

Contributors

BRENT C. SHAFFER is a partner in the Wilmington office of the Delaware firm of Young Conaway Stargatt & Taylor, LLP. His practice is concentrated in the area of commercial real estate, with a broad range of experience within that area, including representation of institutional and local lenders, real estate owners and developers, and landlords and tenants. He has served clients in Maryland since 1987 and in Delaware since 1995, and is an active member of both the Delaware and Maryland bars. He has been selected to be included in *The Best Lawyers in America* and is recommended as a Leader in the Field of Real Estate in Chambers USA's 2011 and 2012 editions of *The Client's Guide*. Mr. Shaffer is the Articles Editor, Real Property, of *Probate & Property* magazine published by the ABA's Real Property, Trust and Estate Law Section; is vice-chair of the Section's Publications Committee; and is former chair of the Section's Assignment and Subleasing Committee. He has authored the "Subordination, Attornment and Nondisturbance Agreements" chapter in the Matthew Bender leasing treatise *Current Leasing Law & Techniques*, and has also written articles published in *Probate & Property* and *The Practical Real Estate Lawyer*. He received the *Probate & Property* 2001 Excellence in Writing Award for Best Practical Use Article—Real Property. Mr. Shaffer is a past president and board member of Habitat for Humanity of New Castle County, Inc., and is a 2002 recipient of that nonprofit organization's Lifetime Achievement Award. He is a graduate of Wake Forest University (BA, magna cum laude, 1984) and the Wake Forest University School of Law (JD, cum laude, 1987), where he served as executive editor of the Wake Forest Law Review and received the 1987 Scribes Award for the most outstanding contribution of an editor to the *Review*.

THOMAS C. BARBUTI is a partner in the Real Estate Section at Whiteford, Taylor & Preston LLP, Baltimore, Maryland. His practice areas include real estate law, with a concentration in shopping center development, leasing, and construction matters. From 1990 to 1996 Mr. Barbuti was vice president and senior real estate counsel with a former Fortune 500 retailer. He has been a frequent lecturer at CLE programs sponsored by the Maryland Institute for Continuing Professional Education of Lawyers and was a part-time instructor of real estate law at Essex Community College in Baltimore, Maryland. Mr. Barbuti has also spoken at numerous International Council of Shopping Centers (ICSC) Law Conferences and at the ABA Section of Real Property, Trust and Estate CLE conferences. He has been chairman of ICSC's Government Relations Committee for the Mid-Atlantic since 2010. He is a past chair of the Real Property, Planning and Zoning Section of Maryland State Bar Association. He was selected as a member of the American College of Real Estate Lawyers in 2002. He is also a member of the American Bar

Association, NAIOP, and the ICSC. Mr. Barbuti graduated with honors from Rutgers University–Camden School of Law in 1974 and is admitted to the Bar in both Maryland and the District of Columbia. His publications as author or co-author include “Unforeseen Issues: Restraints on Redevelopment in Existing Leases and REAs,” in *The ICSC Guide to Renovating and Expanding Shopping Centers—the Smart Way* (International Council of Shopping Centers); “Tenant’s Leasehold Rights at Risk,” *Retail Law Strategist*, August 2004; “Subletting and Assignment: An Introduction,” in volume III of *The Commercial Property Lease* (Patrick A. Randolph Jr. ed., 2000); “Oops! Lease Renewals: When a Mistake Is Not a Mistake,” *Shopping Center Legal Update* (spring 2002); “Implied Duties in Leases—What Else Is There Now?,” *Shopping Center Legal Update* (winter 2000); “Say What You Mean—And Also What You Don’t Mean,” *Maryland State Bar Association Newsletter* (October 15, 1999); and “Landlord’s Lament: The Times Are Changing,” *Shopping Center Business* (1997). Mr. Barbuti has been selected as a “Super Lawyer” since 2007 and included in *The Best Lawyers in America* since 2009.

