Title Insurance Company  
Tampa, FL



## Thursday, October 25 (continued)

### Workshop 12: TIC Ownership: Exit Strategies and Other Alternatives – Where Do We Go from Here?

This workshop will address current issues relating to tenant-in-common (TIC) ownership of interests in distressed real property. What alternatives are available? How are decisions made, and how can strategies be formulated and implemented?

**RUSSELL P. HINTZE**  
Greenberg Traurig LLP  
Orlando, FL

**PAMELA A. MICHAELS**  
Asset Preservation, Inc.  
New York, NY

9:45 – 11:00 am

#### Peer to Peer



### Peer to Peer 2: Probing the Black Art of Common Area Maintenance: CAM Disputes and CAM Caps – Considerations and Concerns

This Peer to Peer forum will explore the disputes that arise between landlords and tenants in dealing with the assumption of costs for improvements made to the shopping center, particularly those designed to reduce overall operating costs. In addition, the conflicts that flow from computing CAM caps will be examined. The consequences of imprecise drafting with respect to each of those topics will be emphasized.

**JOEL R. HALL**  
Law Offices of Joel R. Hall  
San Jose, CA

**RORY A. PACKER**  
Westfield, LLC  
Los Angeles, CA



### Peer to Peer 3: Are You Possessed? Issues on Delivery of Possession and Term Commencement

Delivery of possession and term commencement under a lease are often the most contentious points of negotiation between landlord and tenant, and can have significant business, logistical, legal and liability exposure for both. This Peer to Peer forum will focus on the critical issues related to possession and term commencement. Topics will include conditions to delivery (such as land use approvals, financing, title, blackout periods, TI allowances and “completion” issues), penalties for failure to deliver, force majeure, cancellation rights, and co-tenancy requirements.

**STEVEN K. CASSIDY**  
Hanson, Bridgett LLP  
San Francisco, CA

**ROBERT C. ONDAK, JR.**  
Benesch, Friedlander, Coplan & Aronoff LLP  
Cleveland, OH

11:00 - 11:15 am

#### Networking Break

11:15 am – 12:30 pm

#### General Session

### General Session 4: 20/20 Hindsight: Lessons Learned – Things Leases Should Have Covered and Didn't

Practitioners experienced in the art and science of shopping center leasing will, with the advantage of hindsight, delve into the wonderful world of “shudda-wudda-cudda” to identify issues that should have been addressed differently (or not at all!). We will examine lease provisions that fall short of the goal of making clear the parties' intent, including discussing unintended consequences, technological changes and changes in custom and practice. We will also discuss changes that might need to be made to lease forms in order to accommodate financing in the present (and future) economic environment.

**RICHARD S. FRIEDMAN**  
Resch Polster & Berger LLP  
Los Angeles, CA

**SHELDON M. GOLDSTEIN**  
Meltzer, Lippe, Goldstein & Breitstone, LLP  
Mineola, NY

**LILA SHAPIRO-CYR**  
Ballard Spahr LLP  
Baltimore, MD

11:15 am – 12:30 pm

#### Seminars

### Seminar 8: Leasing 101: Ground, Net and Gross Leases – Comparing/Contrasting Fundamental and Hot Button Issues in Each

A practical introduction to the three major types of retail leases, with specific negotiation strategies and tips for fundamental and current ‘hot button’ issues.

**JOAN M. BUDD**  
Cable TV of East Alabama  
Phenix City, AL



## Thursday, October 25 (continued)

**GEORGE WALSH**Thompson Hine LLP  
New York, NY**KEVIN A. WOOLF**Seyfarth Shaw LLP  
Atlanta, GA**Seminar 9: Quake, Fire and Flood: Casualty's Impact on the Shopping Center and its Occupants**

This seminar will focus its attention on the relationship between landlords, tenants, lenders, and other interested third parties in the event the shopping center experiences a massive casualty. The seminar will analyze the pertinent elements of the lease that come into play and will discuss the broad variety of legal and operational issues that arise.

**MARILYN C. MALONEY**Liskow & Lewis  
Houston, TX**JOSEPH F. PIETERS**Simon Property Group  
Indianapolis, IN**Seminar 10: Loan Assumptions: I Am Assuming What?**

This session will address loan assumption considerations at three different points in time. First, we will look at the negotiation between a lender and a borrower with respect to the provisions in the original loan agreement dealing with transfer and assumption. Next, we will consider issues relating to loan assumptions that arise in an agreement for the sale and purchase of mortgaged property. Last, we will focus on the procedures for assuming a loan and the "negotiations" between the original lender and the new borrower over issues that often arise.

**MARTIN L. KATZ**Honigman Miller Schwartz and Cohn LLP  
Bloomfield Hills, MI**CAROLYN SULLIVAN**Haynes and Boone, LLP  
New York, NY

11:15 am – 12:30 pm

**Workshops****Workshop 13: A Practical Look at Lease Insurance Provisions**

This will be an interactive session that will revolve around the practical issues that should be considered when drafting and reviewing lease insurance provisions using the major fire loss suffered at the Westfield Galleria at Roseville as a case study. Two different lease insurance provisions that governed the various landlord and tenant rebuild responsibilities following the fire will be examined to illustrate the challenges and benefits that each type of provision presented and how each impacted the post-fire rebuild efforts. The audience will be encouraged to share opinions on the lease insurance provisions they prefer and why, and how various provisions affected losses that their companies suffered.

