

29TH ANNUAL SPRING SYMPOSIA

REAL PROPERTY, TRUST & ESTATE LAW CLE PROGRAMS

ELEVATE*your* **PRACTICE**

DENVER, CO



SECTION OF REAL PROPERTY | TRUST & ESTATE LAW
Your Source for Success



APRIL 20-21
2017

#RPTESYMPOSIA

29TH ANNUAL SPRING SYMPOSIA

FOUR SEASONS HOTEL
DENVER



Letter from the Chair

As a Montana native, I am especially pleased to be bringing this year's Spring Symposia to the American West. For the first time in its 29 year history, the program will be held in Denver and I look forward to seeing many of you there on April 20 – 21, 2017. In keeping with the program location, our programing is built around the theme of "Elevate Your Practice" in honor of the Mile-High City.

The CLE offerings will cover a range of topics such as residential development and water conservation, sustainable development, preferred partnerships in wealth transfers, current trends in non-tax estate planning, powers of attorney, international leasing as well as ethics and technology.

In addition to the CLE programs, we have arranged a luncheon featuring Gary Ferguson, renowned author of twenty-two books on nature and science and a frequent speaker on variety of wildlife and conservation issues. The symposia offers plenty of opportunities to network with colleagues from across the country, including a reception Thursday evening where we will experience a bit of Denver's cultural offerings at the Ellie Caulkins Opera House in the Denver Performing Arts Center. As in years past, I would like to invite those who are in town on Wednesday evening join us for a complimentary reception acknowledging the Section's efforts in diversity and inclusion.

See you soon in the Mile High City!



David Dietrich
Chair, ABA Section of Real Property, Trust and Estate Law

NETWORKING EVENTS AND MEETING HIGHLIGHTS

WEDNESDAY, APRIL 19

1 – 5 P.M.

'Turns out "Fiduciary" Means You Have to Give It Back:' An Introduction to Estate and Trust Litigation

While this program is free, pre-registration is required

Given the tax proposals currently circulating, many practitioners have expressed concern about a potential decline in the volume of planning and drafting work and are seeking ways to expand their practices into other areas, including estate and trust litigation. This three part CLE program will present a broad-strokes portrait of the various types of estate and trust litigation, presented by experienced practitioners (many of whom started their own practices from scratch), and is sure to be informative.

5:30 – 6:30 P.M.

Diversity in Leadership Reception

Greet, meet, and mingle with Section leadership and members of many Denver area bar associations, law-related groups, and law students to celebrate the strength that diversity brings to the legal profession and to the public we serve. All Symposia attendees are welcome to attend this complimentary event.

THURSDAY, APRIL 20

7 A.M. – 5 P.M.

Hospitality Area

Continental breakfast in the morning and refreshments during scheduled breaks will be available for all meeting registrants. Sponsor booths will be open all day for registrants to stop by and visit.

12 – 1:30 P.M.

Group and Committee Box Lunch

Cost: \$25

Attendees are encouraged to grab a box lunch and participate in RPTE group and committee discussions. This is an excellent opportunity to gather with a smaller group of attendees with common practice interests. All interested attendees are welcome to join in these topic-based discussions.

5 – 6 P.M.

Reception with the Sponsors

Join us for complimentary cocktails as we thank our 2017 Symposia sponsors for their generous support. For a complete list of our sponsors, see the last page of this brochure.

7 – 10 P.M.

Symposia Reception at the Denver Opera House

Cost: \$50/attendee; \$100/guest

Attendees and their guests are invited to attend this annual reception featuring an evening of music and networking in the lovely Chambers Grant Salon of the Ellie Caulkins Opera House. Heavy hors d'oeuvres and cocktails; transportation on own.

Sponsored by: **ATLANTIC TRUST**

PRIVATE WEALTH MANAGEMENT



FRIDAY, APRIL 21

7 A.M. – 3:45 P.M.

Hospitality Area

Continental breakfast in the morning and refreshments during scheduled breaks will be available for all meeting registrants. Sponsor booths will be open all day for registrants to stop by and visit.

11:45 A.M. – 1:15 P.M.

Plenary Luncheon with Keynote Speaker Gary Ferguson – The Promise of the Wild

Cost: \$50

In this riveting presentation, best-selling author Gary Ferguson offers a powerful chronicle of human resiliency in the face of difficult transition. Following the tragic death of his wife Jane in a canoeing accident, Ferguson set out on a four-year journey to fulfill her final wish: the scattering of her ashes in five wild locations they both loved and shared. In this special address he reveals how the careful, conscious tending of our relationships to beauty, community and mystery – qualities celebrated since ancient times – is at the heart of what we need to successfully navigate life's biggest challenges. A plated lunch will be served; this program is not CLE eligible.

Sponsored by:



SCHEDULE AT-A-GLANCE

WEDNESDAY, APRIL 19

1 – 5 P.M.	Symposia Registration
12:30 – 1 P.M.	Registration for ‘Turns out “Fiduciary” Means You Have to Give It Back:’ An Introduction to Estate & Trust Litigation
1 – 5 P.M.	‘Turns out “Fiduciary” Means You Have to Give It Back:’ An Introduction to Estate & Trust Litigation
5:30 – 6:30 P.M.	Diversity Reception (<i>complimentary</i>)

THURSDAY, APRIL 20

7 A.M. – 4:30 P.M.	Symposia Registration/Hospitality/Sponsors Expo
7 – 8 A.M.	Attendee Breakfast
8 A.M. – 12 P.M.	CLE Programming
12 – 1:30 P.M.	Group Lunches (<i>ticketed event</i>)
1:45 – 4:30 P.M.	CLE Programming
5 – 6 P.M.	Reception with the Sponsors (<i>complimentary</i>)
7 – 10 P.M.	Symposia Reception at the Denver Opera House (<i>ticketed event</i>)

FRIDAY, APRIL 21

7 A.M. – 3:45 P.M.	Symposia Registration/Hospitality/Sponsors Expo
7 – 8 A.M.	Attendee Breakfast
8 – 11:30 A.M.	CLE Programming
11:45 A.M. – 1:15 P.M.	Plenary Lunch with Keynote Speaker (<i>ticketed event</i>)
1:30 – 3:45 P.M.	CLE Programming

REAL PROPERTY SYMPOSIUM CLE PROGRAMS AT-A-GLANCE

THURSDAY, APRIL 20

8 – 9 A.M.	Elevate Your Practice to International Leasing – What to Do When Your Client Asks for Advice on Leases Outside the United States	Get Ready for a New Wave of Sustainable Development and Learn How It Can Work for Business
9:15 – 10:30 A.M.	Leasing Group – Negotiating and Documenting Work Letters for Commercial Leases	Special Investors and Investment Structure Group – Contracts and Closings in the Cloud – The Effect of Technology on Real Estate Transactions
10:45 A.M. – 12 P.M.	Residential, Multifamily, And Special Use Group – Financing Multifamily: Market Rate Apartments, Senior Housing, Affordable Housing, Manufactured Housing, Work-Force Housing, Student Housing and Mixed Use	Law Practice Management Group – Where Death and Dirt Meet: Practice Pointers From the Other Side
12 – 1:30 P.M.	Group Lunches (<i>ticketed event</i>)	
1:45 – 3 P.M.	Land Use and Environmental Group – Homes on the (Front) Range: Residential Development and Assured Water Supply Laws in the American West	Real Estate Financing Group – Building a National Consensus: The Statement of Opinion Practices and What it Means to the Real Estate Lawyer Joint TE/RP Program – Model Rules of Professional Responsibility: Adopted Model Rules – Where Do We Go from Here?
3:15 – 4:30 P.M.	Hospitality, Timesharing and Common Interests Development Group – How to Find Solutions for Failing Condominium and Timeshare Projects	Commercial Real Estate Transactions Group – Managing Risk Through Insurance – Issues Every Real Estate Lawyer Should Know

FRIDAY, APRIL 21

8 – 9 A.M.	Law Professors' Panel	Love Thy Neighbor: Negotiating Co-Tenancy Provisions in an Evolving Retail Landscape
9:15 – 10:15 A.M.	Navigating Title Insurance and Survey Issues in Purchase and Sale Agreements	Unique Legal Issues in Agricultural Financing: The \$340 Billion Industry That Few Talk About but Everyone Benefits From
10:30 – 11:30 A.M.	From the Ground Up: Digging Into the Complex Issues Raised in Ground Leases	The Connection Between Marijuana and Real Estate Law
11:45 A.M. – 1:15 P.M.	Plenary Lunch with Keynote Speaker (<i>ticketed event</i>)	
1:30 – 2:30 P.M.	Do Acquisitions by Private Pipeline Companies Pass Constitutional Muster – North Dakota and Trans-Pecos Projects: Can They Really Do That? What is the Public Purpose?	Joint TE/RP Program : High Level Negotiations: Are There Any Ethical Limits? Joint TE/RP Program : Elevating the Elective Share: Entanglements due to Spousal Elective Rights in Multi-Jurisdictional Estates
2:45 – 3:45 P.M.	The Short-Term Rental Conundrum: Entrepreneurial Spirit vs. Local Regulation	Construction Lending in the New Economy



