

Negotiating Commercial Leases: Avoiding Unnecessary Costs, Risks and Liability in Commercial Leases – Fall 2009

New York City,* November 19-20, 2009
San Francisco, December 10-11, 2009

- Learn fundamental lease theft issues and find out how to avoid losing your lease and your entire investment
- Get tips on handling unexpected excess space, real estate and the resurgence of "Take Over Leases"
- Understand unanticipated limitations in long-term planning
- Examine the nuts and bolts of operating expenses and green leases
- Hear the latest insolvency issues in commercial leasing

and much more...look inside!

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Negotiating Commercial Leases: Avoiding Unnecessary Costs, Risks and Liability in Commercial Leases – Fall 2009

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Why You Should Attend

In today's changed world, your client or company is relying on you now more than ever to make the best deal. The landscape of the commercial real estate market has changed and so have the rules. It is critical that you understand the hidden costs, shifting of risks and predatory practices of the "killer lease forms" and "sharp" practices. Attend this program to get up-to-speed on how to negotiate the best terms in today's economy. This faculty of leading practitioners will give you the tools, insights and advice you need to avoid costly errors or unintended risks and put your client in the most advantageous position.

What You Will Learn

- Insights into commercial leasing in difficult and uncertain times
- How to handle fundamental lease theft issues
- The latest with regard to Lease Takeover Agreements in 2010 and Lease Restructuring
- Nuts and bolts of operating expenses
- Best practices for drafting and negotiating green lease terms
- How to plan for the long-term: assignment, subletting and creating flexibility in your lease

plus

- New issues facing landlords and tenants in the current retail environment
- Insurance and commercial leases in a troubled economy
- Ways to avoid losing your lease and your entire investment
- Tips on handling unexpected excess space and real estate
- Strategies for dealing with insolvency issues in commercial leasing
- Ethical considerations for the real estate leasing attorney

Who Should Attend

Attorneys who practice in the commercial real estate leasing field or are being assigned the facilities responsibilities, and other allied professionals, including real estate brokers, appraisers, property managers, facilities directors, fund directors and accountants/auditors.

PLI's Nationally Acclaimed Course Handbooks

All program attendees will receive a copy of the two-volume Course Handbook *Negotiating Commercial Leases: Avoiding Unnecessary Costs, Risks and Liability in Commercial Leases – Fall 2009*. These bound volumes are prepared specifically for this program and also stand alone as a permanent reference. PLI's Course Handbooks represent the definitive thinking of the nation's finest legal minds, and are considered the standard reference in the field.

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Program Schedule

Please plan to arrive with enough time to register before the conference begins.
A networking breakfast will be available upon your arrival.

Day One: 9:00 a.m. – 5:00 p.m.

Morning Session: 9:00 a.m. – 12:30 p.m.

9:00

Leasing Basics and Fundamental Lease Theft Issues

- Current state of the market
- Commercial leasing in difficult and uncertain times
- A discussion of the largest fundamental lease theft issues
- Tips and strategies for successful negotiation in today's environment
- Lease Takeover Agreements in 2010 and Lease Restructuring
- Interrelationship between commencement date and work letter

NYC: John Busey Wood

SF: Michael E. Meyer

10:00

The Nuts and Bolts of Operating Expenses and Green Leases

A. Operating Expenses

- Hidden repair and compliance responsibilities
- Dealing with capital expenditures
- Traps regarding managing fees
- The correct gross up procedure
- Negotiating effective audit rights

B. Green Leases: Considerations for Landlords and Tenants

- Best practices for drafting and negotiating green lease terms
- Tailoring a green lease provision to fit a specific "green" building
- Optimizing the use of BOMA and REALpac green lease forms
- Going green can be win-win – cost saving capital improvement

NYC: Richard C. Mallory, Michael E. Meyer, John Busey Wood

SF: Richard C. Mallory

11:15 *Networking Break*

11:30

Unanticipated Limitations in Long-Term Planning

A. Assignment and Subletting

- An Overview
- Permitted Transactions
- Recapture rights and profit-sharing
- Recognition agreements and consents
- Structural impediments to assignment and sublease rights

B. Creating Flexibility, Evaluating Your Options and Negotiating the Deal

- How to create flexibility in the lease
- Renewal and expansion rights, including rights of first refusal, rights of first offer, and fixed expansion rights
- Early termination rights and partial kick outs

NYC: Nancy Ann Connery, Richard C. Mallory, Michael E. Meyer

SF: Bonnie Stone Sellers

12:30 *Lunch*

Afternoon Session: 1:30 p.m. – 5:00 p.m.

