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# CLE11-0111101

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*