 = ETHICS PROGRAM

TRUST AND ESTATE SYMPOSIUM CLE PROGRAMS AT-A-GLANCE



WEDNESDAY, APRIL 19

1 – 5 P.M.	'Turns out "Fiduciary" Means You Have to Give It Back.' An Introduction to Estate and Trust Litigation
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THURSDAY, APRIL 20

8 – 9 A.M.	Document Construction Issues Raised by Changing Concepts of Family, Gender, and Race: If my Grandson Becomes My Granddaughter Will She Get the Farm?	When the Value of Art is Gray: Shaking Your Client's Etch-a-Sketch
9:15 – 10:30 A.M.	Elder Law and Special Needs Planning Group – Powers of Attorney and Financial Institutions: Oil and Vinegar?	Income and Transfer Tax Planning Group – Group Programs: Parts I – III
10:45 A.M. – 12 P.M.	Charitable Planning and Organizations Group – Hot Topics in Charitable Planning: Change is in the Air	Non-Tax Estate Planning Considerations Group – Current Trends in Non-Tax Estate Planning: Enter a Higher State
12 – 1:30 P.M.	Group Lunches (<i>ticketed event</i>)	
1:45 – 3 P.M.	Business Planning Group – Preferred Partnerships: Will the Old Dog Learn New Tricks to Rise to the Top of the Wealth Transfer Technique List?	 Joint TE/RP Program – Model Rules of Professional Responsibility: Adopted Model Rules – Where Do We Go from Here?
3:15 – 4:30 P.M.	Employee Benefits Plans and Other Compensation Arrangements Group – Update on Employee Benefit Issues of Small Non-Profits and Foreign Workers	 Litigation, Ethics, and Malpractice Group – Ethics and Mediation: The Highs and Lows of Taming Two Broncos

FRIDAY, APRIL 21

8 – 9 A.M.	Panel of Luminaries		
9:15 – 10:15 A.M.	Running the Gamut of Promissory Note Planning From A-Z: A Review of the Opportunities and Potential Pitfalls Associated with Intra-Family Loans	Psychological Issues in Estate Planning: Intersection of Law and Neuropsychology when Capacity is in Issue	Elevate Your Drafting
10:30 – 11:30 A.M.	Charitable Trends in 2017: Floating in Thin Air	High Stakes Litigation: When to Bring in the Expert to Win Your Case	Inadequate Due Diligence Can Defeat Testamentary Intent: Elevate Your Practice by Looking Below the Surface
11:45 – 1:15 P.M.	Plenary Lunch with Keynote Speaker (<i>ticketed event</i>)		
1:30 – 2:30 P.M.	Estate Planning Strategies with IRAs: Know the Rules; Run the Numbers!	Novel (and Not So Novel) Approaches to Adapt an Irrevocable Trust to Meet Today's Needs	Joint TE/RP Program: Elevating the Elective Share: Entanglements Due to Spousal Elective Rights in Multi-Jurisdictional Estates
2:45 – 3:45 P.M.	 Harmonizing the Sometimes Discordant Duties of Trustees Who Also Run the Family Business	Transgender Issues Across Trans-legal Disciplines	 Joint TE/RP Program: High Level Negotiations: Are There Any Ethical Limits?
			Planning for a Rising Interest Rate Environment

REAL PROPERTY PROGRAMS

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THURSDAY CLE PROGRAMS

8 – 9 A.M.

ROOM: COTTONWOOD BALLROOM B

Elevate Your Practice to International Leasing – What to Do When Your Client Asks for Advice on Leases Outside the United States

This program provides a practical overview of the differences between leasing practices in the U.S. and other countries likely to be encountered by U.S. attorneys. International panelists will focus on what practitioners, whether representing landlords or tenants, should be aware of in global leasing matter, and how to avoid unexpected surprises.

Program Co-Chair: *Barbara Gregoratos*, Jones Day, San Francisco, CA

Program Co-Chair and Speaker: *George Bernhardt*, Baker Hughes Incorporated, Houston, TX

Moderator: *Mitch Meisner*, Honigman Miller Schwartz and Cohn LLP, Detroit, MI

Speakers: *Carlo Cannizzo*, Cannizzo, Ortiz & Asociados, Mexico City, Mexico; and *Alessandra Tarissi de Jacobis*, De Berti Jaccia Franchini Forlani, Milan, Italy

8 – 9 A.M.

ROOM: GRAND BALLROOM B

Get Ready for a New Wave of Sustainable Development and Learn How It Can Work for Business

Climate change is becoming a driving force in land use planning and regulation. Water conservation, green building and resiliency are no longer abstract concepts, but the new norms. This program explores:

- What are mandatory sustainability ordinances and how do they differ from a robust, voluntary sustainability program? As an example, how is our host city Denver implementing its 2020 Sustainability Goals?
- Are incentive-based regulations, including tax incentives, still viable tools in promoting change?

Program Chair and Moderator: *Karla Chaffee*, Robinson & Cole, LLP, Boston, MA

Speakers: *Jerome Garciano*, Robinson & Cole, LLP, Boston, MA; *Sonrisa Lucero*, Denver Office of Sustainability, Denver, CO; and *Jerry Tinianow*, Denver Office of Sustainability, Denver, CO

9:15 – 10:30 A.M.

ROOM: COTTONWOOD BALLROOM B

SPECIAL INVESTORS AND INVESTMENT STRUCTURE GROUP

Contracts and Closings in the Cloud – The Effect of Technology on Real Estate Transactions

The world moves at light speed, and the real estate community even faster; deals are negotiated and closed in days, if not hours, thanks to email, texts, and electronic closings and recordings. This panel will explore the laws and issues concerning the effect of technology on the real estate negotiation and closing process such as:

- The risk of inadvertently entering into binding agreements via emails and text messages
- The potential for fraud and abuse in the electronic closing and recording process
- The benefits of technology when negotiating and closing a transaction
- The benefits and risks of e-signatures and e-recordings
- The use of electronic and remote notaries
- The viability of virtual currencies
- Alternative methods of registering land transactions
- Cybersecurity issues

Program Chair and Speaker: *Wilhelmina Kightlinger*, Old Republic Title, Tampa, FL

Moderator: *Jin Liu*, Carlton Fields, Tampa, FL

Speakers: *Paul Davis*, Arthur J. Gallagher & Co., Chicago, IL and *Romaine Marshall*, Holland & Hart, Salt Lake City, UT

9:15 – 10:30 A.M.

ROOM: GRAND BALLROOM B

LEASING GROUP

Negotiating and Documenting Work Letters for Commercial Leases

This program covers the basic components of work letters and their importance in allocating responsibility for payment and performance obligations between the landlord and tenant with respect to the construction and delivery of the tenant's new premises. Topics include:

- Typical differences between work letters in retail, office, and industrial settings
- Negotiating and drafting common issues such as improvement allowances, approval of plans and specifications, substantial completion, change orders, tenant delays, and late delivery
- The importance of working with your client and project managers, architects, designers, and contractors in negotiating the work letter and coordinating the design and construction process.

Program Co-Chair and Moderator: *Andy Gardner*, Hurtuk & Daroff Co., LLP, Cleveland, OH

Program Co-Chair and Speaker: *Scott Dibbs*, Hill Ward Henderson, Tampa, FL

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THURSDAY, APRIL 20

Speakers: Lynn Deegan, Jones Lang LaSalle, Denver, CO and Michel Williams, Senn Visciano Canges P.C., Denver, CO

10:45 A.M. – 12 P.M.

ROOM: GRAND BALLROOM B

RESIDENTIAL, MULTI-FAMILY, AND SPECIAL USE GROUP

Financing Multifamily: Market Rate Apartments, Senior Housing, Affordable Housing, Manufactured Housing, Work-Force Housing, Student Housing and Mixed Use

While most multifamily projects require financing, the types of residents and communities served, and the amenities and services provided, can be very different. This program discusses the unique aspects of these projects, and how borrowers and lenders typically address the issues that each asset imposes. The program will include practice tips to address:

- Senior Housing – varying levels of care and state and federal funding support (e.g. Medicaid or long term care funding)
- Affordable Housing – rent and income restrictions and varying funding sources (LURAs, LIHTCs, bonds, HAP contracts, local subordinate loan programs)
- Manufactured Housing – pad sites, who owns the homes, onsite v. offsite utilities
- Work-force Housing – radial restrictions
- Student Housing – master leases/SNDAs; non-standard terms
- Mixed Use – cross easements, vertical condominiums, retail tenants, office spaces, parking garages, etc.

Program Chair, Moderator and Speaker: Benjamin Kelley, Ballard Spahr LLP, Baltimore, MD

Speakers: Cynthia Paine, Katten Muchin Rosenman LLP, Washington, DC and Alicia Schehr, Jaffe Rait Heuer & Weiss, Southfield, MI

10:45 A.M. – 12 P.M.

ROOM: COTTONWOOD BALLROOM B

LAW PRACTICE MANAGEMENT GROUP

Where Death and Dirt Meet: Practice Pointers From the Other Side

What are some of the most common, but critical, scenarios where real property and trust and estate law intersect? This program discusses a few key areas that will significantly enhance the quality of service that solo and small firm attorneys provide while serving both real property and trust and estate clients.

