

# Barnes & Thornburg Adds Transactional Partner Salvador LaViña in Los Angeles

[Barnes & Thornburg LLP](#) has added Salvador LaViña as a partner in the Real Estate Department in Los Angeles. LaViña joins from Enenstein Ribakoff LaViña & Pham APC, where he was chair of the real estate and corporate departments.

LaViña focuses on complex real estate and corporate transactions, and has closed or supervised over \$5 billion in deals in the last few years. He advises private clients – including investment companies, family offices, fund advisers and developers – in real estate, including acquisitions and sales, joint ventures, multifamily transactions, 1031 exchanges and tenant-in-common transactions, real estate fund formation, development, public-private and multistate matters.

On the corporate side, LaViña represents companies spanning a variety of industries, including e-commerce, oil & gas, music, entertainment, sports and marketing, as well as the areas where corporate and real estate deals intersect. His practice emphasizes middle-market M&A, stock and asset transactions, fund formation, syndication and private placements.

“Sal is a well-known and highly regarded real estate lawyer and brings to our firm a multifaceted transactional practice,” said David Allen, managing partner of the firm’s Los Angeles office. “Furthermore, Sal’s involvement in our community and commitment to civic organizations are examples for us all.”

Outside of his legal practice, LaViña is a board member and general counsel for the UCLA Alumni Association, a member of the Columbia University Alumni Association, and is on the

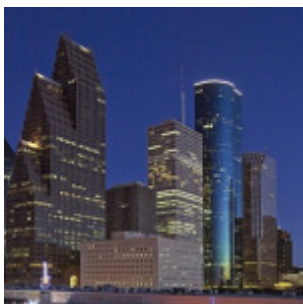
Village Family Services board of directors. He is a former board member of the Para Los Niños and is a life member of American Mensa.

LaViña earned his J.D. from Columbia University Law School and his B.A., magna cum laude, from the University of California, Los Angeles. He is admitted to practice in California.

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## Houston Office Vacancies Raise Concerns for Owners Making Loan Payments



Houston commercial real estate is still suffering from the collapse of oil prices and loss of tens of thousands of jobs, according to a post of the website of [Androvett Legal Media & Marketing](#). The latest estimates are that more than a fifth of Houston office space sits empty as landlords struggle to find new tenants and existing tenants struggle to sublease unused space. Commercial real estate firm NAI Partners calculates that more than 2 million square feet in office space is expected to be returned to property owners in the next two years.

Houston commercial real estate lawyers [Douglas Yeager](#) and [Jeffrey M. Smith](#) of [Winston & Strawn LLP](#) have

witnessed several real estate cycles in their careers. Their experience includes handling the purchase and sale of non-performing loans, as well as advising tenants, owners and developers.

“Without sufficient tenants in these buildings paying rent, the owners may not be able to service their debt. In a couple of years, once this sublease space comes back onto the market, there could be a number of workout agreements and foreclosures of office buildings,” said Yeager. “This is something we have not seen for a few years.”

Smith notes that “lenders will be keeping a close eye on properties as deadlines to extend leases approach. Will the owners be able to service debt if occupancy rates fall as tenants decide not to extend leases, or if they continue operations in less space? Owners that are unable to backfill space will be anxious to see whether lenders will work with them or whether they will try to unload non-performing loans. We would expect to see an uptick in not only workouts and foreclosures, but also opportunistic investors seeking to purchase non-performing loans.

“Tenants may be in a better position to negotiate moving forward, particularly in certain submarkets where vacancy rates are higher,” Smith said. “On the flip side, tenants will need to get assurances from lenders that they have approved lease terms and, in a worst-case scenario, that the lender will allow the tenant to continue occupying the space if the lender forecloses on property.”

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# DLA Piper Adds Ying Genève DuBois to Real Estate Practice in Miami

[DLA Piper](#) announced that [Ying Genève DuBois](#) has joined the firm's Real Estate practice as a partner in the Miami office.

DuBois focuses her practice primarily on representing US and global investors in their US real estate investments. She has experience in complex transactional matters, particularly in regard to investors from China and other Asia-Pacific countries.

In a release, the firm said:

"There has been a large increase in the amount of foreign capital investing in real estate in the United States over the past decade – and it appears that will continue for the foreseeable future," said John Sullivan, US chair of DLA Piper's Real Estate practice. "The international focus of Genève's practice, and her track record of successful cross-border transactional work, make her a perfect fit for our global real estate platform."