**JOHN KIM**Westfield, LLC  
Los Angeles, CA**BRENT A. WINANS**Clear Advantage Risk Management  
Delray Beach, FL**Workshop 14: Advanced Issues in Loan Transactions: Learn What is Keeping Lenders and Borrowers Awake at Night**

This workshop will highlight current issues in loan transactions, from both the lender's and borrower's perspective, in order to provide a better understanding of each party's motivations during the negotiation of loan documents. We will focus on key provisions that elicit the most discussion and disagreement between the parties, and will highlight interesting cases and restructurings that will impact the future of loan transactions.

**GARY E. AXELROD**Latham & Watkins LLP  
Chicago, IL**PAMELA S. KAIN**GE Capital Real Estate  
Chicago, IL**Workshop 15: Stressed and Distressed: Representing a Purchaser Acquiring a Shopping Center that Needs a Little TLC**

Buying and redeveloping distressed shopping centers pose some interesting issues. In this workshop we will walk through issues peculiar to distressed centers and discuss various approaches to sourcing deals, dealing with sellers

## Thursday, October 25 (continued)

and their lenders and tenants, evaluating unknowns, solving problems and positioning the center for recovery. This will be an interactive workshop and will encourage input and ideas from all attendees.

**JOHN P. JENNINGS**  
Fulbright & Jaworski LLP  
San Antonio, TX

**F. THOMAS MULLER**  
Manatt Phelps Phillips LLP  
Los Angeles, CA

**Workshop 16: Parking: It's Not Just about the Ratio Anymore**

Participants in this program will discuss emerging issues related to parking for retail developments, including the effects of multi-use developments, changing demographics, greening efforts by regulatory bodies, alternative fuel accommodations and transit integration efforts. Discussion will be stimulated by the use of a hands-on activity and case studies and will be centered on the practical and the legal ramifications of the continuing evolution of parking best practices.

**MARSHA ANDERSON BOMAR**  
Stantec Inc.  
Duluth, GA

**DAVID S. LIMA**  
Target Corporation  
Minneapolis, MN

**Workshop 17: Retail Projects: How is Life Different Outside the Mall?**

This intermediate level workshop will focus on unique legal and operational issues presented by urban vertical and street retail projects, such as those relating to mixed use, CAM and tax cost sharing allocations, signage, exclusive and co-tenancy, commercial and residential condominium associations, parking and loading concerns, use restrictions, easements, and future development rights. This program will provide an opportunity for participants to ask questions and discuss their own best practices and urban vertical and street retail project experiences.

**CAROL KAUFFMAN**  
Chico's FAS, Inc.  
Ft. Myers, FL

**MARC E. WASSER**  
Goldfarb & Fleece LLP  
New York, NY

11:15 am – 12:30 pm  
**Peer to Peer**



**Peer to Peer 4: Landlord/Tenant Litigation on the Rise: Why You Can't Get No Satisfaction**

In this new economic climate, litigation between landlords and tenants is on the rise. During this interactive Peer to Peer forum, participants will review real world hypotheticals addressing how acquisitions and consolidations of businesses are inadvertently triggering violations of "exclusives"; how landlords and tenants are dealing with non-payment of rent and lease defaults; what to do when landlords and tenants seek indemnification from each other in ADA litigation; and how landlords and tenants are dealing with "return condition" and "surrender" requirements when credit is unavailable.

**GARY S. KESSLER**  
Kessler Collins, P.C.  
Dallas, TX

**MARTIN H. ORLICK**  
Jeffer Mangels Butler & Mitchell LLP  
San Francisco, CA

12:30 – 12:45 pm  
**Networking Break**

12:45 – 2:00 pm  
**Seminars**

**Seminar 11: Co-Tenancy, Opening and Operating Covenants: Black and White or Shades of Gray**

This seminar will focus on some of the most contentious clauses in shopping center lease negotiations. The discussion will include the landlord and tenant (anchor and small tenants) perspectives on lease contingencies, possession, opening requirements, and co-tenancy and operating obligations. In addition, the discussion will address the remedies and forms of relief available to both landlord and tenant, as well as drafting considerations and various clauses.

**GARY A. GLICK**  
Cox, Castle & Nicholson LLP  
Los Angeles, CA

**LISA A. SCHWARTZ**  
The TJX Companies, Inc.  
Framingham, MA

**CYD L. SMITH**  
Whitman Breed Abbott & Morgan  
Greenwich, CT

**Thursday, October 25 (continued)**

**Seminar 12: Real Estate Joint Venture Agreements: Avoiding Disjointed Joint Ventures**

This seminar will provide a practical discussion of the most contentious provisions in real estate joint venture documents including the partners' powers and controls, additional capital obligations, dispute resolution and transfer rights. The panelists will place special emphasis on post-“Great Recession” trends from the perspectives of both the promoter/developer and the investor in a difficult development/financing environment.