- Basics of real estate closings (geared toward real property owned by trusts or estates)
- Estate planning consequences of choice of entity in real estate transactions – common scenarios
- Complications that may arise when your client owns real estate in multiple jurisdictions
- Powers of Attorney for property: their use in real estate transactions and unintended consequences

Program Chair: David Sprentall, Snell & Wilmer, LLP, Phoenix, AZ
Moderator and Speaker: Soo Yeon Lee, Gordon & Centracchio, L.L.C., Chicago, IL

Speakers: Samuel Hercules, Fiduciary Tax, Brooklyn, NY and Laura Lattman, The Lattman Law Firm, L.L.C., New York, NY

1:45 – 3 P.M.

ROOM: GRAND BALLROOM B

REAL ESTATE FINANCING GROUP

Building a National Consensus: The Statement of Opinion Practices and What it Means to the Real Estate Lawyer

This program introduces and explains the Statement of Opinion Practices, a joint project of the Working Group on Legal Opinions and the ABA Business Law Section Legal Opinions Committee that identifies selected aspects of customary practice applicable to third party opinion letters commonly understood and accepted throughout the United States. Panelists will discuss:

- The key elements of customary opinion practice as identified by the Statement, including the role of facts and assumptions, the applicable law, the appropriate scope of opinion letters, the process that should be observed by opinion recipients and givers, client consent and disclosure of information, varying customary practice, and reliance by other parties
- How the Statement changes prior guidance on customary opinion practice
- Applying the Statement to opinion letters issued in real estate finance transactions

Program Chair: Charles Menges, McGuireWoods LLP, Richmond, VA

Moderator: Kenneth Jacobson, Katten Muchin Rosenman LLP, Chicago, IL

Speakers: Cheryl Kelly, Thompson Coburn LLP, St. Louis, MO; Beat Steiner, Holland & Hart LLP, Boulder, CO; and Sterling Scott Willis, FishmanHaygood LLP, New Orleans, LA

1:45 – 3 P.M.

ROOM: COTTONWOOD BALLROOM B

LAND USE AND ENVIRONMENTAL GROUP

Homes on the (Front) Range: Residential Development and Assured Water Supply Laws in the American West

The population explosion in the American West, particularly in places like Denver, Las Vegas, and Phoenix, has driven demand for larger and more resource-intensive developments. In order to maintain the growth projected over the next century, states across the American West have implemented “Assured Water Supply Laws” to ensure an adequate water supply will be available to proposed developments. This program will compare and contrast Assured Water Supply Laws across 11 states in the American West, analyze several recent large-scale

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residential developments in Colorado and beyond, and explore how Assured Water Supply laws have or have not impacted real estate development.

Program Chair and Moderator: *Kyle Johnson*, Brown Rudnick, LLP, Hartford, CT

Speakers: *Anne Castle*, Getches-Wilkinson Center for Natural Resources, Energy, and the Environment – University of Colorado Law, Boulder, CO; *Brian Connelly*, Otten Johnson Robinson Neff & Ragonotti PC, Denver, CO; and *Beorn Courtney*, Element Water Consulting, Denver, CO

1:45 – 3 P.M.

ROOM: GRAND BALLROOM A

JOINT TE/RP PROGRAM - DIVERSITY AND INCLUSION COMMITTEE

Model Rules of Professional Responsibility: Adopted Model Rules – Where Do We Go from Here?

The ABA House of Delegates has approved Resolution 109 to amend Model Rule 8.4 to bring into the ABA Model Rules of Professional Conduct an anti-harassment and anti-discrimination provision. The amendment has engendered a significant amount of comment and controversy. In addition, the ABA adopted Resolution 113, which encourages all providers of legal services, including law firms and corporations, to expand and create opportunities for diverse attorneys, and for clients of legal services to assist in achieving these goals. Recent published reports indicate that women and diverse attorneys continue to be underrepresented in law firms, and these reports have proposed a number of measures to address the situation. The panel will discuss these updates and address next steps to achieve diversity, inclusion and fairness for all in our profession.

Program Chair and Moderator: *Henry Talavera*, Polsinelli PC, Dallas, TX

Speakers: *Dan Ebner*, Prather Ebner LLP, Chicago, IL; *David Lieberman*, Levin Schreder & Carey, Ltd., Chicago, IL; and *Elizabeth Lindsay-Ochoa*, Loring, Wolcott & Coolidge Trust LLC, Boston, MA

3:15 – 4:30 P.M.

ROOM: COTTONWOOD BALLROOM B

HOSPITALITY, TIMESHARING & COMMON INTERESTS DEVELOPMENT GROUP

How to Find Solutions for Failing Condominium and Timeshare Projects

This session discusses current issues and strategies being employed at failing condominium and timeshare projects such as:

- De-condominiumization and conversion to apartment buildings
- Reconciliation of building code differences
- Judicial and non-judicial foreclosure options
- Sunset provisions in timeshare and condominium declarations

 = ETHICS PROGRAM

- Proposed legislation to address title obstacles and other legal hurdles

Speakers will also review recent class action lawsuits declaring voluntary termination void and the provisions of the Uniform Common Interest Ownership Act.

Program Co-Chair and Moderator: *Anne-Therese Bechamps*, Venable LLP, Baltimore, MD

Program Co-Chair and Speaker: *Amy Bellman*, Fidelity National Timeshare, San Diego, CA

Speakers: *Eben Clark*, Baker Hostetler, Denver, CO; *Steven Mezer*, Becker & Poliakoff PA, Tampa, FL; and *Robert Webb*, Baker Hostetler, Orlando, FL

3:15 – 4:30 P.M.

ROOM: GRAND BALLROOM B

COMMERCIAL REAL ESTATE TRANSACTIONS GROUP

Managing Risk Through Insurance – Issues Every Real Estate Lawyer Should Know

The manner in which risk is allocated among the various parties to a real estate deal can vary significantly, making it critically important for you to understand the types of insurance available to your clients to properly manage that risk. Panelists will discuss common types of insurance, focusing on how each of those policy types might fit into your real estate deal, how to properly draft insurance, requirements in your leases and construction contracts to obtain the full benefit of that insurance, and how to advise your clients on what will and will not be covered, including:

- Commercial general liability insurance
- Property insurance/builder's risk
- Proper drafting of insurance requirements in leases and construction contracts

Program Chair and Moderator: *Scott Pence*, Carlton Fields, Tampa, FL

Speakers: *Charles Comiskey*, Brady, Chapman, Holland & Associates, Inc., Houston, TX and *Marie Moore*, Sher Garner Cahill Richter Klein & Hilbert, L.L.C., New Orleans, LA

FRIDAY CLE PROGRAMS

8 – 9 A.M.

ROOM: COTTONWOOD BALLROOM B

Law Professors' Panel

The panelists will discuss a variety of issues of relevance to real estate practitioners in an interactive setting. This annual program will include:

- An update on recent developments in water law
- Implications for real estate lawyers as the legalization of marijuana spreads
- An update on key, recent real estate cases of interest

Program Chair and Moderator: *Wilson Freyermuth*, University of Missouri School of Law, Columbia, MO

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FRIDAY, APRIL 21

Speakers: *Donald Kochan*, Chapman University School of Law, Orange, CA; *Tanya Marsh*, Wake Forest University School of Law, Winston-Salem, NC; and *Tom Romero*, II, University of Denver Sturm College of Law, Denver, CO

8 – 9 A.M.

ROOM: ASPEN

Love Thy Neighbor: Negotiating Co-Tenancy Provisions in an Evolving Retail Landscape

This program considers how co-tenancy lease provisions are evolving as retail developments are changing. In particular, the panel will:

- Provide an overview of opening, possession and ongoing co-tenancy provisions
- Discuss how retail developments are changing
- Consider how recently-decided co-tenancy cases should influence the drafting of co-tenancy provisions

Program Chair: *Ruth Schoenmeyer*, Pircher, Nichols & Meeks, Chicago, IL

Moderator: *Sindhoori Nackeran*, Pircher, Nichols & Meeks, Chicago, IL

Speakers: *David Camp*, Senn Visciano Canges P.C., Denver, CO; *Stephanie Harrison*, Coats Rose, Houston, TX; and *Andrew Lubin*, Neubert Pepe & Monteith, P.C., New Haven, CT

9:15 – 10:15 A.M.

ROOM: COTTONWOOD BALLROOM B

Navigating Title Insurance and Survey Issues in Purchase and Sale Agreements

This program covers a variety of issues pertaining to title insurance and surveys, including:

- Fundamental issues – importance of title insurance and survey to the transaction, mechanics and time frames for title objections, conditions to closing, and closing documentations (including gap indemnity, title affidavits, entity organizational and authorization documentation)
- Title insurance and survey due diligence – responsibilities and duties of seller's and buyer's counsel, common requests for title insurance coverage, best practices, impact of recent case law, and common requests given to surveyors

Program Chair: *William Just*, Law Office of William A. Just / Just Title, LLC, New Orleans, LA

Moderator and Speaker: *Jaclyn McNally*, Perkins Coie LLP, Chicago, IL

Speakers: *Heather Johnston*, Trainor Fairbrook, Sacramento, CA; *Orlando Lucero*, New Mexico Underwriting Counsel, Fidelity National Title Group, Albuquerque, NM; *Vincent Macaudo*, Millman National Land Services, Canton, OH

9:15 – 10:15 A.M.

