

**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”***

**2018 JANUARY AGENDA  
(As of January 11, 2018)**

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

*[Note: if you need a free pdf copy of the current 2018 TES handbook, go to  
www.eppersonlaw.com]*

JANUARY 20, TULSA

Speakers (Sub-Comm.)	Standard#	Status	Description
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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>Kempf &amp; Seda</u> Keen Wimbish</b>	<b>7.1 &amp; 7.2</b>	<b>Jan Report</b>	<b><i>MARITAL INTERESTS AND MARKETABLE TITLE</i></b> <i>Interest has been expressed in revisiting the question as to how to cure the absence of a recital of marital status and risk of a “void” deed for failure of one spouse to join in execution of a deed to possible</i>
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			<p><i>homestead property. Should TES 7.1 &amp; 7.2 include mention of possible post-deed curative measures under limited circumstances to show that a deed was Not Void by the recital of non-homestead status by a later affidavit from persons who potentially had a homestead claim, if any, at the time of the deed by one spouse, in order to avoid need for a correction deed, quiet title, probate, or waiting 10 years.</i></p> <p><b>JULY: IT WAS DECIDED TO SEEK A LEGISLATIVE SOLUTION.</b></p> <p><i>If and when legislation is enacted, changes to the current TES will be needed.</i></p>
<b><u>(Fischer?)</u></b>	?	<b>Jan Report</b>	<p><b>DEFAULT JUDGMENT INVALID WITHOUT NOTICE</b></p> <p><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></p>
<b><u>(Brown?)</u></b>	?	<b>Jan Report</b>	<p><b>SPECIAL ADMINISTRATOR AUTHORITY TO CONDUCT REAL ESTATE SALES</b></p>
<b><u>(Wittrock?)</u></b>	?	<b>Jan Report</b>	<p><b>VIDEO ACKNOWLEDGMENTS</b></p>
<b><u>(Brown?)</u></b>	?	<b>Jan Report</b>	<p><b>RELEASE OF LIS PENDENS</b></p>
<b><u>(Sedo?)</u></b>	?	<b>Jan Report</b>	<p><b>USE OF AFFIDAVIT IN LIEU OF PROBATE OF A WILL</b></p>
<b><u>(Epperson?)</u></b>	?	<b>Jan Report</b>	<p><b>LEGAL AND PHYSICAL RIGHT OF ACCESS</b></p>

<u>(Brown?)</u>	?	Jan Report	<i>TENANCY BY ENTIRETY</i>
<u>(Epperson?)</u>	?	Jan Report	<i>SIGNING M&amp;M LIENS BY NON-CORPORATE REPRESENTATIVES</i>
<u>(Epperson?)</u>	?	Jan Report	<i>EXCLUSION FOR POSSIBLE REFORMATION OF DEEDS</i>
<u>(Epperson?)</u>	?	Jan Report	<i>STATUTORY FORM FOR CORPORATE SIGNATURE BLOCK TO INCLUDE CORPORATE NAME</i>
<u>(Epperson?)</u>	?	Jan Report	<i>USE OF MASTER FORM (19 O.S. SECTION 300)</i>
<u>(Epperson?)</u>	?	Jan Report	<i>STATUTORY REQUIREMENT FOR BOOK AND PAGE RATHER THAN DOCUMENT NUMBER</i>

10:45-11:00 a.m. BREAK\*\*\*\*\*

**PRESENTATIONS (CONT'D)**

11:00 a.m. – 12:00

<u>(Epperson &amp; Seda?)</u>	NEW	Jan Report	<i>JUDGMENTS/DECREEES &amp; CONSTRUCTIVE NOTICE 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?</i>
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			<p><i>Can you rely upon a decree as part of a chain of title, if it was never recorded in the land records?</i></p> <p><b><i>AN ARTICLE ON THIS SUBJECT BY KRAETTLI EPPERSON IS BEING PUBLISHED IN THE JANUARY 2018 OBJ, AND LEGISLATION IS ALSO BEING INTRODUCED IN 2018.</i></b></p>
<b><u>(Moore &amp; Holmes?)</u></b>	?	<b>Jan Report</b>	<p><b><i>ANCIENT PROBATES</i></b></p> <p><i>The question has arisen about the impact on title examination due to a recent COCA 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). This COCA was reversed on Cert (9-0). Bebout v. Ewell, case no. 114,364</i></p>
<b><u>(Epperson?)</u></b>	?	<b>Jan Report</b>	<p><b><i>NOTICE OF SPACING AND POOLING ORDERS</i></b></p> <p><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>
<b><u>(Epperson?)</u></b>	<b>30.9 &amp; 30.10</b>	<b>Jan Report</b>	<p><b><i>MRTA &amp; CO-TENANCY TERMINATION</i></b></p> <p><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></p> <p><b><u>[KRAETTLI EPPERSON HAS AN ARTICLE ON THIS TOPIC WHICH WAS PUBLISHED IN THE OBJ IN OCT. 2016--THE COMMITTEE IS AWAITING FEEDBACK FROM THE MEMBERS OF THE BAR ON THIS ARTICLE BEFORE RECOMMENCING DISCUSSION OF THIS TOPIC.]</u></b></p>

<u>(Epperson?)</u>	30.14	Jan Report	<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>
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<u>(Epperson?)</u>	30.9 & 30.10	Jan Report	<b>MRTA/Deed as Root: All Right, Title and Interest</b> <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	<b>MRTA/Severed Minerals</b> <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	<b>MERS</b> <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>(Wittrock?)</u>	???	Jan Report	<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.</i>
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			<p><i>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=====

=====UNSCHEDULED=====

=====REJECTED=====

=====TABLED TO 2019=====

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**COMMITTEE OFFICERS:**

**Chair: Kraettli Q. Epperson, OKC           (405) 848-9100   fax: (405) 848-9101**  
**[kqe@meehoge.com](mailto:kqe@meehoge.com)**

**Comm. Secretary: Barbara Carson, Tulsa           (918) 605-8862**  
**[barbaracarson@yahoo.com](mailto:barbaracarson@yahoo.com)**

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## 2018 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	20	Tulsa	Tulsa County Bar Center
February	17	Stroud	Stroud Conference Center
March	17	OKC	Oklahoma Bar Center
April	21	Stroud	Stroud Conference Center
May	19	Tulsa	Tulsa County Bar Center
June	16	Stroud	Stroud Conference Center
July	21	OKC	Oklahoma Bar Center
August	18	Stroud	Stroud Conference Center
September	15	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