DuBois is fluent in multiple languages, including Mandarin and Cantonese. Her background and connections in China and Hong Kong and her deep understanding of the cultural differences between the US and China enables her to provide clients valuable counsel and insight. She has also been instrumental in bringing Chinese investors to South Florida and facilitating introductions with developers throughout Latin America. DuBois is also one of the founders of the China Council Florida, Inc., a not-for-profit organization

with the purpose of drawing Chinese investors to the Florida marketplace.

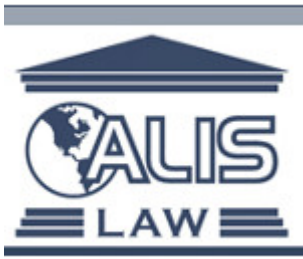
“Genève clearly has an impressive track record in Asia, but her strong work in Latin America is an added benefit for our office, as Miami is increasingly a gateway for international capital coming into the US,” said Joshua Kaye, managing partner of DLA Piper’s Miami office. “Genève has a well-established ability to cultivate relationships and connect with people, which will fit in well with our office and DLA Piper’s global platform.”

Prior to joining DLA Piper, DuBois was a partner with Holland & Knight LLP. She received her J.D., cum laude, from the Southern Methodist University Dedman School of Law and earned her B.B.A., summa cum laude, from Texas Christian University.

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# **The Law Conference for Hotel Owners and Operators**



ALIS Law will present its [annual conference](#) on Jan. 22-23, 2018, at the Residence Inn and Courtyard Los Angeles. Attendees are expected to include general counsel teams of hotel ownership companies, management companies and brands, as well as law firms that advise hoteliers.

Under the ALIS umbrella, ALIS Law focuses on current legal matters of interest to hotel owners and operators. While the Americas Lodging Investment Summit (ALIS) conference discusses the issues and opportunities related to buying, selling, and building hotels, ALIS Law focuses on the “day after” the deal closes and the many legal issues owners and operators face, ALIS said in a news release.

As in previous years, ALIS Law will apply for MCLE credit hours in the state of California.

In addition, attorneys in attendance may be eligible to receive MCLE credit through reciprocity or attorney self-submission in other states, and ALIS Law will help provide the details needed to apply. Participants may contact their state bar or licensing authority to verify the requirements and process to apply.

In order for ALIS Law to have record of your attendance on file, attendees should make sure you sign-in at the start of each session. An official record of attendance form will be available on a table outside each session room.

[Get more information on the conference.](#)

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# What Does Your Reservation Clause Mean?

Locke Lord partner [Martin Gibson](#) (Austin) and associate [Kerstie Moran](#) (Houston) co-authored an article examining a decision by the San Antonio Fourth Court of Appeals in *Webb et al. v. Martinez* in a property dispute including reservations of a mineral estate.

The article was originally published by the [National Association Of Division Order Analysts](#).

“This decision further emphasizes the importance of properly phrasing a reservation clause, as to avoid inadvertently granting an interest in a mineral estate. The *Webb* Court demonstrates the way in which courts consistently interpret grantor’s intent based on the plain language of the deed,” according to the authors.

The appellate court affirmed the trial court’s take-nothing summary judgment regarding a property dispute in favor of Martinez. Webb had owned the entire surface and 75% of the mineral estate. The remaining 25% of the mineral estate was owned by a third party. Webb agreed to sell the entire property to Martinez through a contract of sale. The 1998 deed included a reservation clause that was at the heart of the litigation.

[Read the article.](#)

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# Capital Outlook for U.S. Real Estate Sector on the Rise, Annual Akerman Report Finds



Increased confidence in the commercial real estate market has taken hold since the U.S. presidential election, according to [a report](#) released by U.S. law firm [Akerman LLP](#). The eighth annual Akerman U.S. Real Estate Sector Report revealed 53 percent of investors and lenders are more optimistic about the 2017 outlook for the U.S. commercial real estate market, compared to only 38 percent last year.

In a news release, the firm said the prospects of deregulation, tax reductions and stronger economic growth have renewed investor confidence. Sixty-four percent of real estate executives interviewed after the election say the Trump administration's agenda will have a moderately or significantly positive effect on the industry. This number is up from 54 percent who were bullish about the pro-business presidential candidate during the 2016 campaign.