ROOM: ASPEN

Unique Legal Issues in Agricultural Financing: The \$340 Billion Industry That Few Talk About but Everyone Benefits From

The American Bankers Association reported that the volume of credit to agriculture from all sources in 2015 totaled \$340 billion. Despite being an important industry for the economy and society, agricultural financing is not commonly discussed, and limited publications exist on this topic. This presentation intends to explore some unique aspects of agricultural financing, including:

- Industry overview, current farming economy, and farming operations
- Unique legal issues and unique laws with respect to farming, focusing on land, water, livestock, and crops
- Agricultural inter-creditor issues

Program Chair, Moderator and Speaker: *Jin Liu*, Carlton Fields, Tampa, FL

Speakers: *Justin Burns*, Pepple Cantu Schmidt PLLC, Denver, CO; *Philip Kirkpatrick*, Rabo AgriFinance, Inc., St. Louis, MO; and *John McNearney*, Polsinelli, St. Louis, MO

10:30 – 11:30 A.M.

ROOM: COTTONWOOD BALLROOM B

From the Ground Up: Digging Into the Complex Issues Raised in Ground Leases

Ground leases are complex commercial leases that raise unique issues to be considered by the landlord, tenant and lender. The panel will discuss:

- Rent adjustment and other economic terms
- Financeability
- Due diligence
- Eminent domain and allocation of condemnation proceeds
- Casualty
- Ownership of improvements and use restrictions
- Assignment and subletting

Program Chair and Moderator: *Melissa Vandewater*, Seyfarth Shaw LLP, Chicago, IL

Speakers: *Imran Naeemullah*, Chun Kerr LLP, Honolulu, HI and *Allison Nelson*, Akerman, LLP, Denver, CO

10:30 – 11:30 A.M.

ROOM: ASPEN

The Connection Between Marijuana and Real Estate Law

Marijuana is an industry that is now legal in 26 states (including Colorado) and the District of Columbia. Marijuana is a business opportunity, a recreational drug and a source of tax revenue. It has also engendered thorny legal issues on federal-state conflict of laws, banking law, public health, and local zoning and land use law. This program covers legal issues in:

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- Leasing to a marijuana retailer
- Setting up a marijuana business, including borrowing and securing debt, satisfying local land use and licensure restrictions, banking proceeds, use of credit cards and use of mail and express delivery systems when marijuana is illegal under federal law
- Public policy and regulation of marijuana

Program Chair and Moderator: *Dennis Horn*, Holland & Knight LLP, Washington, DC

Speakers: *Barbara Brohl*, Colorado Department of Revenue, Denver, CO; *Tanya Marsh*, Wake Forest University School of Law, Winston-Salem, NC; and *Christian Sederberg*, Vicente Sederberg LLC, Denver, CO

1:30 – 2:30 P.M.

ROOM: ASPEN

Do Acquisitions by Private Pipeline Companies Pass Constitutional Muster – North Dakota and Trans-Pecos Projects: Can They Really Do That? What is the Public Purpose?

Private utility companies are using the power of eminent domain to acquire private property to construct and operate pipelines across the nation. These projects require the taking of property owned by ranchers, farmers, Indian tribes, developers and owners in general. Some of these privately owned and operated projects are for the purpose of supplying product to foreign countries. The panel will discuss the implications of this practice, including whether these takings survive scrutiny under the "public use" provision of the Fifth Amendment, and if so, what is fair compensation for the impacted landowner.

Program Chair *Roy Brandys*, Barron & Adler, LLP, Austin, TX
Moderator: *Nick Laurent*, Barron, Adler, Clough & Oddo, LLP, Austin, TX

Speakers: *Lynn Blais*, University of Texas, School of Law, Austin, TX; *Renae Hicks*, Law Office of Max Renae Hicks, Austin, TX; *Richard Rodriguez*, Hamre, Rodriguez, Ostrander & Dingress, PC, Denver, CO; and *Jessica Yates*, Snell & Wilmer, LLP, Denver, CO

1:30 – 2:30 P.M.

JOINT TE/RP PROGRAM

ROOM: COTTONWOOD BALLROOM B

High Level Negotiations: Are There Any Ethical Limits?

We routinely negotiate, and there's nothing wrong with puffing and bluffing, right? Wait...are you sure you know the correct ethical answer? This fast-paced presentation consists of numerous hypotheticals that cover both real property and trust and estate issues with a unique blend of humor and scholarship, and one of the most unusual multimedia

presentations you'll ever see. Topics that will be covered include:

- The impact of Rules 1.6, 3.1, and 4.1 on what can or should be said (or not said) during negotiations
- Bluffing and puffing in negotiations and what is "material" for the purposes of negotiations
- The tension between protecting client confidences and telling the truth
- Statements that are true but are designed to mislead
- Whether the ethical rules permit you to take a tougher negotiation stance if the person on the other side of the table is experienced in the field

Program Chair, Moderator and Speaker: *Michael Rubin*, McGlinchey Stafford, PLLC, Baton Rouge, LA

1:30 – 2:30 P.M.

ROOM: COTTONWOOD BALLROOM A

JOINT TE/RP PROGRAM

Elevating the Elective Share: Entanglements Due to Spousal Elective Rights in Multi-Jurisdictional Estates

Transfers of real property become complicated when out-of-state spousal elective rights may apply. This program, of interest to real property lawyers and title companies as well as trust and estate lawyers, explores potential conflicts between elective share laws in the state of a decedent's domicile with laws that govern real property transfers in other states. Lack of uniformity among state laws can create problematic results and wide variance in elective share benefits. The resulting title issues can be vexing for real property transactions. This program will highlight the confounding consequences and complications that result from conflicts of law among states and lack of uniformity between elective share rights and real property laws.

Program Chair and Moderator: *Anne Coventry*, Pasternak & Fidis, P.C., Bethesda, MD

Speakers: *Alex Tanouye*, Pasternak & Fidis, P.C., Bethesda, MD and *Ryan Walsh*, Hamilton Thies & Lorch LLP, Chicago, IL

2:45 – 3:45 P.M.

ROOM: ASPEN

Construction Lending in the New Economy

This program focuses on construction financing and negotiation aspects from the borrower and lender perspectives. The panel discussion will include:

- Construction financing due diligence
- Loan documentation and particular construction related provisions
- Title insurance and lien priorities
- General insurance matters
- Closing and post-closing considerations

REAL PROPERTY PROGRAMS

FRIDAY, APRIL 21

Program Chair and Moderator: *Wogan Bernard*, Chaffe McCall LLP, New Orleans, LA

Speakers: *Joy Barrist*, Benesch, Friedlander, Coplan & Aronoff LLP, Wilmington, DE; *David Kochanski*, Shulman Rogers Gandal Pordy & Ecker, P.A., Potomac, MD; and *Jeremy Syz*, Holland & Hart LLP, Boulder, CO

2:45 – 3:45 P.M.

ROOM: COTTONWOOD BALLROOM B

The Short-Term Rental Conundrum: Entrepreneurial Spirit vs. Local Regulation

The popularity of short-term rentals (STRs) has exploded and has caused local governments to regulate them in various ways across the country. Many advocates of STRs oppose regulation and believe that STRs, like Airbnb, promote tourism, generate supplementary sources of income, and benefit local businesses. Opponents believe that STRs decrease affordable

housing, erode neighborhoods, and compete with the hotel industry without being regulated and taxed in like fashion. This program includes discussions of current regulatory frameworks and the impacts of STRs on:

- Hospitality/tourism
- Real estate markets and common interest communities
- Zoning
- State and local taxes

Program Co-Chair and Moderator: *Veronica Ladejobi*, Marriott International, Inc., Bethesda, MD

Program Co-Chair: *Steven Hardy*, BoltNagi PC, St. Thomas, VI

Speakers: *Kendra Carberry*, Hoffmann, Parker, Wilson & Carberry, P.C., Denver, CO; *Cory Rutz*, Otten Johnson, Denver, CO; and *Wendy Weigler*, Winzenburg, Leff, Purvis & Payne, Littleton, CO

TRUST & ESTATE PROGRAMS

WEDNESDAY, APRIL 19

WEDNESDAY CLE PROGRAM

1 – 5 P.M.

ROOM: COTTONWOOD BALLROOM A

‘Turns out “Fiduciary” Means You Have to Give It Back:’ An Introduction to Estate and Trust Litigation

Given the tax proposals currently circulating, many practitioners have expressed concern about a potential decline in the volume of planning and drafting work and are seeking ways to expand their practices into other areas, including estate and trust litigation. This program will present a broad-strokes portrait of the various types of estate and trust litigation, presented by experienced practitioners (many of whom started their own practices from scratch), and is sure to be informative.

Program Co-Chairs: *Gerard Brew*, McCarter & English LLP, Newark, NJ; *James Carey*, Levin Schreder & Carey Ltd, Chicago, IL; and *Laura Lattman*, Lattman of The Lattman Law Firm, L.L.C., New York, NY

Moderators: *James Carey*, Levin Schreder & Carey Ltd, Chicago, IL and *C. Jean Stewart*, Jean Stewart LLC, Denver, CO

1 – 2:30 P.M.