**SCOTT A. FISHER**  
 Arnall Golden Gregory LLP  
 Atlanta, GA

**ANDREW L. HERZ**  
 Patterson Belknap Webb & Tyler LLP  
 New York, NY

**DENNIS RUSSO**  
 Herrick, Feinstein LLP  
 New York, NY

12:45 – 2:00 pm

**Workshops**

**Workshop 18: Is the Emperor Wearing Any Clothes? Do Your Insurance Clauses Really Cover You?**

This workshop goes beyond basic liability and property insurance by exploring policy endorsements that expand coverage and endorsements that take away coverage.

**JANIS K. CHEEZEM**  
 Akerman Senterfitt  
 Miami, FL

**IRA MEISLIK**  
 Meislik & Meislik  
 Montclair, NJ

**A Workshop 19: Opening a Franchise: The American Dream or a Landlord's Nightmare?**

From the site selection process through lease negotiations, and from grand opening until store closure, franchised concepts pose unique challenges for operators and landlords. This advanced, interactive workshop will explore many of the unique and challenging issues connected with franchises, including understanding and negotiating franchisor lease riders, exploring and understanding common concepts found within franchise agreements

and market development agreements, balancing ongoing operational interests of the franchisor, franchisee and the overall retail development, and addressing conflicts, challenges and litigation issues.

**JONATHAN L. NEVILLE**  
 Arnall Golden Gregory LLP  
 Atlanta, GA

**DEAN C. WALDT**  
 Ballard Spahr LLP  
 Cherry Hill, NJ

**Workshop 20: And the Workout Dance Continues: Mitigating the Risk of a Springing Guaranty Surprise**

Just when borrowers, lenders and special servicers thought they understood the equilibrium behind non-recourse loans with carve-outs and springing guaranties, along came the Cherryland and Gratiot cases to throw everyone off balance. This interactive workshop will review variations on carve-outs and triggers for springing guaranties in loan documents. Come to the workshop prepared to discuss your experiences and share drafting tips.

**LINDA A. STRIEFSKY**  
 Thompson Hine LLP  
 Cleveland, OH

**SUSAN G. TALLEY**  
 Stone Pigman Walther Whitman LLC  
 New Orleans, LA

2:45 – 4:00 pm 

**First Timers & Next Generation Reception Down by the Lazy River**

Please join us outside by the lazy river for a friendly, informal gathering that will provide a comfortable way for you to meet new faces in a smaller social setting. Casual attire is recommended.

**Friday, October 26**

7:00 am – 1:30 pm

**Registration**

7:15 – 7:45 am

**Continental Breakfast**

## Friday, October 26 (continued)

7:45 – 8:45 am

**Keynote Speaker Address**

**Stephen Dubner, Co-Author of *Freakonomics: A Rogue Economist Explores the Hidden Side of Everything***

8:45 – 9:00 am

**ICSC Update**

9:15 – 10:30 am

**General Session**

**General Session 5: Today's Real Estate Finance Markets: Opportunities and New Realities**

Panelists will discuss and compare their views on a variety of real estate lending and loan documentation issues, including: current underwriting standards; the need for guarantors for non-recourse covenants; the scope of environmental indemnities and sunset provisions; requirements, if any, for bankruptcy remote special purpose entities; willingness to permit mezzanine debt and preferred equity; sponsorship considerations, including permitted equity transfers and pledges; requirements for cash management (hard, soft and springing); and the appetite for floating rate loans.

**NICOLE B. CANTU**

Teachers Insurance and Annuity Association of America  
Charlotte, NC

**ELLEN M. GOODWIN**

Alston+Bird LLP  
New York, NY

**DAVID E. WEISS**

DDR Corp.  
Beachwood, OH

**JOHN E. WILGUS, II**

PNC Real Estate  
Cleveland, OH

9:15 – 10:30 am

**Seminars**

**Seminar 13: Assign of the Times or Sublet it Be?**

This seminar will identify conspicuous and hidden issues in choosing between an assignment or a sublease vehicle as an exit or mitigation strategy. Topics will include privity issues, rights and obligations of the transferor and transferee post-transfer, and the restrictions of the master lease and its effect on other documents executed in connection with the transfer. Scenarios examined will include consensual transfers, forced transfers in the case of mergers and

acquisitions and transfer disruption from outside forces such as bankruptcy of the transferor, transferee or landlord.

**IRA FIERSTEIN**

Seyfarth Shaw LLP  
Chicago, IL

**GREGORY G. GOSFIELD**

Klehr Harrison Harvey Branzburg LLP  
Philadelphia, PA

**JEFFREY H. KAPLAN**

Bryan Cave LLP  
New York, NY

**Seminar 14: Environmental Issues: Current "Hot" Issues and Protective Measures**

The seminar will introduce environmental and legal issues of concern in retail transactions and development, with an emphasis on current "hot topics", including vapor intrusion, construction stormwater permits and contaminated building materials. The panel will then turn to a discussion of the importance of conducting thorough due diligence and other protective measures, including the use of contractual indemnities and insurance.