NEIL E. BOTWINOFF is a member of the law firm of Newman Tannenbaum Helpen Syracuse & Hirschtritt LLP, a New York City–based firm. Mr. Botwinoff concentrates in real estate law, representing clients in connection with sales and acquisitions, leasing, and financing of properties. A substantial part of his work has been in retail store leasing, representing either landlords or tenants, and in preparation and negotiation of office and retail leases in Manhattan buildings. He has spoken at the major convention in the retail outlet industry sponsored by *Value Retail News* and is a commentator for *Commercial Lease Law Insider*, a monthly newsletter for owners, managers, attorneys, and other real estate professionals. A graduate of the State University of New York at Binghamton (BA, 1978) and State University of New York at Buffalo (JD, 1982), Mr. Botwinoff was senior editor of the *Buffalo Law Review*.

ANN PELDO CARGILE is a partner in the Nashville, Tennessee, office of the law firm of Bradley Arant Boult Cummings LLP. Ms. Cargile received her JD in 1986 from the University of Virginia, where she was an Armour Law Scholar, a member of the *University of Virginia Law Review* editorial board, and elected to the Order of the Coif. She is a Fellow of the American College of Real Estate Lawyers, where she has served on the Board of Governors. She is a member of the Anglo-American Real Property Institute. She is also chair of the International Council of Shopping Centers Law Conference Committee and a former chair of the Board of Equalization of the Metropolitan Government of Nashville and Davidson County. Ms. Cargile is a member of Women in Commercial Real Estate in Nashville. Ms. Cargile has been named to the Editorial Board of the *Real Estate Law & Industry Report* (BNA) and the Board of Editors of *The Retail Law Strategist* (International Council of Shopping Centers), and has been an Assistant Dean of the University of Shopping Centers presented by the International Council of Shopping Centers. Ms. Cargile has been selected to be included in *The Best Lawyers in America*, 2003 through 2012 Editions,

and in Chambers' 2003 through 2012 U.S. editions of *The Client's Guide*, where she is listed as a Band 1 Leading Individual Attorney for Real Estate in Tennessee. Ms Cargile has been named as one of the Top 101 Lawyers in the State of Tennessee by *Business Tennessee* magazine from 2004 through the present and has been consistently named as Best of the Bar by the *Nashville Business Journal*.

BRUCE E. CAVITT is a retired partner in the firm of Spencer Fane Britt & Browne LLP in Kansas City, Missouri, where his practice regularly included business law, real estate law, and the environmental aspects of business and real estate transactions. He has extensive experience in the leasing practice. Mr. Cavitt was active nationally, and served as co-chair of the Real Property Division's Continuing Legal Education Committee of the American Bar Association. He also served on the ABA Real Property, Probate and Trust Law Section's Standing Committee on Continuing Legal Education and was a member of the Section Planning Committee. In that Section, he chaired the Assignment & Subleasing Committee for five years, co-chaired the Tenant Remedies Subcommittee for four years, was vice-chair of the Publications Committee for three years, and was active in the Office Leasing Committee, all in the Commercial Leasing Group. Mr. Cavitt has authored numerous articles and made many presentations on leasing.

JEREMY D. COHEN is a partner at Hartman Simons & Wood LLP, in Atlanta, Georgia. Mr. Cohen practices in the areas of commercial real estate, commercial lending, and general corporate law. After graduating with a BA in history from Emory University in 1991 where he was a member of Phi Alpha Theta (History Honor Society), Mr. Cohen earned his JD from the Emory University School of Law in 1994. Mr. Cohen is a member of the State Bar of Georgia (Real Property Law Section) and is also admitted to practice before the U.S. District Court for the Northern District of Georgia, the Supreme Court of Georgia, the Georgia Court of Appeals, and the U.S. Court of Appeals, Eleventh Circuit. Mr. Cohen is a member of the International Council of Shopping Centers. Mr. Cohen has also contributed to numerous articles in *Commercial Lease Law Insider*, providing expert commentary on a number of different leasing issues.