Part I: Challenges to Wills/Trusts and Lifetime Disputes

The panel will discuss the various grounds for challenging wills and trust agreements, including undue influence, lack of capacity and fraud. The panel will also discuss disputes that arise during life, including guardianships, elder financial abuse, powers of attorney and gift challenges.

Speakers: *James Dougherty*, Withers Bergman LLP, New Haven, CT; and *James Wade*, Wade Ash Woods Hill & Farley, P.C., Denver, CO.

2:45 – 3:45 P.M.

Part II: Disputes over Estate or Trust Administration

Disputes also arise during the course of administration of an estate or trust. Join us for a lively discussion about several types of trust and estate litigation, including:

- Accounting proceedings
- Breach of fiduciary duty/surcharge
- Removal of fiduciaries

Speakers: *Sandra Glazier*, Lipson, Neilson, Cole, Seltzer & Garin, P.C., Bloomfield Hills, MI and *Laura Lattman*, Lattman of The Lattman Law Firm, L.L.C., New York, NY

4 – 5 P.M.

Part III: Interpretation and Construction of Wills and Trusts

Litigation may also arise in the context of interpreting and constructing wills and trusts. This panel will look at the UPC default rules and the UTC rules regarding reformation and modification of wills and trusts. Other factors relevant in determining who inherits will also be considered, including the use of In terrorem/no contest clauses.

Speakers: *Daniel Ebner*, Prather Ebner LLP, Chicago, IL and *Amy Morris Hess*, University of Tennessee College of Law, Knoxville, TN

TRUST & ESTATE PROGRAMS

THURSDAY, APRIL 20

THURSDAY CLE PROGRAMS

8 – 9 A.M.

ROOM: COTTONWOOD BALLROOM A

Document Construction Issues Raised by Changing Concepts of Family, Gender, and Race: If My Grandson Becomes My Granddaughter Will She Get the Farm?

The Supreme Court's 2015 decision recognizing the right of same-sex couples to marry and the evolving debate on the identity of transgender individuals have raised many questions about the meaning of words commonly used in wills, trusts, and other estate planning documents. This panel will consider a number of issues, including:

- How should we use and interpret the terms “wife and “husband,” and what is the importance of gender-specific terms for “spouse” in the context of same-sex couples or marriage or transgender individuals?
- Is it possible to un-adopt an adult adoptee? If so, what is the effect on other familial relationships?
- If a same-sex couple was in a recognized domestic partnership for many years and then married in 2015, how long have they been “married” for purposes of state property laws, social security, employment, and labor laws?
- Does it matter when the document to be construed was executed?
- What advice should we give to clients whose values concerning family, gender identity, or race are different from those of other family members?
- Are clauses restricting the identity of a beneficiary's spouse, child, or other family member invalid as against public policy?

Program Chair and Moderator: Amy Morris Hess, University of Tennessee College of Law, Knoxville, TN

Speakers: Cara Koss, Arnold & Porter Kaye Scholer LLP, Washington, DC; William LaPiana, New York Law School, New York, NY; and Lee-ford Tritt, University of Florida Levin College of Law, Gainesville, FL

8 – 9 A.M.

ROOM: GRAND BALLROOM A

When The Value of Art is Gray: Shaking Your Client's Etch-a-Sketch

This panel will address the following questions, as well as the use of inter-vivos and testamentary CRTs and CLTs, as they tackle planning with the difficult asset of art:

- Regardless of whether we have estate, gift, and/or generation skipping transfer taxes, or some variation thereof instead, how do you effectively plan for the disposition of an illiquid asset that produces no cash flow and that may or may not appreciate in value?

- What is the future of fractional interest discounts in light of the uncertainty over Section 2704 regulations?
- How do you support an art lease when there is not an active market for art leasing to provide comparables?

Program Chair and Speaker: Ramsay Slugg, U.S. Trust, Fort Worth, TX

Moderator: Carol Kroch, Wilmington Trust, Wilmington, DE

Speakers: Graham Kenney, Ytterberg Deery Knull LLP, Austin, TX and Diana Wierbicki, Withers Bergman LLP, New York, NY

9:15 – 10:30 A.M.

ROOM: GRAND BALLROOM A

INCOME AND TRANSFER TAX PLANNING GROUP

Income and Transfer Tax Planning Group Program

Program Chair: Richard Franklin, McArthur Franklin PLLC, Washington, DC

Part I – Current Developments

This panel will review select recent developments including cases, rulings, and regulatory changes since fall 2016 and will discuss the legislative agenda for transfer taxes that unfolded during the first 100 days of the Trump administration.

Moderator: Richard Franklin, McArthur Franklin PLLC, Washington, DC

Speakers: George Karibjanian, Proskauer Rose LLP, Boca Raton, FL and Ryan Walsh, Hamilton Thies & Lorch LLP, Chicago, IL

Part II – International Tax Current Developments

New developments in the fast-paced changing landscape of international tax that impact planning for individuals will be discussed.

Moderator: Richard Franklin, McArthur Franklin PLLC, Washington, DC

Speaker: Raj Malviya, Miller Johnson, Grand Rapids, MI

Part III – Demystifying the IRS Art Advisory Panel: Of Mona Lisas and Mad Hatters

What we know is that the Art Advisory Panel advises the IRS on the value of art that is gifted, donated, or bequeathed.

What we do not know is how members are selected to serve on the Panel and how the Panel goes about the business of valuing unique pieces of art. The speakers, including former members of the former Art Advisory Panel, will shed light on the process.

Moderator: Ramsay Slugg, U.S. Trust, Fort Worth, TX

Speakers: Scott Schaefer, Department of Paintings, J. Paul Getty Museum, Los Angeles, CA and Alan Wintermute, Christie's, New York, NY

TRUST & ESTATE PROGRAMS

THURSDAY, APRIL 20

9:15 – 10:30 A.M.

ROOM: COTTONWOOD BALLROOM A

ELDER LAW AND SPECIAL NEEDS PLANNING GROUP

Powers of Attorney and Financial Institutions: Oil and Vinegar?

Although a power of attorney is an important component of an overall estate plan, sometimes the best laid plans go awry. Banks and other financial institutions regularly reject otherwise valid powers of attorney drafted in accordance with applicable state law, creating complications and possible extreme hardship for our clients and their families. This panel, including a representative from the banking compliance world, will discuss current issues relating to powers of attorney, along with practical solutions and potential statutory changes that might facilitate more widespread acceptance of powers of attorney by banks and other financial institutions. Topics include:

- Springing versus immediately effective powers of attorney
- Selecting the proper agent, including multiple agents, successor agents, and compensation of agents
- Monitoring the agent, including whether there is an affirmative duty to act, and accounting proceedings
- Reliance by third parties on the power of attorney, including remedies available when a power of attorney is not honored
- Estate and elder law planning using powers of attorney

Program Chair and Moderator: *Bernard Krooks*, Littman Krooks LLP, White Plains, NY

Speakers: *Mary Elizabeth Anderson*, Wyatt, Tarrant & Combs, LLP, Louisville, KY; *Karen Boxx*, University of Washington School of Law, Seattle, WA; *Joseph Cassioppi*, Fredrikson & Byron, P.A., Minneapolis, MN; and *Mary Tucker*, Wells Fargo Advisors Compliance Department, St. Louis, MO

10:45 A.M. – 12 P.M.

ROOM: GRAND BALLROOM A

NON-TAX ESTATE PLANNING CONSIDERATIONS GROUP

Current Trends in Non-Tax Estate Planning: Enter a Higher State

The panel will address the latest developments in estate planning, including recent cases and non-tax hot topics. Topics will include issues relating to identity theft in the estate planning world, recent cases, and protecting a deceased or disabled person from identity theft.

Program Chair and Moderator: *Elizabeth Lindsay-Ochoa*, Loring, Wolcott & Coolidge Trust LLC, Boston, MA

Speakers: *Cullen Boggus*, Holton & Mayberry P.C., Nashville, TN; *Carly McKeeman*, Evercore Wealth Management, New York, NY; *Karin Prangle*, Brown Brothers Harriman & Co, Chicago, IL; *Lee-ford Tritt*, University of Florida Levin College of Law, Gainesville, FL; *John Bergner*, Winstead PC, Dallas, TX; and *Jeff Chadwick*, Winstead PC, The Woodlands, TX

10:45 A.M. – 12 P.M.

ROOM: COTTONWOOD BALLROOM A

CHARITABLE PLANNING AND ORGANIZATIONS GROUP

Hot Topics in Charitable Planning: Change is in the Air

Part I: This session will examine important legislative and regulatory items pending as of the date of the Symposia, including:

- Charitable income tax planning for individual clients in the current federal tax reform environment
- Joint Treasury-IRS Priority Guidance Plan projects with implications for the charitable arena

Program Co-Chair and Speaker: *Toni Ann Kruse*, McDermott Will & Emery LLP, New York, NY

Program Co-Chair and Moderator: *Adam Ansari*, Ansari & Shapiro LLP, Chicago, IL

Speakers: *Kim Heyman*, Gadsden Schneider & Woodward LLP, Radnor, PA and *David Pratt*, Proskauer Rose LLP, Boca Raton, FL

Part II: This session will focus on the impact on charitable planning of likely and not-so-likely developments in the IRA arena, as well as planning techniques involving income in respect of a decedent.