**ROBERT H. CRESPI**

Wolff & Samson PC  
West Orange, NJ

**GENE P. DEVINE**

The Treiber Group - Arthur J. Gallagher Risk Management Services, Inc.  
Garden City, NY

**GREGORY J. HIGSON**

Wal-Mart Stores, Inc.  
Bentonville, AR

**Seminar 15: From the Halls of Justice: Ten Cases You Need to Know about in the Shopping Center Industry**

This seminar will discuss ten cases that are important to the shopping center industry and provide practice pointers derived from each. Related cases on similar issues will also be analyzed.

**MATTHEW E. CASH**

Jones Lang LaSalle, Inc.  
Chicago, IL

**ELIZABETH A. HAMILTON**

Office Depot, Inc.  
Boca Raton, FL

**NICHOLAS B. WARANOFF**

Allen Matkins Leck Gamble Mallory & Natsis LLP  
San Francisco, CA

## Friday, October 26 (continued)

**Seminar 16: The Hottest of the Hot: Burning Bankruptcy Issues and the Year in Review**

This seminar will discuss the most significant bankruptcy issues and decisions impacting the shopping center industry. The panel will address recent bankruptcy issues of concern to retailers, landlords, developers and lenders in the shopping center industry.

**NEIL E. HERMAN**

Morgan, Lewis & Bockius LLP  
New York, NY

**CATHY HERSHCOPF**

Cooley LLP  
New York, NY

9:15 – 10:30 am

**Workshops****A Workshop 21: Advanced REA Issues and Other Short Stories and Tall Tales**

This workshop will address various REA topics pertaining to mature shopping centers, including the takeover of an anchor box by a new entrant to the shopping center, and whether such new anchor will be a party to the REA documents or will otherwise have limited control over amendments and consents; issues pertaining to REAs that are nearing their expiration date; and the effect of the bankruptcy of a developer on the REA and the other parties thereto. The workshop will include a discussion of both the business and legal implications surrounding these issues and will be conducted in an open forum.

**STEPHAN L. CUTLER**

Klehr, Harrison, Harvey & Branzburg LLP  
Philadelphia, PA

**CRISTINA HENDRICK STROH**

J.C. Penney Corporation, Inc.  
Plano, TX

**Workshop 22: Retailer Self-Development: Considerations when Putting on the Developer Hat**

This workshop will explore the issues associated with a retailer acting as the developer, owner and occupant of a retail site. The discussion will include the period of time from site acquisition, through obtaining entitlements to the store opening, from both a legal and business perspective.

**JANE S. BORDEN**

Target Corporation  
Minneapolis, MN

**MICHAEL GARDNER**

Wal-Mart Stores, Inc.  
Bentonville, AR

**Workshop 23: AIA Contracts: If You Only Knew What You Don't Know**

Form contract clauses in AIA Documents can cause unintended consequences and traps for the unwary. This workshop will explore common provisions, their impact, and how they play out in actual projects. Bring your war stories and creativity to discuss real world experiences and appropriate modifications to the General Contractor and Architect Agreements published by the AIA.

**STEPHEN M. REAMS**

Stites & Harbison, PLLC  
Atlanta, GA

**GLENN T. SHERMAN**

Freeman, Freeman & Smiley LLP  
Los Angeles, CA

**Workshop 24: Simple Ways to Cover and Protect Your Assets: SNDAs and Estoppels**

The purpose of this workshop is to discuss the importance of estoppel certificates and subordination, non-disturbance and attornment agreements (SNDAs) to identify and protect the interests of tenants and landlords, with some attention to lender interests. The workshop will explore the perspectives of the various parties during the life-cycle of each document, and ways to effectively and efficiently finalize these simple, yet important documents in order to achieve a result that leaves everyone (reasonably) happy.

**GREGORY R. BEEKMAN**

Lewis Rice & Fingersh, L.C.  
St. Louis, MO

**APRIL RETTKOWSKI**

Nordstrom, Inc.  
Seattle, WA

**Workshop 25: Don't Rock My World! Operational Issues Outside of the Lease Line: From Lease Negotiation to the Frantic Phone Call**

What do you do when you cannot get to your store because center protesters have blocked access? What about security when a flash mob descends on the center? What if parking is taken up by a carnival or celebrity event? This workshop will focus on approaches to the unexpected or unanticipated from landlords' and tenants' perspectives.