This increasingly optimistic view of the market is tempered by new uncertainties. The potential impact of a rising interest rate environment and the unintended consequences policy changes could have on the U.S. economy are top of mind for real estate executives, according to the Akerman Report (85 percent). Nearly 12 percent see the rise in purchase prices as another pressing issue affecting the real estate sector. Several say the risk of reduced cap rates and higher borrowing costs will continue to drive deals to secondary and tertiary



markets, and new creative segments.

“As 2017 unfolds, industry executives are increasingly optimistic about the state of the U.S. commercial real estate market,” said Richard Bezold, chair of Akerman’s Real Estate Practice Group, which is ranked sixth by Law360 among the largest teams of real estate lawyers in the United States. “There are headwinds, but as we move into a deregulated environment, we expect less restrained capital to pursue opportunities actively and aggressively. Local market knowledge and innovative investment strategies will continue to be the key differentiator for successful real estate investors.”

#### Key Findings:

1. U.S. Homebuilding on the Rise: For the first time since the launch of the Akerman Report in 2010, commercial real estate leaders predict residential – single-family homebuilding (43 percent) will outpace multifamily development (37 percent). The Akerman Report shows investors and lenders anticipate an upswing in housing development across suburban markets that will continue to rival walkable, sustainable urban centers. Investor attention will focus on replicating the urban experience in smaller, scalable communities with ample access to public transportation. More than 60 percent agreed the preference for a live-work-play lifestyle in a compact city center is among the top three trends impacting U.S. real estate.

2. Ambitious P3 Opportunities Await: When real estate executives were asked to identify the most pressing issues impacting real estate development, only 4 percent selected the need for new infrastructure. Enthusiasm from investors could be invigorated by President Trump’s \$1 trillion public-private infrastructure project slated to be unveiled later this year. While the details of the infrastructure plan are unknown, the promotion of public-private partnerships, tax credits and

other innovative financing will likely return with a vengeance in 2017. What's clearer among executives: cities of the future will require a different infrastructure framework that takes into account the long-term significance of dense urban living, sea level rise, the desire for a low carbon footprint, and technology advancements such as next-generation vehicles.

3. Bullish Outlook for Banks: As the Trump administration plans to reduce the regulation on the financial services sector to allow for greater capital formation, real estate executives predict banks will be the main source for commercial real estate debt or equity in 2017. Foreign investors and private equity rank second and third in the Akerman Report, followed by REITs, insurance companies and pension funds as among the most likely capital sources to drive real estate financing throughout the year.

4. China Dominates Non-U.S. Buyers (Again): Stability, transparency and robust fundamentals in the U.S. real estate market continue to attract a growing pool of international capital sources. Despite the strengthening of the U.S. dollar, 42 percent of real estate executives believe foreign investors will lead debt/equity financing this year, and about a third expect multifamily (33 percent) and residential – single-family homebuilding (32 percent) to see the greatest dollars. Across all real estate sectors, China is expected to be the dominant source of foreign capital. To a lesser extent, investment is also expected to come from Europe and Latin America, and even less so from the Middle East and Canada.

5. From Brick to Click: Commercial real estate leaders rank the effects of technology among the three most significant factors impacting real estate development, according to the Akerman Report. This trend, coupled with changes in consumer behavior, have brought about the era of “one-click shopping” for millions of retail customers and led to a corresponding explosion in demand for more warehouses or fulfillment centers. Real estate executives affirmed this trend and

predict once again that industrial will be the third most active sector for real estate investment. In contrast, the retail sector dropped to last place in the Akerman Report. In 2016, the retail sector was predicted to be the fourth most active sector.

Click here to view the Report:  
[www.akerman.com/resectorreport17/index.html](http://www.akerman.com/resectorreport17/index.html)

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## **Barnes & Thornburg Expands Real Estate Practice in Dallas**

[Barnes & Thornburg LLP](#) has added [Will Russ](#) to its Dallas office as a partner in the Real Estate Department.

Russ advises investors, developers and operating companies with significant real estate assets. His practice focuses on M&A deals, secured financings, and projects across the energy value chain, including pipelines, gathering systems, refineries, traditional and renewable power plants. For his energy and infrastructure clients, Russ negotiates surface-use agreements, easements and rights-of-way, renewable power leases, and ground leases for commercial and industrial uses, the firm said in a release.