NANCY ANN CONNERY is a partner at Schoeman, Updike & Kaufman, LLP in New York City, concentrating in real estate transactions. She is a member of the American College of Real Estate Lawyers, is former chair of the New York City Bar Association's Committee on Real Property Law and Committee on Condominium and Cooperative Law, is a member of the Executive Committee of the Real Property Section of the New York State Bar Association, and is currently chair of the Assignment and Subletting Committee of the Leasing Group of the American Bar Association. Ms. Connery has a BA degree from Douglass College, an MS degree from UCLA, and a JD degree from Rutgers School of Law. Her legal practice is focused primarily on commercial leasing and purchases and sales of commercial properties.

ELLIOT DOLBY-SHIELDS is a May 2012 graduate of New York Law School, magna cum laude. He served as a staff editor on the *Law Review* and was an affiliate of the Center for Real Estate Studies and the Justice Action Center. Mr. Dolby-Shields has focused his legal studies in real estate transactions and finance, consumer debt, and bankruptcy. In his third year of law school, Mr. Dolby-Shields interned for Chief Judge Carla E. Craig, U.S. Bankruptcy Court for the Eastern District of New York. After law school, he plans to pursue a career in commercial real estate transactions and finance, or real estate workouts and bankruptcy. He would like to thank Chief Judge Craig and Ancela Nastasi, Adjunct Professor at New York Law School and Partner at Fulbright & Jaworski L.L.P., for their insightful comments and suggestions.

RICHARD M. FROME practices in New York City, concentrating his practice in leasing matters, primarily downtown office and retail (“street”) transactions. Mr. Frome received his JD degree from New York University School of Law and his BA from its College of Arts and Science; he is admitted to practice in New York State. A member of the American Bar Association, Mr. Frome is former vice-chair of the Assignment and Subleasing Committee, former chair of the Leasing Group’s Emerging Issues Committee, and currently managing editor of the Real Property Book Committee. He is also a member of the Commercial Leasing Committee of the Real Property Law Section of the New York State Bar Association and was a member of the subcommittee that created its recommended Form of Nondisturbance and Attornment Agreement. He has participated in many CLE panels and written numerous articles concerning leasing subjects.

GILBERT L. GATES is a partner in Keziah Gates LLP, a High Point, North Carolina, law firm. He is a 1968 graduate of Duke University Law School. His primary practice areas are commercial leasing, commercial real estate transactions, real estate development and zoning, and land use law. He has been a member of the ABA’s Assignment and Subleasing Committee.

BRIAN HARRIS is a partner in the Houston office of the Texas firm of Jackson Walker L.L.P. His practice is concentrated in the area of commercial real estate, with a particular emphasis on leasing and acquisitions and dispositions. Mr. Harris is a graduate of Truman State University and the University of Texas School of Law.

JACK S. LEVEY practices in the Columbus, Ohio, office of Plunkett Cooney, focusing on commercial and residential real estate law, commercial leasing, business law, commercial contracts, construction contracts, and construction finance. Prior to joining Plunkett Cooney, Mr. Levey operated his own practice from 1996 to 2004, after 10 years as a partner in the real estate practice group of a leading Columbus business law firm. Before coming to Columbus, he practiced with a leading law firm in Duluth, Minnesota, representing public agencies and private clients in real estate and commercial transactions. Mr. Levey received his BA degree

from the University of Wisconsin–Madison in 1972, and his JD degree, magna cum laude, from the University of Minnesota in 1978. He teaches continuing education at national, regional, and local courses for various bar associations and other professional groups on real estate and business issues. He is co-author, with Kenton L. Kuehnle, of the reference book *Baldwin's Ohio Practice, Ohio Real Estate Law* (3d ed., West 2003). His articles on real estate and business law have appeared in *The Practical Real Estate Lawyer, Probate & Property*, and the ABA reference book *The Commercial Property Lease*, volumes 2 and 3, as well as in *Columbus Bar Briefs* and other publications. Mr. Levey is a member of the Columbus Bar Association (member, Real Property Committee), Ohio State Bar Association (member, Real Property Committee), and American Bar Association (member, Real Property, Trust and Estate Law Section; past vice-chair, Title Insurance Committee; past chair, Title Insurance Subcommittee on Partnerships and Closely Held Corporations; member Commercial Leasing Group).