Friday, October 26 (continued)

**BARBARA FINKLE**  
 The Men's Wearhouse  
 Fremont, CA

**MARGARET DEARDEN PETERSEN**  
 Petersen Law PLLC  
 Ann Arbor, MI

9:15 – 10:30 am  
**Peer to Peer**



**Peer to Peer 5: Exclusively Yours: Navigating the Maze from Negotiating the Exclusive Use Clause to the Waivers, and Coming Out Alive**

In this Peer to Peer forum, we'll review/analyze a proposed exclusive use for a new tenant in a shopping center that has many existing exclusives. The tenant's permitted use may change enough so that there will be issues with the other existing exclusives. Existing tenants are also having issues with the new tenant's own permitted and exclusive use language. Participants will use their own expertise, experience and intuition to analyze the use and exclusive use provisions of the new tenant and second guess how the problems could have been avoided. We will break out into smaller teams to propose resolutions that satisfy all parties.

**MARK A. SENN**  
 Senn Visciano Canges P.C.  
 Denver, CO

**JULIE A. S. WILLIAMSON**  
 Akerman Senterfitt  
 Miami, FL



**Peer to Peer 6: Don't Call Me "Outhouse" Counsel: How to Develop and Maintain a Successful Relationship with In-House Counsel**

The relationship between in-house and outside counsel can either fit like a glove or be a minefield fraught with potential danger. Knowing how to navigate that minefield is critical to building a successful client relationship and minimizing the potential for destruction. This Peer to Peer forum will pose various hypothetical situations that will give you the opportunity to discuss best practices for a successful relationship.

**JERRY M. CYNCYNATUS**  
 DDR Corp.  
 Beachwood, OH

**BEA DRECHSLER**  
 Drechsler & Drechsler LLP  
 New York, NY

10:30 – 10:45 am  
**Networking Break**

10:45 am – 12:00 noon  
**General Session**

**General Session 6: Recent Developments: Review of Cases and Trends in Shopping Center Law**

The panel will review and discuss recent cases of interest affecting the ownership, operation, leasing, purchase and sale and financing of shopping centers, focusing on trends and shifts in the law.

**JANE SNODDY SMITH**  
 Fulbright & Jaworski, LLP  
 Austin, TX

**GAIL M. STERN**  
 Rosenberg Martin Greenberg, LLP  
 Baltimore, MD

**RAYMOND G. TRUITT**  
 Ballard Spahr LLP  
 Baltimore, MD

10:45 am – 12:00 noon  
**Seminars**

**Seminar 17: Transactions Where You Should Talk to Your Tax Advisor**

This seminar will identify a number of tax related issues that frequently arise in structuring shopping center transactions. The speakers will discuss these issues in a broad brush manner, providing insight into how to recognize them, how to structure a transaction to plan for and around them, and when to call in the tax experts. Issues will include REIT requirements, Unrelated Business Taxable Income, tax deferred dispositions (such as Section 1031 like-kind exchanges and contributions to a REIT), and tax issues in connection with distressed shopping centers, including income from discharge of indebtedness.

**EDWARD L. GLAZER**  
 Goodwin & Procter LLP  
 Boston, MA

**H. NEAL SANDFORD**  
 Goodwin & Procter LLP  
 Boston, MA

**Seminar 18: "Going Once, Going Twice...Sold" But What Did You Just Buy? Issues in Auction and Distressed Asset Sales**

This seminar will cover: (1) the process with respect to the sale at auction of both retail real estate and loans that are secured by retail real estate, (2) the various types of



## Friday, October 26 (continued)

auctions, (3) auction strategies, (4) distressed asset sales, generally, and (5) the pitfalls of buying at auction and/or of buying distressed assets and legal solutions to mitigate the associated risks.

### J. ADAM ROTHSTEIN

Honigman Miller Schwartz and Cohn LLP  
Bloomfield Hills, MI

### ROBYN MINTER SMYERS

Thompson Hine LLP  
Cleveland, OH

### Seminar 19: Purchase and Sale Transactions: A Refocus on the Fundamentals

While sellers with dreams of an ideal sales price were previously reluctant to part with projects, recovering economics may bring them to the table. At the same time, with financing more available, buyers should be ready to move ahead with long deferred plans. Topics to be covered will include: due diligence, representations and warranties, title insurance and financing. Form documents used in actual transactions will be analyzed and compared in an effort to give participants a practical refresher in issues that may have faded from consciousness.

### ANTHONY L. GRIMALDI

Teachers Insurance and Annuity Association of America  
New York, NY

### SEARLE E. MITNICK

Gordon Feinblatt LLC  
Baltimore, MD

10:45 am – 12:00 noon

### Workshops

### **A** Workshop 26: Advanced Insurance, Indemnity and Waivers: The Forms They Are-A-Changin' (and the Laws Are Too)

It is getting harder to shift risk of damage and injury in construction contracts and leases. Legislatures have stepped in to invalidate some provisions, and underwriters have limited available coverages. In this workshop, the panelists and attendees will explore recent developments in blanket coverages, deductibles, waivers of subrogation, anti-indemnity laws, additional insured endorsements, business income/extra expense coverage, collecting replacement cost proceeds, and the ways a party can obtain proof of the other party's insurance since certificates of insurance are now worthless.

