

**TITLE EXAMINATION STANDARDS COMMITTEE  
of the  
Real Property Law Section of the O.B.A.**

***“FOR THE PURPOSES OF EDUCATING  
AND GUIDING TITLE EXAMINATION ATTORNEYS”***

**2017 JANUARY AGENDA**

**(As of January 12, 2017)**

***[NOTE: SEE MEETING DATES & LOCATIONS AT THE END OF THIS  
AGENDA]***

***[NOTE: IF YOU NEED A FREE PDF COPY OF THE CURRENT 2017 TES  
HANDBOOK, GO TO WWW.EPPERSONLAW.COM]***

***JANUARY 21/TULSA***

<b>Speakers (Sub- Comm.)</b>	<b>Standard#</b>	<b>Status</b>	<b>Description</b>
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***BUSINESS/GENERAL DISCUSSION OF CURRENT EVENTS***

**9:30 a.m. – 10:00 a.m.**

**Hot Topics: General Questions from Attorneys and Other Title Industry Members  
(Epperson)**

**Approval of Previous Month’s TES Committee Minutes (Carson)**

***PRESENTATIONS***

=====PENDING=====

**10:00 a.m. – 10:45 a.m.**

<b><u>McLean</u></b>	<b>NA</b>	<b>Jan Report</b>	<b><i>LEGISLATIVE UPDATE Brief presentation concerning proposed or pending legislation affecting real property titles.</i></b>
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<u>(Kempf &amp; Sedo?)</u>	7.1 & 7.2	Jan Report	<b>MARITAL INTERESTS AND MARKETABLE TITLE</b> <i>Interest has been expressed about revisiting the question as to how to cure the absence of a recital of marital status and joinder of spouse on potentially homestead property. Can the recital of non-homestead status on the deed be sufficient, or on a later affidavit from the non-joining spouse be sufficient, to avoid needing a correction deed or waiting 10 years.</i>
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<u>(McLean?)</u>	7.1 & 7.2	Jan Report	<b>MARITAL INTERESTS AND MARKETABLE TITLE</b> <i>Interest has been expressed as to whether to provide examples of recitals of marital status to help with the recent judicial recognition of same sex marriages.</i>
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10:45-11:00 a.m. BREAK\*\*\*\*\*

**PRESENTATIONS (CONT'D)**

11:00 a.m. – 12:00

<u>(Schaller?)</u>	?	Jan Report	<b>DEFAULT JUDGMENT INVALID WITHOUT NOTICE</b> <i>The new case of Schweigert v. Schweigert, 2015 OK 20, holds that a default judgment cannot be taken without notice to the defaulting party, even if the statutes allow a default judgment to be taken where the service was adequate and no entry or answer was filed. This holding may impact the Title Standards dealing with the SLTA and MRTA.</i>
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<u>(Brown?)</u>	8.1 25.5 15.4D	Jan Report	<b>TERMINATION OF JOINT TENANCY ESTATES AND LIFE ESTATES</b> <i>Because there is no longer any statutory authority to cause an Oklahoma Estate Tax Lien to lapse after 10 years, these Standards need to be reviewed and probably revised.</i>
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<u>(Epperson?)</u>	?	Jan Report	<p><b>NOTICE OF SPACING AND POOLING ORDERS</b>  <i>The case of In re Cornerstone E&amp;P Company v. Union Bank of California, 436 B.R. 830, US Bkcty Ct. N.D. Texas, 2010 (affecting Oklahoma titles) holds that in the absence of the OCC pooling order being filed in the local county land records, there is no notice of such change in interest, to third party vendors. This holding may impact the Title Standards dealing with the filing of court orders covered by the SLTA and MRTA.</i></p>
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=====UNSCHEDULED=====