“Will has handled a variety of real estate transactions for leading energy companies in Texas and across the country,” said Mark Bayer, manager partner of Barnes & Thornburg’s Dallas office. “He can lead complex projects from beginning to end, and he does so with the practical, business-oriented approach sought by our clients.”

Russ’ representation of traditional real estate clients includes acquisitions, dispositions and the formation of joint ventures and development programs in the industrial, multifamily, office, and retail sectors.

Russ joins from Vinson & Elkins and is reunited with former colleague Elizabeth Brandon. His arrival comes on the heels of another attorney with strong ties to the energy sector, Bill Jones, former general counsel to Texas Gov. Rick Perry. The Dallas office now has 14 attorneys since opening in 2015.

Russ earned his J.D. from Harvard Law School and his A.B. from Princeton University. He is admitted to practice in Texas.

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## **Carey Gunn Venditti Joins DLA Piper’s Real Estate Practice**

# in Austin

[DLA Piper](#) announced that [Carey Gunn Venditti](#) has joined the firm's real estate practice as a partner in the Austin office.

Venditti advises investors, developers and owners of commercial, mixed-use, multifamily, office, retail, planned-community and condominium projects. She focuses her practice on the acquisition, disposition, financing and development of land and the purchase, sale, financing, leasing, operation and administration of income-producing properties, and has been involved in major projects representing both regional and national clients.

"Carey has an impressive real estate background and is well respected throughout the industry, particularly regarding mixed-use urban development and public-private partnerships," said John Sullivan, chair of DLA Piper's US Real Estate practice. "Texas continues to be an active market for our clients, and Carey will be a great addition to our Texas practice and our national and international real estate platform."

"The Urban Land Institute recently named Austin as the top real estate market to watch, and Carey's arrival reflects our commitment to this growing area and its diverse economy," said John Gilluly, regional managing partner of DLA Piper's Texas offices. "Adding a lawyer like Carey, who combines a strong drive and dedication with years of experience, will improve our ability to serve clients in Austin and throughout Texas."

Venditti was recently selected to serve as the chair of the Austin District for the Urban Land Institute, an organization dedicated to providing leadership in the responsible use of land and in creating and sustaining thriving communities worldwide.

Venditti is the latest addition to DLA Piper's Austin office,

following Caryn Smith, who joined the firm's Tax practice earlier this month. Venditti joins the firm from Greenberg Traurig where she was a shareholder. She received her J.D. from The Catholic University of America, Columbus School of Law and her B.A. from The University of Texas at Austin.

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## **Hogan Lovells Adds Real Estate Lawyer Lea Ann Fowler in Denver**

[Hogan Lovells](#) announced that Lea Ann Fowler will join the firm's Real Estate practice as a partner in the Denver office.

"Lea Ann has significant ties to the Denver real estate community and a notable reputation for representing prominent investors and lenders on highly complex matters," said Mark Eagan, Hogan Lovells' Head of Real Estate for the Americas. "Bringing Lea Ann on board deepens our national platform for our regional, national, and international real estate clients."

Fowler represents a range of commercial lending institutions, developers, operators, and investors in real estate acquisitions and dispositions, joint ventures, development projects, asset-based lending involving loan origination, restructurings, loan participations, note purchases, and commercial mortgage-backed securitizations.

“I am excited about the opportunity to bring leadership to the Denver real estate team, mentor younger attorneys, and expand my client base nationally and internationally,” said Fowler.

In a release, the firm said:

Fowler has a highly regarded commercial real estate finance practice, representing clients in the origination of multimillion dollar senior and mezzanine structured financings secured by all sectors of commercial real estate, including hotel, mixed use condominium projects, retail, office and industrial portfolios. On the investor side, Fowler advises commercial real estate developers and private equity firms in the structuring and negotiation of large portfolio acquisitions and dispositions and multi-tiered construction and permanent loan transactions, including workouts and restructurings.

“Many of us at Hogan Lovells have known Lea Ann and worked with her for many years,” said Cole Finegan, Regional Managing Partner at Hogan Lovells. “We are very pleased that such a prominent real estate and finance lawyer will now be part of our local, national, and global efforts.”

Prior to joining Hogan Lovells, Fowler was a shareholder at Brownstein Hyatt Farber Schreck, LLP. She earned her J.D. from the University of Denver Sturm College of Law and her B.B.A. in Finance from Southern Methodist University.