### MARIE A. MOORE

Sher Garner Cahill Richter Klein & Hilbert, LLC  
New Orleans, LA

### ARTHUR E. PAPE

The Pape Law Firm  
Wheaton, IL

### Workshop 27: Planning for the Worst and Hoping for the Best: Lease Defaults and Remedies

This workshop will consider lease defaults and remedies from the perspective of both transactional attorneys and trial attorneys. The session will examine common defaults by landlords and tenants, general and specific remedies, and enforcement strategies from the viewpoint of planning for the future at the time of lease execution and looking back following a default.

### JULIE M. KENNEDY

Johnson & Bell, Ltd.  
Chicago, IL

### NEIL B. OBERFELD

Greenberg Traurig LLP  
Denver, CO

### Workshop 28: Service, Please: Issues with Service Contracts

This workshop will discuss service contracts such as trash, HVAC and other maintenance contracts. Landlords want control over how the shopping center is maintained and tenants want to be able to control their costs. This workshop will explore how both landlord and tenant can meet their goals.

### TINA COWEN

Destination Maternity Corporation  
Philadelphia, PA

### STANLEY L. MORROW

Vornado Realty Trust  
Paramus, NJ

### Workshop 29: Outparcel Leasing and Development

This workshop will be presented from both the landlord and tenant perspective and will focus on the unique development and operational challenges and issues relating to the leasing of outparcels in a variety of retail contexts including strip centers, mixed use projects, lifestyle centers and malls. The presenters and audience will approach this topic and the issues by discussing actual projects and user scenarios.



Friday, October 26 (continued)

**BARRY J. BARTH**

Panera, LLC  
 Needham, MA

**JANIS B. SCHIFF**

Holland & Knight LLP  
 Washington, DC

**Workshop 30: Mental Mindset and Minefields of Social Media for Lawyers**

This interactive workshop will discuss the impact of social media on our businesses and our lives. We will discuss best practices for protecting your client’s reputation in the Wild West of the social media world, and will arm you with techniques to address the risks as well as the rewards involved in this new world.

**HOWARD F. KLINE**

Rancho Santa Margarita, CA

**RONALD J. LEVINE**

Herrick, Feinstein LLP  
 New York, NY

10:45 am – 12:00 noon

**Peer to Peer**



**Peer to Peer 7: Living Together When We Are So Different: Can Existing, Traditional Uses and Ever-Evolving New Uses Co-Exist in a Mixed Use or Redevelopment Context?**

We will focus on the evolving definition of “shopping center uses” and the need to strike an appropriate balance so that traditional retailers can live in harmony with less-traditional users. Through the use of hypotheticals, groups of participants will address existing tenants’ operational needs and contractual rights vis-a-vis the developer’s desires. Hopefully, all parties will be able to thrive in this ever-evolving mix of uses. We will focus on the key conflict between a developer/landlord’s desire to protect the long-term flexibility necessary for a successful lifestyle-oriented environment, and a traditional retailer’s need to preserve appropriate parking, co-tenancies and protect against incompatible uses. Attendees are expected to participate actively.

**DEBORAH A. COLSON**

Federal Realty Investment Trust  
 Rockville, MD

**DAVID GRAHAM**

DSW, Inc.  
 Columbus, OH



**Peer to Peer 8: Assignment and Subletting: Putting the Puzzle Pieces Together**

This Peer to Peer forum will examine the intricacies of assignment and subletting agreements and the crafting of those agreements to reflect real life situations. The group will consider the mosaic of puzzle pieces (permitted use, co-tenancy, exclusives, and operating covenants, to name a few) that must be properly assembled to ensure that the desired results are achieved both legally and practically.

**JOSEPH CONN**

Horner & Singer LLP  
 Scottsdale, AZ

**AUDRA ESREY**

Stanley Esrey & Buckley LLP  
 Atlanta, GA

12:00 noon – 12:15 pm

**Networking Break**

12:15 – 1:30 pm

**Seminar**

**Seminar 20: Insurance Basics: What Do Those Terms Mean and What Can I Really Insure Against?**

This seminar will focus on the “real world” application of basic liability and casualty insurance provisions and concepts. We will analyze drafting and “hot topic” insurance issues encountered by tenants, landlords and mortgagees of shopping centers. Attendees will be encouraged to participate and to discuss how they have addressed and dealt with the matters being discussed.

**MARTIN A. GLAZER**

Goulston & Storrs  
 Boston, MA

**NEIL S. KESSLER**

Troutman Sanders LLP  
 Richmond, VA

12:15 – 1:30 pm

**Workshops**



**Workshop 31: Drafting Joint Venture Agreements to Anticipate an Untenable Relationship (...or You Don’t Need to be Coy Roy, Just Get Yourself Free)**

This session will explore how best to negotiate and draft joint venture agreements to enable your client to navigate a broken relationship, and strategies for dealing with a dysfunctional joint venture. Specifically, the group will discuss exit strategies, including buy-sells, go-to-markets and other exit options, strategies unique to the operating partner versus the capital partner (and vice

## Friday, October 26 (continued)

versa), management issues, breach and removal issues, indemnification issues, and dispute resolution strategies.

