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Center for Entrepreneurial Law
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LEGAL CAREER

Center for Entrepreneurial Law University of Tennessee College of Law Knoxville, Tennessee	December 2000 to present, Lindsay Young Distinguished Professor of Law and Director of the James L. Clayton Center for Entrepreneurial Law
Allen, Matkins, Leck, Gamble & Mallory LLP San Diego, California	September 1993 to December 2000, Partner
California Western School of Law San Diego, California	1997 to 2000 Adjunct Professor, Bankruptcy, Legal Drafting
Howard, Rice, Nemerovski, Canady, Robertson, Falk & Rabkin San Francisco, California	April 1992 to September 1993 Business Department, Associate
Hastings College of Law University of California	1990 to 1993 Adjunct Instructor, Research & Writing Program, Moot Court & Advocacy Program June 1988 to September 1988
Morrison & Foerster San Francisco, California	September 1989 to April 1992 Business Department, Associate

EDUCATION

University of San Diego San Diego, California	M.B.A., New Venture Management Emphasis, 1997
Hastings College of Law University of California San Francisco, California	J.D., <i>cum laude</i> , 1989 Hastings Law Journal, 1987-1988 Comm/Ent Law Journal; Senior Note Editor 1988-1989 Milton T. Green Top Ten Award Thurston Society
University of California Santa Cruz, California	B.A., Economics, 1986, Honors in the Major

ACTIVE PROFESSIONAL ASSOCIATION MEMBERSHIPS

American Bar Association, Member.
American Bankruptcy Institute, Member.
California Bankruptcy Forum & Journal, Editor Emeritus.

BOOKS AND TREATISES

Co-author, *Business Reorganizations* 3d ed. (forthcoming, Lexis Nexis 2011, with Michael Gerber and Edward Janger).

Author, *The Elements of Contract Drafting with Questions and Clauses for Consideration* 3d ed. (text and teachers manual, West 2011).

Co-author, *Mastering Appellate Advocacy and Process* (with Donna C. Looper, Carolina Academic Press 2011).

Co-author, *Contracts: Transactions and Litigation* 3d ed. (text and teachers manual, West 2011, with Robert M. Lloyd).

Co-author, *Sales, Negotiable Instruments, and Payment Systems* (Center for Entrepreneurial Law 2010, with Robert M. Lloyd).

Author, *Bamboozled: Anatomy of a Bankruptcy* (SSRN 2010).

Co-author, *Contracts: Transactions and Litigation* 2d ed (text and teachers manual, West 2009, with Robert M. Lloyd).

Co-author, *Mastering Legal Analysis and Drafting* (Carolina Academic Press 2009, with Donna C. Looper).

Co-author, *Secured Transactions: UCC Article 9 and the Bankruptcy Code* (text and teacher's manual, Center for Entrepreneurial Law 2008, with Robert M. Lloyd).

Co-author, *Sales, Negotiable Instruments, and Payment Systems* (Center for Entrepreneurial Law 2009, with Robert M. Lloyd).

Co-Author, *Mastering Intellectual Property Law* (Carolina Academic Press 2008, with Donna C. Looper).

Author, *Mastering Bankruptcy Law* (Carolina Academic Press 2008).

Co-author, *Legal Drafting: Process, Techniques, and Exercises* (text and teacher's manual, West 2007, with Thomas Haggard).

Co-author, *Legal Drafting in a Nutshell*, 3d ed. (West 2007, with Thomas Haggard).

Author, *Norton Bankruptcy Practice and Proceedings, Chapters 28* (Meeting of Creditors—Section 341), 29 (Notice—Section 342), and 30 (Examination of Debtors—Sections 343/344) (West 2007).

Co-author, *Chapter 11-101: The Essentials of Chapter 11 Practice* (ABI 2007, with Jonathan Friedland, Michael Bernstein, and John Ayer,).

Author, *The Elements of Contract Drafting with Questions and Clauses for Consideration*, 2d ed. (text and teacher's manual, West 2007).

Co-author, *California Law of Contracts* (University of California CEB Treatise 2007, with Donna C. Looper).

Co-author, *Contracts: Transactions and Litigation* text and teacher's manual, Thompson/West 2006, with Robert M. Lloyd).

Author, *All I Ever Needed to Know about Enron I Learned in Kindergarten (and Graduate School), Enron: Corporate Fiascos & Legal Implications* (Foundation Press 2004).

Academic consultant and reviewer, *Personal and Small Business Bankruptcy Practice in California* (CEB 2003).

