



**Wednesday, October 23, 2019  
3:30 PM – 4:45 PM**

**General Session 2**

**What Are We Fighting About This Year?  
Recent Case Law Affecting Shopping Centers**

**James Mayer**  
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## **Exclusive Rights and Restrictions**

### ***That's Not What We Meant***

- ***In re Toys “R” Us Prop. Co. I, LLC, No. 18-31429-KLP, 2019 Bankr. LEXIS 700 (Bankr. E.D. Va. Mar. 5, 2019)***
- ***Hoover Bros. Farms, Inc. v. Wal-Mart Stores, Inc., 2018 WL 2050159 (W.D. Ark. May 2, 2018)***

## Conditions Precedent

### *Did You Forget Something?*

- *Custom Marine Sales, Inc. v. Boywic Farms, Ltd.*,  
245 So.3d 791 (Fla. Dist. Ct. App. 2018)
- *Saltworks Ventures, Inc. v. Residences at Spoke, LLC*,  
2018 WL 2248274 (Ct. App. Tex. May 17, 2018)

## Brokerage Commissions

### *Where's My Money?*

- *Cushman & Wakefield of Maryland, Inc. v. DRV Greentec, LLC*, 203 A.3d 835 (Md. 2019)
- *Jameson Real Estate, LLC v. Ahmed*, 2018 IL App. (1st) 171534 (Ill. Ct. App. 1st Div. Sept. 28, 2018)

## **Promissory Estoppel and Equitable Interest in Property**

### ***But You Promised!***

- ***A&P Enters. v. SP Grocery of Lynchburg LLC,***  
*812 S.E.2d 759 (S.C. Ct. App. 2018)*
- ***Watts v. Fledderman,***  
*2018-Ohio-2732, 2018 WL 3414375 (Ohio Ct. App. 1st Dist. July 13, 2018)*

## Landlord Consent

### *Let's Be Reasonable*

- ***58 Swansea Mall Drive LLC v. Gator Swansea Prop., LLC,***  
*2018 WL 6522899 (D. Mass. 2018)*  
*(Appeal pending)*
- ***Gamesa Energy USA, LLC v. Ten Penn Ctr. Assocs., L.P.,***  
*181 A.3d 1188 (PA. Super. Ct. 2018)*

## Mitigation of Damages *Of Course I Tried . . .*

- *NCO Fin. Sys. v. Montgomery Park, LLC, 918 F.3d 388 (4th Cir. 2019)*

## Possession of Premises

### *I Didn't Do It!*

- *Adamson v. Port of Bellingham*, 899 F.3d 1047 (9th Cir. 2018)
- *Adamson v. Port of Bellingham*, 438 P.3d 522 (Wash. 2019)
- *Adamson v. Port of Bellingham*, 923 F.3d 728 (9th Cir. 2019)



## Miscellaneous (Part I)

- ***Gomez v. General Nutrition Corp.*, 323 F.Supp.3d 1368 (S.D. Fla. 2018)**
- ***Va. Code Ann. § 55-2, as amended (effective until 10/1/2019); Va. Code Ann. § 55.1-101 (effective 10/1/2019)***

## Holdover

### *Where Did My Rights Go?*

- *Smyth v. Berman, 31 Cal. App. 5th 183 (Cal. Ct. App. 2019)*

## Essential Terms

### *It's As Clear As Mud*

- *Jahangiri v. 1830 N. Bayshore, LLC., 253 So. 3d 699 (Fla. Dist. Ct. App. 2018)*

## Indirect Transfers

### *Has Anything Really Changed?*

- *Coggins v. Kona Seaside, Inc.*, 2018 Haw. App. LEXIS 366 (Haw. Ct. App. August 13, 2018)

## **Breach of Representations**

### ***But You Said . . .***

- ***Abellan v. HRDS Le Roy IL, LLC***, No. 16-1037, 2018 WL 6247260 (C.D. Ill. Nov. 29, 2018)
- ***Hallet v. Khau***, 2018 WL 1391772 (Cal. Ct. App. Mar. 20, 2019)

## Title Insurance

### *We're Not Covering That*

- *Helms v. Old Republic Nat'l Title Ins. Co., 2018 WL 718426 (D. Neb. Jan. 11, 2018)*
- *Bathla v. 913 Market, LLC, 200 A.3d 754 (Del. 2018)*

## Appraisals

### *What is it Really Worth?*

- *Buffalo-Water 1, LLC v. Fid. Real Estate Co., 111 N.E.3d 266 (Mass. 2018)*

## **Rights of Refusal**

### ***Take It or Leave It!***

- ***Clifton Land Company LLC v. Magic Car Wash, LLC,***  
*86 N.Y.S.3d 233 (N.Y. App. Div. 2018)*



## Miscellaneous (Part II)

- *Morrell v. Hardin Creek, Inc.*, 371 N.C. 672 (2018)
- *Omega v. 375 Canal LLC*, 2019 WL 2442434 (S.D.N.Y. June 12, 2019)
- *Bellevue Square, LLC v. Whole Foods Mkt. Pac. Nw., Inc.*,  
6 Wn. App. 2d 709 (Wash. Ct. App. December 17, 2018)



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