### JEFF W. DORRIL

Haynes & Boone LLP  
Dallas, TX

### LEE SAMUELSON

Hogan Lovells US LLP  
New York, NY

### Workshop 32: Still Trying to Do the Right Thing While Staying Employed: In-House Ethics

This interactive workshop will take a fresh look at the ethical implications of issues and situations unique to an in-house legal setting. The workshop will present fact patterns and issues for discussion in the context of the ABA standards, including and definitely not limited to: confidentiality; conflicts; and managing your dual role as legal counsel and business person.

### DAVID G. JOHANSEN

Nordstrom, Inc.  
Seattle, WA

### MICHAEL S. OWENDOFF

DDR Corp.  
Beachwood, OH

### Workshop 33: Hot, Hot, Hot – Unique Issues in Restaurant Development

While other sectors of the retail business have been hard hit with the recent economic downturn, the restaurant sector remained relatively strong. In this interactive workshop we will discuss the issues (from the landlord's and tenant's perspective) that are unique to the restaurant use/development from the traditional retail use/development. We will also discuss the love/hate relationship between the retailers and the restaurants and will explore creative solutions to some of the typical adjacency issues.

### RICHARD HELLER

Legal Sea Foods, LLC  
Boston, MA

### MARILYN RUTHERFORD

Westfield, LLC  
Los Angeles, CA

7:00 – 10:30 pm

### Cocktail Reception and Dinner Buffet

It's the final night of the conference and you won't want to miss out on our "Rock of Ages" themed reception complete with dinner, drinks and dancing the night away! Casual attire is recommended.

(Conference Registration fee includes one dinner ticket. Additional guest dinner tickets may be purchased. Please refer to the Registration Form for details.)

## Saturday, October 27

8:00 – 9:15 am

### Roundtable Discussions

## LEASING SYMPOSIUM

9:30 – 10:45 am

### Seminars



### Seminar 21: Leasing 102: Ten Lease Clauses That Get No Respect

When negotiating leases, there are many important clauses that are often overlooked in favor of the "sexier" ones such as use and exclusives, assignment and subletting and insurance requirements. These overlooked, overshadowed and undervalued clauses, however, play an important part not only with respect to the clauses themselves but also with respect to the impact they can have on the entire lease agreement.

### MARK S. HENNIGH

Greene Radovsky Maloney Share & Hennigh, LLP  
San Francisco, CA

### DAVID G. LONDON

Honigman Miller Schwartz and Cohn LLP  
Bloomfield Hills, MI

### STEPHEN J. MESSINGER

Minden Gross LLP  
Toronto, ON



### Seminar 22: Tenant Improvement Work Letters: A Focus on Mechanics' Lien Issues and Allowances

This seminar will focus primarily on the work letter as a tool to address and avoid common issues and problems experienced in the tenant construction process. Participants will examine topical work letter subjects such as defining the scope and roles of the parties, coordinating landlord and tenant improvements to avoid potential delay, negotiating the

## LEASING SYMPOSIUM (continued)

structure of the construction allowance, and ensuring that the work letter dovetails with significant lease milestones. Specific attention will be given to tenant allowance concessions and instances where mechanics' liens arise.

### NANCY B. PINKHAM

Darden Restaurants, Inc.  
 Orlando, FL

### LISA FAIR PLISKIN

Kravco Company LLC  
 King of Prussia, PA

9:30 – 10:45 am

### Workshops

#### **Workshop 34: Creative CAM Approaches: How Savvy Are You?**

This workshop will focus on emerging trends in dealing with common area maintenance charges in various types of retail projects. The discussion will involve creative approaches including fixed CAM, CAM caps, defining controllable expenses and negotiating inclusions and exclusions. Practical examples will be provided for group discussion.

### SUSAN G. GERHARD

J.C. Penney Corporation, Inc.  
 Plano, TX

### CONSUELLA SIMMONS TAYLOR

Baker Botts LLP  
 Houston, TX

#### **Workshop 35: ROFLOL\*: Renewals, ROFOs, ROFRs and POs in Leases (\*Rolling On the Floor Laughing Out Loud)**

This interactive workshop will address options to extend and terminate early, expand and contract, and purchase in the context of a retail lease transaction. We will discuss practical issues relating to negotiating and drafting these provisions from the perspective of landlord and tenant, purchaser and lender. Finally, we will explore the parties' underlying business objectives to ensure an understanding of the negotiation and documentation of these important provisions.

### JAMES B. JORDAN

Sutherland Asbill & Brennan LLP  
 Atlanta, GA

### DAVID B. MATTHEWS

Bartko, Zankel, Tarrant & Miller LLP  
 San Francisco, CA

#### **Workshop 36: Lease Guaranties and Other Collateral**

This workshop will be an interactive discussion of strategies for securing performance in the current financial market. The speakers will guide the discussion from the perspective of both landlords and tenants. Attendees will be encouraged to share experiences in both acquiring and enforcing guaranties, letters of credit, security deposits and bonds.