ARTICLES

California Idea Submission Law, Vol. 26, No. __ CAL. BUS. PRACT. __ (Summer 2011).

Contractual Mechanics: Covenants, Conditions, Representations, Warranties, Guaranties, and Indemnities, Vol. 25, No. 4 CAL. BUS. PRACT. 124 (Fall 2010).

Don't Mistake the Proxy for the Rule: Alter Ego Liability in Tennessee, 11 TRANSACT 131 (2010).

Vacating Chrysler, 19 J. BANKR. LAW & PRACT. 123 (West 2010).

Non-Debtor Releases and Travelers v. Bailey: A Circuit Split that is Likely to Remain, 201 NORTON ANNUAL SURVEY OF BANKRUPTCY LAW 201 (West 2010).

Contractual Arbitration in California, 24 CAL. BUS. L. PRACT. 113 (Fall 2009).

Unethical Protection? Model Rule 1.8(h) and Plan Releases of Professional Liability, 83 AM. BANKRUPTCY L.J. 481 (2009).

Contractual Arbitration in California, 24 CAL. BUS. L. PRACT. No. 3, p. 113 (Fall 2009).

When a Defendant Goes Under, TRIAL Vol. 45, No. 7, p. 46 (AAJ May 2009).

A Proposal for Chapter 10: Reorganization for "Too Big to Fail" Companies, XXVIII, No. 2, AMERICAN BANKR. INST. J. 1 (March 2009, with Michael St. James).

Transactional Skills Training: Contract Drafting — the Basics, 10 TRANSACTIONS 139 (Special Report 2009, with Tina Stark).

Pedagogic Techniques — Multidisciplinary Courses, Annotated Document Review, Collaborative Work, and Large Groups, 10 TRANSACTIONS 73 (Special Report 2009 with Anthony J. Luppino and Jamison Wilcox).

Material Adverse Change Clauses, 23 CAL. BUS. L. PRACT. 101 (2008).

How Fast is Promptly?, 23 CAL. BUS. L. PRACT. 98 (2008).

What Your Lender and Mortgage Broker Didn't Tell You: A Call for Disclosure of Loss of the Section 580b Antideficiency Protection Upon Refinancing, 4 HASTINGS BUS. L. J. 209 (2008).

Successor Liability in Illinois, 96 ILLINOIS BAR J. 148 (2008).

Slipping into Mootness, NORTON ANN. SURV. BANKR. LAW Part 1, § 3 (West 2007).

To the Best of Whose Knowledge?, 22 CAL. BUS. L. PRACT. 2 (2007).

A Taxonomy and Evaluation of Successor Liability, 6 FLA. ST. U. BUS. L. REV. 9 (2007).

Successor Liability Louisiana, 55 LOUISIANA BAR J. 172 (2007).

Successor Liability in Michigan, 87 MICHIGAN BAR J. 32 (2007).

Successor Liability in New York, 79 NEW YORK BAR J. 22 (2007).

Successor Liability in Maryland, Volume XXXX MARYLAND BAR J. 4 (2007).

Successor Liability in Vermont, 33 VERMONT BAR J. 40 (Spring 2007).

Successor Liability in Tennessee, 43 TENN. BAR J. 24 (May 2007).

Chapter 11-201: The Intersection of Chapter 11 and UCC Article 9, XXV AM. BANKR. INST. J. (July 2006).

Best Efforts and Reasonable Efforts Clauses: Couldn't You Try Just a Little Bit Harder, 21 CAL. BUS. L. PRACT. 64 (2006).

Jerry Phillips' Product Line Continuity & Successor Corporation Liability: Where are We Twenty Years Later?, 72 TENN. L. REV. 777 (2005).

Where We are and Where We Think We are: An Empirical Examination of Bankruptcy Precedent, 28 CAL. BANK. L.J. 71 (2005).

Successor Liability in California, 20 CAL. BUS. L. PRACT. 50 (2005)(co-authored with Donna C. Looper).

Boards Must Reduce Their Exposure to Creditor Suits, SAN FRANCISCO DAILY JOURNAL (May 7, 2004)(co-author).

Hijacking Chapter 11, 21 EMORY BK. DEV. L.J. 19 (2004).

Let's Make It Official: Adding an Explicit Pre-Plan Sale Process as an Alternative Exit from Chapter 11, 40 HOUSTON L. REV. 1265 (2004).

Bankruptcy Law and Recovery of Tort Damages, 71 TENN. LAW REV. 81 (2003).