Program Chair and Moderator: *Rick Mills*, Marcoux Allen P.C., Jackson, MI

Speaker: *Christopher Hoyt*, University of Missouri-Kansas City School of Law, Kansas City, MO

1:45 – 3 P.M.

ROOM: COTTONWOOD BALLROOM A

BUSINESS PLANNING GROUP

Preferred Partnerships: Will the Old Dog Learn New Tricks to Rise to the Top of the Wealth Transfer Technique List?

This presentation will focus on multiple ways to use Section 2701-compliant preferred partnerships to enhance planning as an alternative to other estate freeze techniques (e.g. GRATs and Sales to Grantor Trusts). The program will discuss:

- Traditional forward freezes as well as ways to combine preferred partnerships with other techniques, such as GRATs, QTIPs, GSTT exempt trusts, CLATs, carried interest transfer planning and more
- Possible uses of preferred partnerships in the event of estate tax repeal
- Fundamental structuring considerations under Section 2701 and other relevant Code sections

Program Chair and Moderator: *Todd Angkatavanich*, Withers Bergman LLP, New Haven, CT

Speakers: *Richard Dees*, McDermott Will & Emery LLP, Chicago, IL and *Paul Lee*, The Northern Trust Company, New York, NY

TRUST & ESTATE PROGRAMS

THURSDAY, APRIL 20 – FRIDAY, APRIL 21

1:45 – 3 P.M.

ROOM: GRAND BALLROOM A

JOINT TE/RP PROGRAM - DIVERSITY AND INCLUSION COMMITTEE

Model Rules of Professional Responsibility: Adopted Model Rules – Where Do We Go from Here?

The ABA House of Delegates has approved Resolution 109 to amend Model Rule 8.4 to bring into the ABA Model Rules of Professional Conduct an anti-harassment and anti-discrimination provision. The amendment has engendered a significant amount of comment and controversy. In addition, the ABA adopted Resolution 113, which encourages (i) all providers of legal services (including law firms and corporations) to expand and create opportunities for diverse attorneys and (ii) clients of legal services to assist in achieving these goals. Recent published reports indicate that women and diverse attorneys continue to be underrepresented in law firms, and these reports have proposed a number of measures to address the issue. The panel will discuss these updates and address next steps to achieve diversity, inclusion, and fairness for all in our profession.

Program Chair and Moderator: *Henry Talavera*, Polsinelli PC, Dallas, TX

Speakers: *Dan Ebner*, Prather Ebner LLP, Chicago, IL; *David Lieberman*, Levin Schreder & Carey, Ltd., Chicago, IL; and *Elizabeth Lindsay-Ochoa*, Loring, Wolcott & Coolidge Trust LLC, Boston, MA

3:15 – 4:30 P.M.

ROOM: GRAND BALLROOM A

LITIGATION, ETHICS AND MALPRACTICE GROUP

Ethics and Mediation: The Highs and Lows of Taming Two Broncos

Layers of ethical issues arise in the negotiation of any settlement, especially when thorny trust and estate problems are intertwined with that negotiation. This program will explore those issues with a mock mediation in which the parties and their attorneys grapple with common yet intriguing — and even entertaining — ethical challenges. The panel will address the following:

- The ethical duties of the mediator, counsel, and advisors
- Handling negotiations and maximizing the chances of a successful result
- Anticipating and diffusing strategies and tactics — often improper ones — used by adverse parties and their counsel

Program Chair and Moderator: *Steve Mignogna*, Archer & Greiner PC, Haddonfield, NJ

Speakers: *Jo Ann Engelhardt*, Bessemer Trust, Palm Beach, FL; *Terrence Franklin*, Sacks Glazier Franklin & Lodise, LLP, Los Angeles, CA; *Richard Nenno*, Wilmington Trust, Wilmington, DE; *Matthew Triggs*, Proskauer Rose LLP, Boca Raton, FL; and *Robert Steele*, Schwartz Sladkus Reich Greenberg Atlas LLP, New York, NY

 = ETHICS PROGRAM

3:15 – 4:30 P.M.

ROOM: COTTONWOOD BALLROOM A

EMPLOYEE BENEFIT PLANS AND OTHER COMPENSATION ARRANGEMENTS GROUP

Update on Employee Benefit Issues of Small Non-Profits and Foreign Workers

This program will address the following topics:

- *Retirement Plans of Small Charities and Non-Profits.* Panelists will explain and explore the issues involved in advising small non-profit organizations on their retirement plans, including a comparison of qualified retirement plans (such as 403(b), 457(b), and 401(a)), and non-qualified plan (457(f)) options. The discussion is designed to help practitioners who work with charitable or other non-profit organizations understand opportunities and challenges in promoting the retirement wellness and readiness of their workers
- *Health Insurance Coverage and Estate Planning for Foreign Citizens.* Panelists will address the health care insurance coverage and estate planning needs of foreign citizens who are working in the United States. Topics include estate planning fundamentals, innovative designs for employer-sponsored health plans, and the Affordable Care Act or its successor
- The panel will also discuss other “hot topics” that are raised by the Trump administration.

Program Chair and Speaker: *John Paliga*, Gordon Feinblatt LLC, Baltimore, MD

Moderator and Speaker: *Frank Palmieri*, Palmieri & Eisenberg, Princeton, NJ

Speakers: *Christopher Hoyt*, University of Missouri-Kansas City School of Law, Kansas City, MO; *Tara Silver-Malyska*, Willis Towers Watson, Dallas, TX; *Arnette Steele*, Law Office of Arnette Steele, Reston, VA; and *Karen Suhre*, Karen Suhre, Attorney at Law, Dallas, TX;

FRIDAY CLE PROGRAMS

8 – 9 A.M.

ROOM: GRAND BALLROOMS

Panel of Luminaries

This panel will address significant developments for estate planning in 2017, including:

- Changes in federal tax law under the Trump administration – current status, tax reform proposals under consideration, and the impact for estate planning and administration
- State and federal fiduciary income tax trends to watch
- Valuation issues old and new, including any updates to the Proposed Regulations under Section 2704
- Planning techniques of merit regardless of transfer tax reform
- Other hot topics and important trends for trusts and estates

TRUST & ESTATE PROGRAMS

FRIDAY, APRIL 21

Program Chair: *Benetta Jenson*, J.P. Morgan Private Bank, Chicago, IL

Moderator: *Aen Webster*, Cochran Allan, LLC, Tysons Corner, VA

Speakers: *Turney Berry*, Wyatt Tarrant & Combs LLP, Louisville, KY; *Paul Lee*, The Northern Trust Company, New York, NY; and *Stephanie Loomis-Price*, Winstead PC, Houston, TX

9:15 – 10:15 A.M.

ROOM: ASH

Elevate Your Drafting

Throughout our careers we continue to develop and refine our drafting skills. This panel will help us hone those skills to become better drafters by:

- Identifying common themes encountered in the course of reviewing client documents
- Highlighting the broader lessons to be learned from specific examples, including how to avoid potential litigation
- Pointing out what issues may be lurking in your files

Program Chair and Moderator: *Stephen Liss*, UBS Financial Services, Inc., New York, NY

Speakers: *Robert Barton*, Holland & Knight LLP, Los Angeles, CA and *Jaclyn Feffer*, Bessemer Trust, New York, NY

9:15 – 10:15 A.M.

ROOM: ELM

Psychological Issues in Estate Planning: Intersection of Law and Neuropsychology When Capacity Is In Issue

Issues of civil capacity can play a significant role in our justice system both before and after death, especially with an aging population. For the individual who has not planned for this possibility, the judicial system may step in with unexpected results. Even those who planned for their own potential incapacity may not always be able to circumvent the need for legal proceedings. The validity of a decedent's will can be challenged in a probate contest during which her testamentary capacity may be questioned. On this panel a neuropsychologist and a trusts and estates practitioner will address:

- The difference between testamentary capacity and other levels of capacity
- Distinguishing between management of the person and management of the person's property
- Expert witness considerations in guardianship and probate hearings
- Considerations in determining decisional capacity in the older adult
- Evaluation techniques used by psychologists, including patient interview, medical record review, obtaining collateral information, and objective assessment

Program Chair and Moderator: *Beth Wood*, Moore & Van Allen, Charlotte, NC

Speakers: *Marc Bekerman*, Bekerman Law, Woodbury, NY and *Lynn Schaefer*, Ph.D, ABPP-CN, Nassau University Medical Center, East Meadow, NY

9:15 – 10:15 A.M.

ROOM: COTTONWOOD BALLROOM A

Running the Gamut of Promissory Note Planning from A to Z: A Review of the Opportunities and Potential Pitfalls Associated with Intra-Family Loans

Given the historically sustained trajectory of our current low-interest rate environment, estate planning practitioners are all too familiar with the attractiveness of using intra-family loans to shift wealth across generations on a transfer tax efficient basis. The planning uses of this technique run the gamut from sales of property, loan modifications or refinancings at more attractive rates, and swaps of property for income tax basis or other strategic planning. This program will review the potential traps associated with intra-family loans and sales and crucial steps in structuring and implementing transactions involving promissory notes, including:

- What are the inherent dangers involved with intra-family loans?
- How should loans be structured or serviced to avoid complexities?
- What considerations support a loan renegotiation?
- What valuation issues are presented with intra-family loans?