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# **J. David Hitchcock Joins Buchalter As Shareholder in Los Angeles Office**

Buchalter announces the addition of new shareholder J. David Hitchcock to its Los Angeles office. Hitchcock joins Buchalter's Real Estate practice from his previous role as partner at Kennerly Lamishaw & Rossi, LLP.

Hitchcock works in real estate acquisitions and dispositions, leasing, loan workouts and restructurings, loan sales, secured real estate finance, joint ventures, and general real estate matters. He has represented clients in cases involving private equity funds, real estate developers, core and value-add real estate owners/operators, public school districts, as well as publicly traded REITs.

Hitchcock received his B.A. with honors from the University of Chicago in 1993. He earned his J.D. from the University of Southern California Gould School of Law where he was Order of the Coif and Articles Editor for the University of Southern California Law Review.

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# Akerman Expands Real Estate Group with Addition of Four Lawyers in Denver

[Akerman LLP](#) announced the the addition of partners Allison Nelson and Lori Albert and associates William Garehime and Kelly Adams from Fennemore Craig to the firm's Real Estate Practice Group.

In a release, the firm said:

"Growing client needs across the real estate and construction sector continue to drive the expansion of our practice," said Richard Bezold, chair of Akerman's Real Estate Practice Group, which is ranked sixth by Law360 among the largest teams of real estate lawyers in the United States. "Allison leads a highly skilled team who operate at the intersection of the real estate and healthcare economies. These lawyers add important depth to our national and local capabilities as shifting federal and state policy agendas produce new opportunities and challenges for our clients."

"We are thrilled to welcome Allison and her team to the Denver office, where we have diverse practices in the financial services, real estate, healthcare and life sciences sectors," said Justin Balser, Akerman's Denver office managing partner. "Their deep experience in complex transactions and compliance investigations will provide immediate value to our clients in Denver and nationwide."

Nelson focuses her national practice on the representation of public and private healthcare systems in complex real estate transactions and joint-ventures, and in mergers and acquisitions. She partners with clients to construct and improve legal, business, and compliance systems to manage

their U.S. healthcare real estate portfolios and navigate through real estate compliance investigations by the U.S. Office of Inspector General. Nelson also regularly represents commercial developers in refinancing and acquisition of Colorado properties.

Prior to Fennemore Craig, Nelson was the chair of the real estate transactions practice group at Polsinelli where she served as lead real estate counsel in the \$1.2 billion acquisition of a five-campus hospital system in Houston, Texas.

Albert represents national healthcare organizations, as well as Fortune 500 companies, developers, and investors in acquisition, disposition, and financing transactions involving all types of real estate. She has negotiated numerous leases, subleases, and other lease-related transactions for healthcare providers, and ensures such arrangements are compliant with the Stark Law, Anti-kickback Statute, and other federal and state healthcare regulations. In the community, Albert serves on the Denver Metro Chamber of Commerce Infrastructure Committee.

Real estate associates Garehime and Adams also principally focus their practice on healthcare real estate transactions. As a group, Nelson, Albert, Garehime and Adams are responsible for closing more than 500 healthcare leasing, development and acquisition projects annually across the United States.

Denver marks the latest growth for the firm's Real Estate Practice Group. Akerman previously welcomed a real estate and land use team in Los Angeles led by partner Ellen Berkowitz from Gresham Savage; real estate litigation partner Michael Weiss from Lewis Brisbois in Los Angeles, hospitality litigation partner Joshua Bernstein from Pryor Cashman in New York and real estate transactional partner Thomas Diorio from Nixon Peabody in New York.

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# Austin Jury Finds Danish Woman Was Defrauded in \$1.35M Condo Sale

A Travis County jury has returned a verdict against Chicago Title of Texas, LLC and other real estate-related businesses, finding they defrauded a young Danish woman of all proceeds from the sale of her \$1.35 million condominium at the exclusive Residences at W Austin, according to a post on the website of [Androvett Legal Media & Marketing](#).

The scheme involved a falsified power of attorney to execute contracts and closing documents in the sale of the condo, and a forgery in connection with a subsequent sale of a promissory note.