<u>(Moore &amp; Holmes?)</u>	?	Jan Report	<p><b>ANCIENT PROBATES</b>  <i>The question has arisen about the impact on title examination due to a recent CCA case overturning an ancient probate due to failure to mail Final Account to parties (despite no statutory requirement to do so, relying on constitutional due process grounds). Pending on Petition for Cert. <b>Rebout v. Ewell, case no. 114,364</b></i></p>
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<u>(Epperson?)</u>	30.9 & 30.10	Jan Report	<p><b>MRTA &amp; CO-TENANCY TERMINATION</b>  <i>One of the comments to this standard refers to the possibility of there being two roots of title creating two marketable record titles, with each being subject to the other. The sample fact pattern is (1) decree of Blackacre to wife and two sons with decree filed 35 years ago, and (2) wife deeds Blackacre (without specifying a quantum of interest) to one of two sons, with deed filed 31 years ago. Since wife's deed is more than 30 years old, does the MRTA establish title in the grantee son, and extinguish the omitted son's claim?</i>  <b><u>[KRAETTLI EPPERSON HAS AN ARTICLE ON THIS TOPIC BEING PUBLISHED IN THE OBJ IN OCT. 2016--THE COMMITTEE WILL AWAIT FEEDBACK FROM THE MEMBERS OF THE BAR ON THIS ARTICLE BEFORE RECOMMENCING DISCUSSION OF THIS TOPIC.]</u></b></p>
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<u>(Epperson?)</u>	30.14	Jan Report	<p><b>FEDERAL BANKRUPTCY COURT PROCEEDINGS</b>  <i>In 2012 the Committee repealed 30.14 covering both Federal District Court and Bankruptcy Proceedings, and replaced it with a revised Standard covering only Federal District Court matters, but not Bankruptcy matters. We need to adopt a new Standard covering bankruptcy matters. Also need to consider whether to add a Caveat that all titles are subject to any bankruptcy filings anywhere in the country without local notice being filed.</i></p>
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<u>(Epperson?)</u>	NEW	Jan Report	<p><b>JUDGMENTS/DECREEES &amp; CONSTRUCTIVE NOTICE</b>  <i>Under the MRTA, the SLTA, and under the terms of the Uniform Abstractors Certificate, do documents that are <u>not</u> filed with the County Clerk (e.g., divorce and probate proceedings) constitute constructive notice and become part of the official chain of title. Also, if a judgment or decree – affecting title to real property -- is required by statute to be placed in the county clerk’s land records in order to constitute constructive notice, but has not been filed there, does the inclusion of such document in an abstract give to the examiner and the client actual notice of the same liens and ownership changes? If so, as of what date? Can you rely upon a decree as part of a chain of title, if it was never recorded in the land records?</i></p>
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<u>(Wimbish?)</u>	30.13	Jan Report	<p><b>MRTA/ABSTRACTING</b>  <i>A review of this Standard 30.13, in light of 16 O.S. 71-80, and 46 O.S. 203, raises a question as to why pre-Root Bankruptcy proceedings survive under the MRTA, since 16 O.S. 76 does not expressly list Bankruptcy proceedings as exempt for the MRTA extinguishment feature.</i></p>
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<u>(Epperson?)</u>	30.9 & 30.10	Jan Report	<i>MRTA/Deed as Root: All Right, Title and Interest</i> <i>What quantity of title is included in either a warranty or quit claim deed, using this language: “All grantor’s right, title and interest” or “All my right, title and interest”? What impact, if any, does such language have on that instrument acting as a “root of title” under the MRTA? See Reed v. Whitney, 1945 OK 354 (warranty limited to interest actually owned) . If such a deed cannot be a root for the interest conveyed, how far back does the examiner need to go to ascertain what interest the grantor owns and thereby conveys? Should this Standard on the MRTA have a comment added, explaining this issue?</i>
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<u>(Epperson?)</u>	30.1 et seq	Jan Report	<i>MRTA/Severed Minerals</i> <i>Due to the holding in the Rocket case, can it be concluded that the MRTA does affect severed mineral chains of title? (see Epperson’s published article on the issue at <a href="http://www.eppersonlaw.com">www.eppersonlaw.com</a>)</i>
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<u>(McEachin?)</u>	24.12 & 24.13	Jan Report	<i>MERS</i> <i>This issue has become a national topic and ongoing out of state cases will be monitored and reported on as necessary.</i>
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<u>(Astle?)</u>	?	Jan Report	<i>MISSING ASSIGNMENT OF MORTGAGE</i> <i>The question has been raised as to whether a mortgage could be released by the current holder of the promissory note secured by such mortgage if evidence of the promissory note with all necessary endorsements thereon, together with adequate identification of such mortgage appear of record. The application of this criteria would be limited to circumstances in which an assignment of such mortgage is missing and unobtainable.</i>
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<u>(Wittrock?)</u>	???	<b>Jan Report</b>	<p><b>ACCESS TO DEATH CERTIFICATES</b>  <i>The question has been raised as to how to overcome the current interpretation of 63§1-323 which is preventing attorneys and other third parties from getting copies of Death Certificates to file with Affidavits to Terminate Joint Tenancy, and Severed Mineral Affidavits of Heirship, and similar filings. Legislation may be necessary. Social Security Account Numbers for deceased persons are already freely available on-line, so that is not a valid reason to withhold death certificates from public access and use.</i></p>
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\*\*\*\*\* END OF PRESENTATIONS \*\*\*\*\*

=====APPROVED=====

=====REJECTED=====

=====TABLED TO 2017=====

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**COMMITTEE OFFICERS:**

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[kqe@meehoge.com](mailto:kqe@meehoge.com)

**Comm. Sec'y: Barbara Carson, Tulsa (918) 605-8862**  
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## 2017 Title Examination Standards Committee

(Third Saturday: January through September)

Time: 9:30 a.m. to 12 noon

<u>Month</u>	<u>Day</u>	<u>City/Town</u>	<u>Location</u>
January	21	Tulsa	Tulsa County Bar Center
February	18	Stroud	Stroud Conference Center
March	18	OKC	Oklahoma Bar Center
April	15	Stroud	Stroud Conference Center
May	20	Tulsa	Tulsa County Bar Center
June	17	Stroud	Stroud Conference Center
July	15	OKC	Oklahoma Bar Center
August	19	Stroud	Stroud Conference Center
September	16	Tulsa	Tulsa County Bar Center

**Tulsa County Bar Center**  
1446 South Boston  
Tulsa, Oklahoma 74119-3612

**Stroud Conference Center**  
218 W Main St.  
Stroud, Oklahoma 74079

**Oklahoma Bar Center**  
1901 N. Lincoln Blvd.  
Oklahoma City, OK 73152-3036