Program Chair and Moderator: *Briani Bennett Mellen*, Culp Elliott & Carpenter, Charlotte, NC

Speakers: *Philip Hayes*, Bessemer Trust, San Francisco, CA, *Carsten Hoffmann*, Stout Risius Ross, Inc., Irvine, CA and *Carl King*, Culp Elliott & Carpenter, Charlotte, NC

10:30 – 11:30 A.M.

ROOM: ASH

Inadequate Due Diligence Can Defeat Testamentary Intent: Elevate Your Practice by Looking Below the Surface

This presentation focuses on the importance of due diligence about a client's assets and the need to coordinate non-probate transfers when preparing a comprehensive estate plan. The panel will highlight pitfalls that can stem from incomplete information and best practices in client intake and follow-up. Specifically, the panel will review:

- Due diligence on the client's balance sheet and prior planning activities
- Coordination of different components of an estate plan to achieve desired dispositive results
- Discussion of problematic non-probate assets in the advisory and drafting process

TRUST & ESTATE PROGRAMS

FRIDAY, APRIL 21

- Role of the lawyer in follow-up after the estate plan is signed

Program Chair: *Marissa Dungey*, Withers Bergman LLP, Greenwich, CT

Moderator: *Paulina Mejia*, Atlantic Trust Company, New York, NY

Speakers: *Jonathan Lee*, Sojourner Caughman & Thomas LLC, Columbia, SC; *Jaclyn Feffer*, Bessemer Trust, New York, NY; and *Mary Vandenack*, Vandenack Weaver LLC, Omaha, NE

10:30 – 11:30 A.M.

ROOM: ELM

Charitable Trends in 2017: Floating in Thin Air

Part I: High-Minded: The Profit Motive and Investing for the Social Good

One of the hottest topics in 2017 is the new paradigm for those charged with investment responsibility for charitable funds. This revealing panel discussion features key players in what is now far from a fringe movement. Learn why looking at a portfolio through an environmental/social/governance lens can be financially rewarding. The panel will discuss:

- Investing to promote philanthropic and financial goals
- Understanding the evolving prudent investor standard, including recent notices from Treasury and the U.S. Department of Labor
- Resolving fiduciary issues

Program Chair, Moderator and Speaker: *Susan Gary*, University of Oregon School of Law, Eugene, OR

Speakers: *Phil Kirshman*, Cornerstone Capital Investment Management, Denver, CO

Part II: Rising to the [Charitable] Occasion: The Many Uses of a "B" Corporation

There are now almost 2,000 "B" corporations in 50 countries across 130 industries, all with a common goal — "doing good while doing well." Our panel includes the principal of a law firm that transitioned to "B" status who has worked extensively with these entities. This panel will discuss:

- "B" corporations and "B" corporation certification
- The ins, outs, and upsides of being a "B" corporation
- The intersection of B corporations and charitable organizations — helping clients align their for-profit investments with their philanthropic goals

Program Co-Chair: *Kim Heyman*, Gadsden Schneider & Woodward LLP, Radnor, PA

Program Co-Chair and Moderator: *Philip Purcell*, Ball State University Foundation, Noblesville, IN

Speakers: *Trish Rogers*, Moye White LLP, Denver, CO and *Steven Schueth*, First Affirmative Financial Network, Denver, CO

10:30 – 11:30 A.M.

ROOM: COTTONWOOD BALLROOM A

High Stakes Litigation: When to Bring in the Expert to Win Your Case

Expert witnesses and consultants are often a critical part of complex trust and estate litigation but what exactly do they do? This panel will discuss:

- The role of the expert
- Do's and don'ts of retaining and working with an expert
- Should YOU agree to be an expert?
- Related ethics and malpractice issues

Program Chair and Moderator: *John Rogers, Jr.*, Rogers Trust Law, Los Angeles, CA

Speakers: *James Dougherty*, Withers Bergman LLP, New Haven, CT; *Julia Meister*, Taft Stettinius & Hollister LLP, Cincinnati, OH; and *Jessica Uzcategui*, Sacks Glazier Franklin & Lodise, LLP, Los Angeles, CA

1:30 – 2:30 P.M.

ROOM: COTTONWOOD BALLROOM A

JOINT TE/RP PROGRAM

Elevating the Elective Share: Entanglements Due to Spousal Elective Rights in Multi-Jurisdictional Estates

Transfers of real property become complicated when out-of-state spousal elective rights may apply. This program, of interest to real property lawyers and title companies as well as trust and estate lawyers, explores potential conflicts between elective share laws in the state of a decedent's domicile with laws that govern real property transfers in other states. Lack of uniformity among state laws can create problematic results and wide variance in elective share benefits. The resulting title issues can be vexing for real property transactions. This program will highlight the confounding consequences and complications that result from conflicts of law among states and lack of uniformity between elective share rights and real property laws.

Program Chair and Moderator: *Anne Coventry*, Pasternak & Fidis, P.C., Bethesda, MD

Speakers: *Alex Tanouye*, Pasternak & Fidis, P.C., Bethesda, MD and *Ryan Walsh*, Hamilton Thies & Lorch LLP, Chicago, IL

1:30 – 2:30 P.M.

ROOM: ASH

Estate Planning Strategies with IRAs: Know the Rules; Run the Numbers!

For tax year 2011, the Government Accountability Office estimated that 43 million taxpayers had IRAs an aggregate worth \$5.2 trillion. The GAO estimated that in 2014, IRAs resulted \$17.45 billion in foregone tax revenue. In addition to the huge sums poised for generational transfer, the rules for structuring IRA beneficiary designations have been shifting, with more changes proposed. This session will explore the planning opportunities with IRAs, the timing of

TRUST & ESTATE PROGRAMS

FRIDAY, APRIL 21

distributions from such accounts, and the rules that must be safely navigated. The program will allow attendees to:

- Understand how to analyze the trade-off between income and transfer taxation when coordinating the beneficiary designation with the client's comprehensive estate plan (including a default designation checklist)
- Master the financial engineering and tax interplay on conversions and recharacterizations
- Recognize pre-mortem planning opportunities through the use of a case study
- Understand the requirements under the Fiduciary Rule (if still applicable) and other applicable tax limitations for IRA investments

Program Chair and Speaker: *Jo Ann Engelhardt*, Bessemer Trust, Palm Beach, FL

Moderator: *Henry Talavera*, Polsinelli P.C., Dallas, TX

Speakers: *Mark Parthemer*, Bessemer Trust, Palm Beach, FL and *Marc Purinton*, Williams Mullen, Richmond, VA

1:30 – 2:30 P.M.

ROOM: ELM

Novel (and Not So Novel) Approaches to Adapt an Irrevocable Trust to Meet Today's Needs

The program will outline different methods available in a modern practitioner's tool box to modify, update, or sculpt an existing irrevocable trust to meet an evolving family's needs and planning. A trust may be "irrevocable" in that the settlor may not change its terms or demand return of trust property, but there are methods available under applicable law that may allow for a trust to be adapted in order to address changes in circumstances or planning needs. This panel will discuss the following methods to modify irrevocable trusts and examine when they are available, the benefits and goals they can achieve, and how trust modifications may be treated for income and transfer tax purposes:

- Decanting
- Court-ordered modifications, declaratory judgments, and nonjudicial settlement agreements
- Trust mergers and combinations
- Early terminations or trust commutations
- Division into separate trusts or shares
- Exercises of non-fiduciary powers of appointment
- Trust migrations or conversions

Program Chairs: *Carole Bass*, Moses & Singer LLP, New York, NY; *Raj Malviya*, Miller Johnson, Grand Rapids, MI; and *Briani Bennett Mellen*, Culp Elliott & Carpenter, Charlotte, NC

Moderator: *Melineh Ounanian*, Brown Brothers Harriman & Co., New York, NY

Speakers: *Daniel Hayward*, Gordon, Fournaris & Mammarella, P.A., Wilmington, DE; *William LaPiana*, New York Law School, New York, NY; and *Suzanne Shier*, The Northern Trust Company, Chicago, IL

1:30 – 2:30 P.M.

ROOM: COTTONWOOD BALLROOM B

JOINT TE/RP PROGRAM

High Level Negotiations: Are There Any Ethical Limits?

We routinely negotiate, and there is nothing wrong with puffing and bluffing, right? Wait...are you sure you know the correct ethical answer? This fast-paced presentation consists of numerous hypotheticals that cover both real property and trust and estate issues with a unique blend of humor and scholarship; and one of the most unusual multimedia presentations you will ever see. Topics that will be covered include:

- The impact of Rules 1.6, 3.1, and 4.1 on what can or should be said (or not said) during negotiations
- Bluffing and puffing in negotiations and what is "material" for the purposes of negotiations
- The tension between protecting client confidences and telling the truth
- Statements that are true but are designed to mislead
- Whether the ethical rules permit you to take a tougher negotiation stance if the person on the other side of the table is experienced in the field.

