



The Law Society of
Upper Canada

Barreau

du Haut-Canada

**Final Agenda
October 24, 2011**

Safeguarding Real Estate Transactions – Protecting Your Clients from the Dangers of Litigation

Chair: **Francy Kussner**
Goodmans LLP

**November 22, 2011
2:00 p.m. to 5:00 p.m.**

**Donald Lamont Learning Centre
The Law Society of Upper Canada
SKU# CLE11-011101**



Schedule of Events

2:00-2:10 Welcome and Opening Remarks

Francy Kussner
Goodmans LLP

2:10-2:40 Lem's Top Five Mortgage Traps

- Mortgage discharge undertakings – what you can give, what you can't give, and how to avoid getting sued over it
- Foreclosing farms – how not to get caught when conducting mortgage remedies over agricultural properties
- Pesky tenants in power of sale – how not to get caught when conducting power of sale where there are residential tenants
- What's old is new again – forget deferred defeasance, the frauds-de-jour are the good old "Oklahoma" value frauds
- Whether a mortgagee is in possession vis a vis EPO and residential tenants and how does a mortgagee give up possession

Jeffrey Lem, C.S.
Miller Thomson LLP

Panel Discussion

2:40-3:40 **What's So Good About Good Faith? The Good Faith Doctrine in Real Estate Cases**

- The duty to negotiate in good faith – where are we today?
- Contractual conditions – how hard do you have to try?
- Laying in the weeds on closing

Milton Davis, C.S.
Davis Moldaver LLP

Linda Rothstein, LSM
Paliare Roland Rosenberg Rothstein LLP

Panel Discussion

3:40-4:00 **Coffee Break**

4:00-4:30 **The Reality of Tendering and Why Real Estate Lawyers Give Fuel for Litigators to Sue Them**

- When should you tender? When don't you have to tender?
- Is tender even relevant anymore?
- Protecting yourself from your client – a lawsuit is coming
- How do you tender in the electronic age?

Sidney Troister, C. Arb., C.S., LSM
Torkin Manes LLP

Panel Discussion

4:30-5:00 **Fraudulent Conveyances**

- What are they
- Who is a creditor?
- To whom does a lawyer owe a duty?
- To inquire or not to inquire?

Francy Kussner
Goodmans LLP

Panel Discussion

5:00 **Program Ends**

Panelists:

Francy Kussner
Goodmans LLP

Kenneth Prehogan
WeirFoulds LLP

Reuben Rosenblatt, Q.C., LSM
Minden Gross LLP