1:30

Retail Leasing in the Current Environment

- Use clauses and tradenames
- Exclusive use rights
- Opening and operating covenants
- Co-tenancy rights and "Kick Out" rights
- Assignment and subletting
- New issues facing landlords and tenants in the current retail environment

NYC: Theani C. Louskos, M. Rosie Rees, John Busey Wood

SF: Theani C. Louskos, M. Rosie Rees

2:45

Insurance and Commercial Leases in a Troubled Economy

- Effect of the financial crisis on insurance
- Who insures the insurer?
- Coverage of catastrophic risks
- What the landlord needs and what the tenant needs

NYC: James A. Fenniman, Arthur E. Pape

SF: Jay L. Paxton

3:45 *Networking Break*

4:00

Ethical Considerations for the Real Estate Leasing Attorney

- Conflicts of interest
- Confidentiality
- Dealing with non-attorneys
- Duties of supervisory and subordinate lawyers

NYC: Devika Kewalramani, Michael E. Meyer

SF: Michael E. Meyer, Patricia A. Wilson

5:00 *Adjourn*

Other Relevant Products From PLI

TREATISES

Commercial Ground Leases, Second Edition

Jerome D. Whalen (Attorney at Law)

1 looseleaf volume, 750 pages, \$275 (Revised annually or as needed:
No charge for revision issued within 3 months of purchase)

Friedman on Leases, Fifth Edition

Milton R. Friedman (Former Partner, Parker, Duryea, Zunino, Malone, and Carter, New York City; deceased) and Patrick A. Randolph Jr. (Professor of Law, University of Missouri School of Law, Kansas City, MO)

3 looseleaf volumes, 2,506 pages, \$495 (Revised annually or as needed:
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Day Two: 9:00 a.m. – 1:15 p.m.

9:00

How to Avoid Losing Your Lease and Your Entire Investment

- Examine the “Killer Lease Form”
- Layering of superior interests and “recognition” of lease rights
- Impact of condominium conversion on existing mixed use property
- Operations difficulties for multiple owners
- Common area control
- Changes or over-ruling lease rights
- Purchase and extension options may not work
- Subordination Nondisturbance Recognition Agreement “SNDRA”

NYC: John Busey Wood

SF: Michael E. Meyer

10:00

Complex Real Estate Issues: Arbitration vs. Litigation

- Costs of litigation and discovery as well as absence of cases or judgments
- Establishing minimum qualifications for arbitrators in arbitration provisions
- Use of advocate arbitrators – use of 1 neutral or 3 neutrals
- Arbitration: overview and clause preparation
- Arbitration should not be litigation – pick your experienced and specialized judge

NYC: Michael A. Marra, Elizabeth J. Shampnoi,

John Busey Wood

SF: Mark S. Hennigh, Nick Slonek

11:00 *Networking Break*

11:15

Tips on Handling Unexpected Excess Space and Real Estate

- With unprecedented dislocations of real estate and facilities – get a handle on your options and expenses
 - Dynamics in the current market environment and realistic options for managing space
 - Tools required to effectively manage a real estate portfolio
 - Practical options for handling space
- How using an integrated real estate team saves time and money
- Project management, the key to any space strategy
- Conventional space management strategies for short long-term cost mitigation
- Alternative workplace strategies – “hoteling” and potential for additional savings

NYC: Len Eagle, Nicola M. Heryet, John Busey Wood,

Joseph T. Yacovone

SF: Michael E. Meyer, Bonnie Stone Sellers

12:15

Insolvency Issues in Commercial Leasing – Defaults, Workouts, Restructuring and Bankruptcy

- Workouts and restructuring
 - Protecting the landlord during negotiations
 - Structuring the workout
 - Bankruptcy considerations
- Bankruptcy 101 for the leasing lawyer

NYC: Nancy Ann Connery, Ira L. Herman,

John Busey Wood

SF: Karol K. Denniston

1:15 *Adjourn*

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San Francisco Seminar Location: PLI California Center, 685 Market Street, San Francisco, California 94105. (415) 498-2800.

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in Commercial Leases – Fall 2009

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