HEATHER BEGNEAUD MCGOWAN is an associate at Stone Pigman Walther Wittmann L.L.C. in New Orleans, Louisiana, where she concentrates her practice in real estate, finance, and construction law. Ms. McGowan chairs the “Nuts and Bolts of Retail Leasing” subcommittee of the American Bar Association and is a member of the Louisiana State Bar Association, New Orleans Bar Association, CREW (Commercial Real Estate Women), and ULI (Urban Land Institute). She is also the author of “Notarial,” chapter 14 in *Louisiana Civil Practice Forms* (West Group).

IRA MEISLIK is a principal at the Montclair law firm of Meislik & Meislik. His practice is concentrated in business law and commercial real estate law. Mr. Meislik's business law practice covers general business, commercial, and transactional matters. In this area, he handles business formations, acquisitions, mergers, contracts, negotiation, and business counseling. Mr. Meislik's commercial real estate practice focuses on the needs of landlords and tenants primarily within shopping centers and office properties. In addition to crafting space and ground leases, he has extensive experience in the acquisition, disposition, and financing of real property. He has written and spoken in the areas of real estate, business entity selection, attorney ethics, limited liability entities, insurance, and unincorporated business associations. Mr. Meislik is one of seven members of the Uniform Law Commission's Joint Editorial Board (JEB) for Real Property Acts. The JEB is responsible for monitoring new real property developments that may have an impact on Uniform State Laws and for making recommendations to the National Conference of Commissioners on Uniform State Laws (NCCUSL) for drafting new, proposed state laws. He has chaired the American Bar Association Real Property, Trust and Estate Law Joint Committee on Limited Liability Entities and its Ground Leasing Committee. Mr. Meislik currently serves as vice-chair of its Real Property Legal Education and Uniform Laws Group and is vice-chair of its Diversity Committee. He participated in the drafting of both the Revised Uniform Limited Partnership Act and the Revised Uniform Limited Liability Company Act, each then promulgated

by the National Conference of Commissioners on Uniform State Laws (NCCUSL). He is co-editor of, and contributor to, the American Bar Association's *The Commercial Lease Formbook* and to other books related to real property. He is a member of the American, New York, and Essex County Bar Associations and of the International Conference of Shopping Centers, and is a Fellow of the American College of Real Estate Lawyers. He is also a past member of the New Jersey State Bar Association's Real Property, Trust and Estate Law Section's Board of Consultors and of the Business Law Section's Board of Directors. Mr. Meislik holds the highest "AV" rating in the Martindale-Hubbell Law Directory, has been selected as a New Jersey Superlawyer every year since 2005, and has been repeatedly selected for inclusion in *The Best Lawyers of America*. He was named to the 2009 BTI Client Service All-Stars list as one of only 176 attorneys cited by Fortune 1000 companies as providing excellence in client service. Mr. Meislik is also one of a small number of attorneys in New Jersey who have achieved the status of a LEED Accredited Professional. Mr. Meislik holds a BS degree in mechanical engineering and an MS degree in industrial management from Polytechnic University and a JD degree, cum laude, from Seton Hall University School of Law.

MARTIN P. MINER is a partner in the New York office of Holland & Knight LLP, where his practice involves leasing and joint ventures. Mr. Miner has lectured and written extensively on various real estate matters. He is a former member of the Supervisory Council of the Real Property, Probate and Trust Section of the American Bar Association. Mr. Miner is listed in Chambers, Legal 500, Best Lawyers, and Super Lawyers and is a member of the American College of Real Estate Lawyers. He received his AB from Muhlenberg College and his law degree from Columbia University School of Law.