The Androvett post continues:

Mari-Louise Larsen, a Danish citizen, filed the breach of fiduciary duty and fraud claim in 2013 against her estranged husband, Andre Jones, an Austin-area resident, as well as Chicago Title and the other firms. Larsen, now 30, first met Jones in Austin's Sixth Street entertainment district while visiting the area in 2007. After a long-distance courtship, the couple married in Denmark in 2009.

While in Denmark and waiting to move to Austin, Larsen testified she agreed to buy the luxury high-rise condo in Austin with funds from a family inheritance. However, Jones convinced her that Texas law required the names of both spouses to be on the title, despite the fact it was her separate property. Larsen and Jones later decided to divorce and sell the property. Jones then convinced Chicago Title's contracted fee attorney, Wally Tingley, to use falsely notarized documents to close the sale without his wife's knowledge. Jones pocketed all of the profits as the marriage deteriorated.

"This is a case of a con artist taking advantage of a wealthy young woman and actively working with others to violate the law and professional standards in the real estate industry," said Larsen's lawyer, [Brian N. Hail](#) of [Gruber Elrod Johansen Hail Shank LLP](#) in Dallas. "As acknowledged by Chicago Title and its fee attorney, this was one of the worst real estate transactions anyone has ever seen."

Hail believes the jury's finding that Chicago Title is responsible for the actions of its fee attorneys may have significant implications on future litigation involving the real estate industry.

"The jury finding that Chicago Title is vicariously liable for its fee attorney, due to the control it exerted throughout the entire transaction, may call into question the company's entire business model of attempting to delegate closing and escrow responsibilities in the Texas market, and perhaps nationwide."

In addition to Chicago Title and Jones, the Austin firm of Wally Tingley & Associates, P.C., and Austin-based JTRE0, Inc. were found liable in the scheme.

Hail plans to file a proposed final judgment order of more

than \$3.7 million in Travis County's 419th District Court. The order will be based on a request for all proceeds from the condo sale, in addition to pre-judgment interest and costs. Punitive damages were assessed against Jones in the amount of \$2 million.

The case is *Larsen v. Jones, et al.*, No. D-1-GN-13-004321. Ms. Larsen is represented by Brian N. Hail, Brian E. Mason, and Gaby Gutierrez Rawlings.

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## Texas Supreme Court Rules Pipeline Can Take Land by Eminent Domain



The Texas Supreme Court ruled that a pipeline company could take private property by eminent domain, answering the question of whether or not the pipeline qualified as a “common carrier” under the Texas Natural Resource Code, [reports Snell & Wilmer L.L.P.](#) in its S&W Environmental & Natural Resources law blog.

In the article, [Rachel M. Lynn](#) explains that, typically, the power of eminent domain is granted to governmental entities rather than private institutions. Under Texas law, however, a common carrier has the right and power of eminent domain.

“The test utilized by the court to determine [the pipeline company’s] common carrier status was whether or not the pipeline would serve the needs of the public, not only those of the builder,” Lynn writes. “To pass this test, the court noted, the pipeline would need to provide reasonable proof of

a future customer.”

[Read the article.](#)

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# Trump Pays \$25 Million to Settle Trump University Litigation

Days before President-elect Donald Trump was to take the oath to uphold the Constitution, he followed through on a more painful obligation: coughing up \$25 million to settle litigation over his defunct Trump University real estate seminar program, [reports Politico](#).

[Josh Gerstein](#) reports that Trump University – now known as the Trump Entrepreneur Initiative – transferred the funds Tuesday night, according to two sources involved. The settlement provides enough money pay back about half of the funds paid by students for the seminars.

“Last March, Trump vowed not to settle the long-running litigation – two federal class-action fraud lawsuits and a parallel state court action brought by New York Attorney General Eric Schneiderman.” writes Gerstein. “The suits accused Trump U. of deceiving students by falsely claiming

that Trump knew the instructors and that the school was an accredited university.”

[Read the Politico article.](#)

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# License or Lease? The Contractual Limits of the Sharing Economy



In [an article](#) posted on Commercial Property Executive’s website, Elizabeth Levin of Manatt, Phelps & Phillips explores the implications of contracts and lease agreements pertaining to co-working and short term rental arrangements.

The central tenet of such agreements has not been tested in courts, Levin explains.

“Though the proprietors of co-working spaces and the owners of short-term rental properties have tried to make clear that these are not traditional landlord-tenant arrangements, that premise has not been truly tested, and the question of how a court would treat such an arrangement looms large over those drafting the contracts that govern these arrangements,” she writes.