Selling a Business in Bankruptcy Court Without a Plan of Reorganization, 18 CAL. BUS. L. PRACT. 57 (Summer 2003).

Further Misinterpretation of Bankruptcy Code § 363(f): Elevating In Rem Interests and Promoting the Use of Property Law in Bankruptcy-Proof Real Estate Developments, 76 AM. BANKR. L.J. 288 (2002).

Misinterpreting Bankruptcy Code § 363(f) and Undermining in the Chapter 11 Process, 76 AM. BANKR. L.J. 235 (2002).

The Fiduciary Duties of Officers and Directors of Insolvent Corporations, 17 CAL. BUS. L. PRACT. 73 (Summer 2002).

Co-author, *Single Asset Real Estate Under 11 U.S.C. § 362(d)(3): A Narrower Construction Than You Might Expect*, 26 CAL. BANK. J. 130 (2002).

Intellectual Property Licenses in Bankruptcy, 16 CAL. BUS. L. PRACT. 33 (Spring 2001).

Qualified Settlement Funds: A Tool to Shelter Gains and Taxable Income with Payments on Account of Disputed Claims, 24 CAL. BANKR. J. 137 (1999).

Co-author, *The Allowed Secured Claim: Accounting for Payment of Net Rents*, 23 CAL. BANKR. J. 111 (1996).

11 U.S.C. Sections 1125(a) and 1145: Going Public Via Chapter 11, 23 CAL. BANKR. J. 3 (1996).

Financial Reporting By Chapter 11 Debtors: A Limited Critique of SOP 90-7, 5 J. BANKR. AND PRAC. 311 (1996).

New Value Questions Remain, Whatever the Decision in Bonner Mall, 112 BANK. L.J. 383 (1995).

Claims for Attorney's Fees Under the Bankruptcy Code, 4 J. BANKR. L. AND PRAC. 203 (1995).

Interest on Nothing?, 9 COMM. L. BULL. 30 (1994).

SPEAKING ENGAGEMENTS

“Transactional Drafting,” Miller & Martin, Chattanooga, TN, July 29, 2010.

“Ethical Issues” and “363 Sales,” Norton Bankruptcy Institute, Las Vegas, Nevada, March 26, 2010.

“Morality and Contract Law,” Spring Conference on Contracts, UNLV, Las Vegas, Nevada, February 27, 2010.

“The Present and Future of „One Size Fits All’: Do We Need a Chapter for Those „Too Big to Fail””, American Bankruptcy Institute 2009 Legislative Symposium, Chapter 11 at the Crossroads, Does Reorganization Need Reform? A Symposium on the Past, Present, and Future of U.S. Corporate Restructuring, Georgetown University Law Center, Washington, D.C., November 16-17, 2009.

“Transactional Drafting Workshop: Venture Capital,” DLA Piper, Palo Alto, CA, July 22-23, 2008.

“Papering the Deal: Writing for Transactional Attorneys,” The New Lawyer Experience: Bridging the Gap Between Preparation and Practice, Tennessee Bar Association, Knoxville, Tennessee, February 15, 2008.

Amicus counsel in support of the plaintiff/appellant in *Shultz v. United States*, 369 B.R. 349 (E.D.Tn. 2007) and *Shultz v. United States*, 529 F.3d 343 (6th Cir 2008) (challenge to constitutionality of Bankruptcy Code’s “means test”).

Pro se appellant in *Kuney v. Bean*, 2008 U.S. App. Lexis 14686 (Fed. Cir 2008) (dissolving lower court protective order on grounds of over breadth to allow access to sealed documents for research purposes).

Member, Steering Committee, Contract Drafting Conference, Emory University Transactional Practice Center, May 2-3, 2008.

“Transactional Drafting,” Jones Day, Cleveland, OH, October 19, 2007; Chicago, IL, November 2, 2007; Dallas, TX, November 9, 2007.

“Advanced Contract Drafting,” DLA Piper US LLP, Chicago, IL, August 13, 2007.

“Drafting Concrete Contracts & Writing Better Brief,” Tennessee Bar Association Young Lawyers Division, Knoxville, TN, July 11, 2007.

“Transactional Drafting,” Jones Day, New York, NY, March 14, 2007.

“Transactional Drafting Workshop,” Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, Nashville, TN, March 1, 2007.

“Recent Developments in State Law Issues Affecting Commercial Transactions that Every Bankruptcy Lawyer Ought to Know,” Mid-South Commercial Law Institute, Nashville, TN, November 16, 2006.