MICHAEL B. NOBLE is a partner in the firm of Bradley Arant Boult Cummings LLP in Nashville, Tennessee, where his practice focuses in the areas of commercial real estate, commercial lending, economic development, and general business transactions. Mr. Noble represents a broad range of clients in commercial real estate transactions, with an emphasis on leasing, development, acquisition, and disposition. Mr. Noble is a graduate of Vanderbilt University (BA, 1999) and Wake Forest University School of Law (JD, cum laude, 2002), where he served as senior notes and comments editor of the *Wake Forest Law Review* and was president of the Wake Forest chapter of the American Bar Association. Mr. Noble is a member of the Nashville, Tennessee, and American Bar Associations and the National Association of Industrial and Office Properties (NAIOP), the International Association of Attorneys and Executives in Corporate Real Estate (AECRE), and the Tennessee Economic Development Council (TEDC).

SIDNEY G. SALTZ has been a solo practitioner since August 2009. His practice involves substantially all aspects of commercial real estate, including development, acquisitions, and sales and financing, and has a particular emphasis on leasing.

Mr. Saltz is an active member of the Section of Real Property, Trust and Estate Law of the American Bar Association, where he served on the Supervisory Council and on various committees, including the Community Outreach Committee (of which he is co-chair), which provides postgraduate-level education, primarily to attorneys who are members of minority groups. He has lectured a number of times in connection with the community outreach program. Mr. Saltz previously served as vice-chair and then as co-chair of the Continuing Legal Education Committee of the Real Estate Division of the Section and group chair of the leasing group, and as chair of various substantive committees. He has lectured and written extensively on real estate-related subjects. He, along with Martin Miner, created a generic form of sublease that is widely used. His book, *From Handshake to Closing* (American Bar Association), is in its second edition. Mr. Saltz is working on a handbook on commercial leasing for brokers.

MICHAEL SAMUELS is a partner in the Real Estate Group at New York City law firm Moses & Singer LLP. He represents a broad range of clients in matters relating to acquisitions and dispositions; office, retail, and industrial leasing; and property management, development, and financings. Mr. Samuels has handled a wide variety of real estate transactions throughout the United States and has considerable experience representing both landlords and tenants in complex negotiations of sophisticated leases. An active member of the American Bar Association and the New York State Bar Association, Mr. Samuels authored “Drafters Beware: Do Not Get Trapped by Silence in a Lease,” published in the July/August 2011 edition of *Probate & Property*. He earned his JD from the University of Pennsylvania Law School and his BA, summa cum laude, from Yeshiva University.

ROBERT M. SCHLEIN is chair of the Real Estate Practice Group of Prince Lobel Tye LLP, located in Boston, Massachusetts. His practice concentrates in commercial real estate, with particular emphasis on leasing and acquisitions for retail businesses and office leasing, as well as land use and permitting matters. Mr. Schlein is a graduate of Harvard College and Boston College Law School.

RUTH SCHOENMEYER is currently Senior Counsel at McDonald’s Corporation in Oak Brook, Illinois. Prior to joining McDonald’s, Ms. Schoenmeyer was of counsel at Jenner & Block LLP in Chicago, where she represented landlords and tenants in office, industrial, and retail leasing transactions. Ms. Schoenmeyer is a frequent speaker on real estate topics nationally, locally, and inside her company, and she also co-authored the article “Surrender Dorothy: Restoration Obligations in Office Leases,” which appeared in the May 2007 issue of *The Practical Real Estate Lawyer*. Ms. Schoenmeyer is currently chair of the Retail Leasing Committee of the ABA’s Real Property, Trust and Estate Law Section Commercial Leasing Group and is immediate past chair of the Assignment and Subleasing Committee of the Commercial Leasing Group. Ms. Schoenmeyer received her AB and her JD from the University of Michigan.