### THEANI LOUSKOS

Bartko Zankel Tarrant & Miller LLP  
 San Francisco, CA

### J. THEODORE SMITH

Vorys Sater Seymour & Pease LLP  
 Columbus, OH

9:30 – 10:45 am

### Peer to Peer

#### **Peer to Peer 9: The Game of Musical Chairs: Co-Tenancy and its Intricacies**



Co-tenancy is a landlord's nightmare, yet a requirement for many retailers and restaurants. This Peer to Peer forum will explore flexible co-tenancy provisions that allow shopping center owners to lease up and back-fill vacant spaces while protecting a tenant from being the "lone wolf" in a dark center. Creative alternatives to establishing co-tenancy requirements for delivery, opening and operating (including replacements and GLA calculations) and remedies for failure of co-tenancy will be discussed.

### KATHRYN ALBERGOTTI

Albergotti Law  
 Golden Valley, MN

### THEODORE I. YI

Quarles & Brady LLP  
 Chicago, IL

## 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. Depending on the description of the session, seminars may be at an advanced level.\*

### III. Workshops:

Workshops are typically led by two practitioners with a substantial level of experience in the topic area, who are charged with fostering interaction with and among the attendees. Interaction is encouraged and expected, with the freedom to stray from the outline and address audience concerns in a more specific and detailed fashion. Depending on the description of the session, workshops may be at an advanced level.\*



### IV. Peer to Peer:

Nine 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. **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 will all be focused on the most popular topic - leasing issues. Conference attendees will want to make every effort to attend these timely and insightful leasing sessions.



\* Advanced Level Sessions are marked and assume that session attendees have a basic to intermediate level of knowledge of the topic.

Join the

# ICSC 2012 U.S. Shopping Center Law Conference LinkedIn Group



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and reconnect with your peers

If you have additional questions, please contact Becky Sullivan, CMP at [bsullivan@icsc.org](mailto:bsullivan@icsc.org)

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Elizabeth H. Belkin, Belkin Law Offices, Chicago, IL  
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As a member of ICSC, you will enhance your visibility within the industry, grow your business and engage in a vibrant community of tens of thousands of colleagues around the globe.

## Questions?

Sign up online at [www.icsc.org](http://www.icsc.org) or call the Info Center at +1 646 728 3800 and speak to one of our friendly customer service staff; or email [icsc@icsc.org](mailto:icsc@icsc.org)

VOICE

> Visibility

> Opportunity

> Influence

> Community

> Engagement





# Registration Form

October 24 – 27, 2012  
 JW Marriott Grande Lakes  
 Orlando, FL



**REGISTRATION FEE:**

	ICSC Members*	Non-Members
Advance	\$735	\$995
On-Site Registration	\$915	\$1,240
Additional Dinner Tickets**	\$100	\$100
Student Member:	\$50	\$50

ICSC Member  Non-Member  Dinner Ticket(s)\*\*

\*To qualify for the member fee, each registrant must be an ICSC member. A company membership does not mean that every employee of that company automatically becomes an ICSC member. An affiliate membership is required for each employee.

\*\*Each person registered for the Conference will receive a ticket to the Cocktail Reception and Dinner Gala on Friday night. Additional tickets can be purchased in advance for \$100.00 each or on-site for \$125.00 each.

**FOR FASTER REGISTRATION:**

Visit [www.icsc.org/2012LC](http://www.icsc.org/2012LC) 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 19, 2012**.

**FEE**

Includes all sessions, Wednesday evening cocktail reception, Friday evening dinner reception, three breakfasts, the conference resource workbook and the session materials in CD-ROM format.

**CANCELLATIONS**

Cancellations received before **October 17, 2012** will be subject to a \$25.00 fee. No refunds will be given for cancellations received after **October 17, 2012**. All requests must be received by ICSC in writing.

**HOTEL RESERVATIONS**

To make your hotel reservation, please visit [www.icsc.org/2012LC](http://www.icsc.org/2012LC). You will see the banner "Book Hotel Now" on the right-hand side of the screen. There you will find the descriptions of the hotels, the current rates and availability, along with the electronic form to reserve your room. Additionally, you will receive an immediate e-mail confirmation of the reservation to the e-mail address you provide on your form. Please Note: The e-mail will show both "To" and "From" your e-mail address, so if you do not receive it, make sure to check your spam or junk mail folder. Although we do require our reservations in writing, we are happy to answer your questions during our office hours of Monday to Friday 8:00 am – 5:30 pm EST toll-free at +1 888 ICSC TVL (427 2885).

**CLE CREDITS**

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

Membership Number \_\_\_\_\_

Name \_\_\_\_\_ Company \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

E-mail \_\_\_\_\_

Guest Name (if purchasing additional Friday Dinner ticket) \_\_\_\_\_

**Method of payment**  Check/Money Order (payable to ICSC in U.S. Funds)  
 MasterCard  Visa  AMEX  Discover

**Mail with payment to:**  
 International Council of Shopping Centers  
 Registration Department  
 P.O. Box 26958  
 New York, NY 10087-6958

Name (as it appears on credit card) \_\_\_\_\_

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