[Read the article.](#)

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# A Settlement Agreement That's Too Vague Doesn't Settle Much At All

[Stacey Lantagne](#) uses a recent Florida case to illustrate the importance of specificity when drafting contracts.

Writing in her [ContractsProf Blog](#), she outlines the history of *Boardwalk at Daytona Development, LLC v. Paspalakis*, “a case where the court, faced with an ambiguous description of the land at issue in a contract, just threw up its hands in frustration.”

The case involves a settlement agreement in a land dispute. The agreement failed to specify a legal description or street address for the property at issue. That failure came to light when Boardwalk conveyed a parcel – pursuant to the agreement – which the appellees found to be inferior to the one they expected to receive.

[Read the article.](#)



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# 5 Points: Arbitration Clauses in Real Estate Contracts

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Image by [NY Photographic](#)

While consumers may not have many choices when signing agreements that contain arbitration clauses, commercial parties often negotiate every last term of their agreements, according to a post on [Shutts & Bowen LLP](#)'s website.

“This includes whether to require the parties to arbitrate their disputes or take them to court. There are advantages to each, so here are five things to consider when deciding whether to include an arbitration clause in a real estate contract, such as a purchase and sale agreement or lease,” write [Al LaSorte](#), [Matthew R. Chait](#) and [Matthew S. Sackel](#).

Those considerations include time, money, convenience, discovery and rules. The authors discuss the finer points of each one.

[Read the Shutts & Bowen article.](#)

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# Two New Cases: Fractional Royalty, Fraction of Royalty, or Mineral Interest?

Two new opinions, one from the San Antonio Court of Appeals and one from the El Paso Court of Appeals, again tackle the task of construing mineral and royalty conveyances and reservations, reports [John McFarland](#) in his Oil and Gas Lawyer Blog.

[He explains](#) that many such cases have arisen as a result of recent shale plays, where lands never before productive have suddenly become valuable, leaving courts have to clear up muddy deed language.

In his blog post, he discusses [Laborde Properties, L.P. v. U.S. Shale Energy II, LLC](#) and [Greer v. Shook](#).

[Read the article.](#)

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# Bankruptcy Trustee Dismisses Case After Expert Fails On Cross Examination

The trustee for a bankrupt company decided to drop his lawsuit after watching his expert witness cross examined by an attorney from Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing P.C.(AZA), clearing AZA's clients of claims that they received fraudulently transferred company assets, the firm reports in [a news release](#).

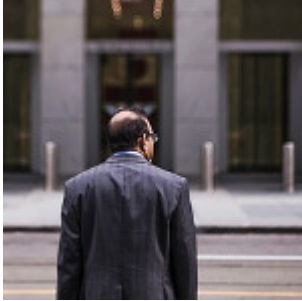
Rodney Tow, trustee for the estate of the Peterson Group Inc., a Houston real estate development company, had watched AZA's [John Zavitsanos](#) examine his expert witness over whether Peterson Group was solvent and what company assets remained. The legal dispute involved a series of shopping centers and other properties worth more than \$30 million.

The night of the expert's failed testimony Tow informed Zavitsanos that he was completely dropping the case, which was in the third week of trial to a jury in the 269<sup>th</sup> District Court in Harris County.

[See a video and read about the case.](#)

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# Small-Firm Office Leasing Reality Check



An office lease is a pivotal tool for small law firms to attract better clients and expand their practices. But it is also frequently a small firm's largest fixed capital expense and longest commitment. Negotiating favorable lease terms is critical to ensure that a lease contributes to, and does not hamper, a firm's success, writes [Laura Drossman](#) of [Drossman Law](#) in San Francisco.

Small firms may not be able to compete financially with their market competitors, who will pay higher rents and prepaid rent upon demand, according to [her article](#), originally published by the Bar Association of San Francisco. Failure to maintain adequate financials brings creditworthiness into question and kills tenant's leverage in lease negotiations.

While base rent and escalations seem like an obvious starting point, due to sky-high demand and flush competition, prospective tenants better serve their interests by focusing on other points.

Those points can include space improvements, commencement date, pass-through costs and tempering spikes, security deposits and letters of credit, subleasing and assignment, maintenance costs and HVAC, and relocation rights.

[Read the article.](#)