Program Chair, Moderator and Speaker: *Michael Rubin*, McGlinchey Stafford, PLLC, Baton Rouge, LA

2:45 – 3:45 P.M.

ROOM: ELM

Harmonizing the Sometimes Discordant Duties of Trustees Who Also Run the Family Business

Trustees of trusts that own stock often also function as officers or directors of those companies. This program will explore whether and how an individual simultaneously wearing a trustee hat and a corporate fiduciary hat can successfully serve multiple masters: the beneficiaries of the trust and the shareholders/owners of the company. Operating in such capacities can raise numerous issues, including:

- Whether the primary governing duties are those imposed by corporate law, trust law, or the governing trust instrument
- Managing conflicts of interest
- What, if any, consideration must be given to the needs of the trust beneficiaries when the trustee/officer/director is making management decisions of the company
- Decision-making with respect to company distributions to satisfy the trust beneficiaries versus the desire to retain company profits to promote growth

TRUST & ESTATE PROGRAMS

FRIDAY, APRIL 21

- The remedies available to trust beneficiaries dissatisfied with company management decisions made by the trustee
- Challenging trustees who are collecting both a trustee fee and a company salary

Program Chair and Speaker: *Crystal Patterson*, Wyatt Tarrant & Combs LLP, Louisville, KY

Moderator: *Robert Sacks*, Sacks Glazier Franklin & Lodise, LLP, Los Angeles, CA

Speakers: *Gerard Brew*, McCarter & English, LLP, Newark, NJ and *Eric Hoffstein*, Minden Gross, LLP, Toronto, Canada

2:45 – 3:45 P.M.

ROOM: ASH

Planning for a Rising Interest Rate Environment

Interest rates are widely expected to begin normalizing in 2017. This program will explore how rising interest rates impact a wide range of commonly used estate planning techniques and what planners should consider doing in light of rising interest rates. For example, rising rates will make GRATs, CLATs and sales to IDGTs less effective. At the same time they will make QPRTs and multi-generational split dollar more effective.

Program Chair: *Stephen Liss*, UBS Financial Services, Inc., New York, NY

Moderator and Speaker: *Dana Foley*, Proskauer Rose LLP, Washington, DC

Speakers: *Sandy Christopher*, Withers Bergman LLP, New Haven, CT and *Kerry O'Rourke Perri*, White & Case LLP, New York, NY

2:45 – 3:45 P.M.

ROOM: COTTONWOOD BALLROOM A

Transgender Issues Across Trans-legal Disciplines

Panelists will review the latest issues and trends involving transgender and gender dysphoria under employee benefit plans and real estate matters. The panel will address:

- Federal matters: The Office of Federal Contract Compliance Programs (OFCCP) Executive Order 11246/Affordable Care Act Section 1557/EEOC position on Title VII of the Civil Rights Act
- Gender dysphoria treatments as an essential health benefit and under state law
- Changing/incorrect names on real estate records and will and trust documents
- Housing: barriers to access and discrimination in financing due to inconsistent credit histories
- Impact of inconsistent gender markers and gender expression on access to public accommodations
- Restroom and locker room issues, both within and outside of the employer context, including design issues and building code requirements

Program Chair and Moderator: *Tara Silver-Malyska*, Willis Towers Watson, Dallas, TX

Speakers: *Sara Schnorr*, Locke Lord LLP, Boston, MA; *Kevin Wiggins*, Saul Ewing LLP, Pittsburgh, PA; and *Elizabeth Ysla Leight*, Society of Professional Benefits Administrators, Chevy Chase, MD



SYMPOSIA REGISTRATION

The registration fee includes access to all CLE programs and written materials, continental breakfast (on Thursday and Friday), refreshments during scheduled breaks, and a reception with the sponsors.

Only registered attendees may purchase tickets to special events.

<i>RATES</i>	<i>PRE-MEETING RATES</i>	<i>ON-SITE RATES</i>
General Attendee	\$650	\$700
ABA Member	\$625	\$675
RPTe Member	\$535 (JANUARY 30 – FEBRUARY 22) \$550 (FEBRUARY 23 – MARCH 15) \$575 (AFTER MARCH 15)	\$625
One Day Symposia Admission	\$315	\$365
First Time Attendee	\$400	\$450
Speaker/Academic/Government Attendee	\$325	\$375
Law Student Attendee	No Charge	No Charge
First Time Attendee of a Minority Bar Association	No Charge	No Charge
Program Materials Only	\$95	n/a
'Turns out "Fiduciary" Means You Have to Give It Back:' An Introduction to Estate and Trust Litigation	No Charge – Registration Required	No Charge

AS ALWAYS, CHILDREN UNDER 12 ARE FREE TO ATTEND ANY EVENTS RELATED TO THE SPRING SYMPOSIA.

TICKETED EVENTS

Thursday, April 20	
Group Lunch	\$25
Symposia Reception	\$50
Guest ticket to Symposia Reception	\$100
Friday, April 21	
Plenary Lunch with Keynote Speaker	\$50

SYMPOsia REGISTRATION

Registering Online

Register online at www.ambar.org/rptesymposia. Members will need an ABA ID number, located on your ABA membership card. Non-ABA members may register online by creating a new customer account. You can also join the Section to take advantage of the discounted member rates. Please contact (800) 285-2221 if you need help with the online registration system.

On-site registration will take place at the Four Seasons during the following hours:

Wednesday, April 19	1 – 5 P.M.
Thursday, April 20	7 A.M. – 4:30 P.M.
Friday, April 21	7 A.M. – 3:45 P.M.

For more information regarding registration, please contact Khadijah Kellogg at 312-988-5260, khadijah.kellogg@americanbar.org.

There are a limited number of scholarships available which range from a 25% to a 50% tuition discount. Scholarships will not cover hotel or transportation. Scholarships will be announced the week of April 5, 2017. Scholarship applications are posted on www.ambar.org/rptesymposia and are due to Khadijah Kellogg before March 27 2017.

Cancellation Policy

Requests for refunds must be made in writing and emailed to [Khadijah Kellogg](mailto:Khadijah.Kellogg@americanbar.org) by March 31, 2017. A \$75 administrative fee will be deducted from the refund. The Section will gladly accept substitute registrants for cancellations received after March 31, 2017; however, refunds will not be given after that date.



GENERAL INFORMATION

Program Materials

Meeting materials will be available to paid registrants in the following formats:

- **Mobile App:** A mobile meeting app with complete program information, including PDF's of written materials, will be available for download.
- **Web:** A link to the materials on the RPTE website will be available to registrants for downloading or printing.

All registered attendees will receive a link to program materials, information about the mobile app, and additional meeting information by email approximately two weeks prior to the meeting.

If you would like to purchase a flash drive of all meeting materials, this is available to all meeting attendees for an additional \$20. If you are unable to attend the Symposia, a flash drive of the program materials is available for \$95. Flash drives may be purchased through the online registration system, www.ambar.org/rptesymposia, by choosing the "Materials Only" option.

Hotel Reservations

All Symposia meetings and events will take place at the Four Seasons Hotel (1111 14th St, Denver, CO 80202). A block of sleeping rooms has been reserved at the hotel from Wednesday, April 19, 2017, through Sunday, April 23, 2017, at a group rate of \$290 per night for a single or double room. The group rates are guaranteed until the block is full or until 5 p.m. CST, Wednesday, March 29, 2017. Reservations received after 5 p.m. CST on March 29 will be based on availability. If you would like to make a reservation before or after the blocked dates, please call (303) 389-3000.

To Book Online

Visit: www.fourseasons.com/denver

Enter Code: **ABA417**

To Call In

Please call the hotel reservations at **(303) 389-3300**. When speaking to the agent, please reference "RPTE Spring Symposia" to make a reservation in the block.

Additional Room Block

We have also secured rooms at Hotel Teatro, directly across the street from the Four Seasons (1100 14th St, Denver, CO 80202). A block of sleeping rooms has been reserved at the hotel from Wednesday, April 19 through Sunday, April 23 at a group rate of \$280 per night for a single or double room. The group rates are guaranteed until the block is full or until 5 p.m. EDT, Wednesday, March 29, 2017. If you would like to make a reservation before or after the blocked dates, please call the hotel directly at 303-228-1100 and book under the "RPTE Spring Symposia" room block. You can also [book online in this link](#)

Travel Discounts Information

Discounted airfares and car rentals can be found at www.americanbar.org/travel. Airline discounts are available from Engencia, including ABA negotiated meeting discounts on American, United, Delta, and Virgin America Airlines. For assistance with reservations using the Engencia website, call 312-988-5890 or email travel.services@americanbar.org. Discounted car rentals are offered through Hertz, Dollar and Thrifty. For assistance with car rentals, call 800-285-2221 or email service@americanbar.org.

CLE Credit

The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, visit www.ambar.org/rptesymposia.

Conference Attire

Business casual is recommended for Symposia attendees.

SPONSORS

The Section acknowledges the generous support of the following sponsors for their involvement in this year's Spring Symposia:

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Visit the expo to learn more about the companies that sponsor the Symposia and the services they provide. Their support is very valuable to us and we encourage you to take advantage of their presence at the Symposia.