“Bankruptcy Proofing Techniques: Substantive Consolidation Opinions and Bankruptcy Remote Entities,” Mid-South Commercial Law Institute, Nashville, TN, November 17, 2006.

“Contract Law and Teaching: Transactions and Litigation,” panelist, SEALS, July 21, 2006.

Author and Publisher of “Living Off Campus: A Quick Guide to Town Living for University of Tennessee Students” (1st Edition 2005, 2nd Edition 2006).

“The Nuts and Bolts of Contract Drafting,” workshop speaker and “Drafting Rules, Adding Value to the Deal, and Ethical Issues in Contract Drafting,” speaker, Teaching Contract Drafting, Northwestern University School of Law, July 20-21, 2005.

“Transactional Training Clinic: Simulation of \$50,000,000 Asset Acquisition and \$40,000,000 Senior Secured Term Loan,” lead instructor, Sheppard, Mullen, Richter & Hampton LLP, June 8-22, 2005.

“Putting ‘Business’ Back Into the Education of Business Lawyers,” panelist, American Bar Association, Business Law Section Spring meeting, Nashville, TN, March 31, 2005.

“U.S.C. Section 363(f): What Can You Sell Free and Clear Of?,” panelist, American Bar Association, Business Law Section Spring meeting, Nashville, TN, March 31, 2005.

“Collaboration,” panelist, Pedagogy to Practice: Maximizing Legal Education with Technology Conference, American Bar Association, Newark, NJ, October 15, 2005.

“Ethical Considerations in the Formation and Representation of Entities,” Partnerships, LLCs and LLPs: Organization and Operation in Tennessee, October 8, 2005.

“Teaching Contract Drafting: The Whereases and Wherefores,” Legal Writing Institute, annual conference, Seattle, WA, July 23, 2004.

“The Intersection of Law and Business,” panelist, Southeastern Association of Law Schools Annual Meeting, August 1, 2004.

“Ethical Considerations in the Formation and Representation of Entities,” panelist, Partnerships, LLCs and LLPs: Organization and Operation in Tennessee, Knoxville, TN, October 9, 2003.

“Bankruptcy and the Tort Lawyer: What You Need to Know,” Damages in Tort Law Symposium speaker, University of Tennessee College of Law, Knoxville, TN, April 3, 2003.

“Contract Drafting: Fundamentals, Plain English & Papering the Deal,” sole instructor, United States Department of Energy BWXT Y-12, LLC, December 4, 2002.

“Teaching Entrepreneurship,” panelist, Southeastern Conference AALS Annual Meeting, July-August 2002.

“Combining Academic and Practical Training Through an Entrepreneurship Program,” Co-Lead Panelist, Kaufman Center for Entrepreneurial Leadership, April 2002.

“Legal Issues, Problems and Guidelines for Small Businesses: What You Don’t Know Can Hurt You!” coordinator and designer of curriculum and visual aids, co-sponsored by the Knoxville Bar Association, Clayton Center for Entrepreneurial Law, the Pellissippi State Small Business Development Center, and the Knoxville Area Chamber Partnership, Knoxville, TN, October 2001 and March 2002.

“Doing Business on the Internet,” panelist, sponsored by the Business Law Section of the State Bar of California, June 1998.

“Attorney vs. Client: Working Toward Better Client Relations,” panelist, sponsored by the Business Law Section of the State Bar of California, June 1996.

SELECTED ACHIEVEMENTS AND AFFILIATIONS

Member, Editorial Advisory Board, Norton Journal of Bankruptcy Law and Practice.

Faculty Advisor to Transactions: The Tennessee Journal of Business Law.

Faculty Advisor to the Sports & Entertainment Law Society.

Nominee, Chancellor’s Excellence in Teaching Award, 2007, 2008.

Carden Award for Outstanding Achievement in Scholarship, 2007

Carden Award for Outstanding Service to the Institution, 2004.

W. Allen Separk Faculty Scholarship Award, 2003.

Research Fellow, Center for Corporate Governance, The University of Tennessee.

Member, American Bankruptcy Institute.

Member, American Bar Association.

California Bankruptcy Forum; California Bankruptcy Journal, Editor Emeritus, Editor in Chief (1999-2003), Managing Editor (1997-1998), Contributing Editor (1996).

Admitted to practice in the state courts of California and Tennessee, the Federal District Courts of both those states and Arizona, the Federal Courts of Appeal for the Sixth and Ninth Circuits, and the Supreme Court of the United States of America.