

## REAL ESTATE LITIGATION LITIGATING THE COMMERCIAL LANDLORD-TENANT CASE

Wednesday, September 13, 2006 / 6:00 p.m. to 9:00 p.m.

This program will present an exceptional opportunity to learn from an elite group of experienced practitioners and judges who will examine various issues arising out of commercial landlord-tenant litigation and its impact on the drafting of commercial leases. The lecture will commence with the basics of litigating commercial landlord-tenant cases with an emphasis on how to prepare for and present an effective case. Common defenses and issues will also be outlined, as well as the body of case law most cited by practitioners and judges. In addition, common issues facing both landlord and tenant lawyers will be discussed including issues raised by the latest decisions from appellate tribunals. Finally, common drafting problems and traps that frequently lead to litigation will also be addressed as well as some "secrets" on how the transactional attorney can better draft leases to avoid litigation.

Practitioners should become more knowledgeable litigators as a result of this lecture and commercial leasing attorneys will learn how to draft better leases to avoid ineffective or unenforceable language and minimize litigation.

### Faculty

#### Honorable Martin Shulman

Justice, Supreme Court, State of New York  
Supervising Judge, Civil Court of the City of New York, New York County

#### Honorable Cynthia S. Kern

Civil Court of the City of New York  
New York County

#### Adam Leitman Bailey

Adam Leitman Bailey, P.C.

#### Lucas A. Ferrara

Finkelstein Newman LLP

#### Thomas R. Kleinberger

Thomas R. Kleinberger, PLLC  
General Counsel, Adams & Company  
Real Estate, LLC

#### David Rozenholc

Rozenholc & Associates

### Agenda

6:00 - 6:20

#### The Commercial Landlord-Tenant Part and the Court Process

#### The Nuts and Bolts of the Nonpayment Proceeding

- Bringing a Rent Collection Case
- Serving the Proper Notice
- Drafting the Petition
- Conducting the Trial

*Thomas R. Kleinberger*

6:20 - 7:00

#### Common Defenses & Issues Involving the Nonpayment Proceeding

- Service and Jurisdiction Issues
- Defects in Description of Property
- Constructive and Actual Eviction
- Defects in Demand and Petition
- Counterclaims

*Panel*

7:00 - 7:20

#### Holdover Cases for Lease Defaults

- Lease Expiration Holdover
- Lease Default Holdover

#### Proper Notice to be Served

- The Notice to Cure
- The Notice of Termination
- The Notice to Quit

#### Drafting the Petition

*Honorable Martin Shulman*

7:20 - 8:00

#### Common Defenses & Issues Involving the Holdover Proceeding

- The Yellowstone Injunction
- Defects in Notice of Petition and Petition
- Holdover v. Nonpayment Case For Month to Month Tenant/Lease Expiration Holdovers
- Acceptance of Rent

#### Common Drafting Problems and Traps that Frequently Lead to Litigation

*Panel*

8:00 - 9:00

#### "Must Know" and "Important" Cases for the Commercial Landlord-Tenant Practitioner

*Lucas A. Ferrara & Panel*

#### Judges & Attorneys Perspective

- Judge's Perspective on Better Practicing Commercial Landlord-Tenant Law

*Honorable Cynthia S. Kern &*

*Honorable Martin Shulman*

#### Best Kept Secrets of the Tenant Attorney

*David Rozenholc & Panel*

#### Best Kept of Secrets of the Landlord Attorney

*Panel*

**Sponsoring Association Committee:** Real Property Law, Nancy Ann Connery, Chair

#### CLE Credit:

**3 Credits Total: 2 Professional Practice/Practice Management & 1 Skills**

This program provides transitional credit for newly admitted attorneys.

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## Live Program (includes materials):

- \$215 New York City Bar Member & Non-Legal Professional  
 \$325 Non-member

## Walk in Registration (includes materials):

- \$240 Member  \$350 Non-member

## Audiotapes (includes materials):

- \$315 Member  \$385 Non-member

## CDs (includes materials):

- \$335 Member  \$405 Non-member

## Videotapes (includes materials):

- \$405 Member  \$475 Non-member

## DVDs (includes materials):

- \$445 Member  \$535 Non-member

## Materials Only (no CLE credit):

- \$105 Member  \$135 Non-member

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Enclosed is my check for \_\_\_\_\_, payable to the New York City Bar or City Bar Center for CLE.

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## Registration Information

### Program Location:

All programs will be held at

### New York City Bar

42 West 44th Street, New York, NY 10036

**To Register:** Call (212) 382-6663 or (212) 382-6662; fax (212) 869-4451; mail registration form to the City Bar Center for CLE, 42 West 44th Street, New York, NY 10036 or register online at [www.nycbar.org](http://www.nycbar.org).

**Scholarships & Discounts:** Financial scholarships are available; please call (212) 382-6663 for an application. All applications must be submitted 3 weeks prior to the program. 50% discounts off of member and non-member prices are available for government and public interest attorneys, students and academics. A 20% discount off of member and non-member prices are available for firms and corporations that register 4 or more people for a combination of programs or video replays.

**Cancellations & Refunds:** For live programs and video replays, refunds and program credits are available provided cancellation is made in writing and received by the City Bar Center prior to the program. A \$35 administrative fee will be charged for all refunds. The cancellation fee will be deducted directly from the refund. For program credits no administrative fee will be charged. Program credits must be used within one year of the original program date. Cancellations must be in writing and faxed to the City Bar Center at (212) 869-4451. Refunds and program credits are not available for the purchase of tapes, CDs, DVDs, course materials or online programs.

**CLE certificates:** Certificates for attending a program are given out and signed by a CLE staff member at the end of the program. You are responsible for keeping a copy of the CLE certificate for your own records. An administrative fee of \$10 will be charged for replacement CLE certificates.

**Advance registration is advised. An additional fee of \$25 will be charged for "walk-in" registrations--those received later than 3:00 p.m. one business day prior to the program.**

All information is subject to change. All programs and products are sponsored by the CLE Committee, Valerie L. Fitch, Chair.