SUSAN G. TALLEY is a member of Stone Pigman Walther Wittmann L.L.C. in New Orleans, Louisiana. Her practice includes all aspects of real estate development, financing, leasing, purchase, and sales. She is a frequent speaker and author on real estate and related topics. Ms. Talley is the chair-elect of the Real Property, Trust and Estate Law Section of the American Bar Association, and serves on the Section's Executive and Planning Committees. She served as editor-in-chief of the Section's magazine, *Probate & Property*, 1999–2000, and as the magazine's Real Property editor, 1996–1998. In addition, she was the original editor of the Section's electronic magazine, *eReport*, 2006–2010. Ms. Talley is a vice president of the Louisiana State Law Institute. She is a member of the American College of Real Estate Lawyers, and serves as the vice-chair of its Meetings Committee. She is a founding member and founding board member of the New Orleans chapter of Commercial Real Estate Women. She is also a member of the American College of Mortgage Attorneys, the International Council of Shopping Centers, the Anglo-American Real Property Institute, and the Louisiana Bankers Association Bank Counsel Section. Ms. Talley received her law degree, summa cum laude, from Tulane University School of Law, where she served as a member of the Tulane Law Review. She received her undergraduate degree, summa cum laude, from Louisiana State University.

MARSHALL TRACHT is the founder and director of the LLM Program in Real Estate at New York Law School. Before joining NYLS in 2008, he was a tenured faculty member at the Hofstra University School of Law, where he served as vice-dean from 2001 to 2006. Professor Tracht has written extensively in the areas of real estate development and construction financing, workouts, and bankruptcy. He is the author of *Construction and Development Financing* (3d ed. 2001) (with Alvin Arnold) and *Land Transfer & Finance: Cases and Materials* (6th ed. 2011) (with Quintin Johnstone and Curtis Berger); a member of the editorial board of *The Banking Law Journal*; and a contributing editor to the *Real Estate Law Report*. His articles have appeared in the *Cornell Law Review* and *Vanderbilt Law Review*, among others, and he has received the Grant Gilmore Award for legal scholarship from the American College of Commercial Finance Lawyers. He is a member of the American College of Real Estate Lawyers, former chair of the American Association of Law School's Graduate Programs Committee, and a member of the ABA Section on Legal Education's Curriculum Survey Committee. Before going into academia, Professor Tracht practiced in the real estate and bankruptcy groups at Arnold & Porter LLP in Washington, D.C., and clerked for the Honorable S. Martin Teel Jr. of the U.S. Bankruptcy Court for the District of Columbia. He holds his JD and MBA degrees from the University of Pennsylvania School of Law and the Wharton School, and his BA from Yale University.

DAVID WEISMAN is a shareholder with Greenspoon Marder, P.A. in Fort Lauderdale, Florida. He concentrates on commercial leases, commercial real estate transactions, borrower and lender financing transactions and workouts, real estate development, tax-deferred exchanges, landlord/tenant disputes, title underwriting,

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SUSAN A. WINCHURCH is a Maryland-licensed attorney who recently relocated to the State of New Jersey. Prior to her relocation, Susan practiced law with the law firm of Bernstein & Feldman, P.A., located in Annapolis, Maryland. She represents clients in a wide variety of commercial contracts and transactions, with a particular emphasis on commercial leasing, development, and commercial real estate transactions. Prior to joining Bernstein & Feldman, P.A., Susan was corporate counsel for Ritz Camera & Image, LLC, a specialty camera retailer that declared bankruptcy in February of 2009, where she oversaw all legal matters for the company’s 1,200-store retail operation, including all store development, leasing, property management, and landlord-tenant issues. Previously, she was of counsel to Mulrenin Frances, P.A., also located in Annapolis, Maryland, representing clients in the areas of commercial real estate acquisition, sale, and development, with particular emphasis on anchor tenant and other retail leasing; practiced with a prominent firm in Bethesda, Maryland; and worked as real estate counsel for Giant of Maryland LLC, where she represented the company’s real estate and construction departments in all aspects of store development and leasing (including zoning, environmental, land use approvals, and related litigation). Ms. Winchurch has served on the board of the Baltimore chapter of Commercial Real Estate Women. In addition, she has been a member of the International Council of Shopping Centers, Women in Retail Real Estate, and the Real Property, Planning, and Zoning Section of the Maryland State Bar Association. Ms. Winchurch served as an articles editor on the *Maryland Law Review* and graduated with honors from the University of Maryland School of Law in 1996. She is admitted to the Bar in Maryland. She recently became a member of the Junior League of Summit, New Jersey, and is evaluating professional opportunities in her new locale.