

**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 FEBRUARY AGENDA
(As of February 15, 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]*

FEBRUARY 17, STROUD

| Speakers (Sub- Comm.) | Standard# | Status | Description |
|-----------------------------|-----------|--------|-------------|
|-----------------------------|-----------|--------|-------------|

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)**

Legislative Report: Rhonda McLean

LEGISLATION IS PENDING ON THE FOLLOWING TOPICS:

***THERE IS PENDING LEGISLATION ON THE FOLLOWING TOPICS WHICH
WILL BE MONITORED MONTHLY AND IF/WHEN LEGISLATION IS ADOPTED,
CHANGES TO THE CURRENT TES WILL BE CONSIDERED.***

| | | | |
|---|----------------------|---------------|--|
| <u>Kempf & Seda Keen Wimbish</u> | 7.1 & 7.2 | Report | <p style="text-align: center;"><i>MARITAL INTERESTS AND MARKETABLE TITLE</i></p> <p style="text-align: center;"><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</i></p> |
|---|----------------------|---------------|--|

| | | | |
|--|--|--|---|
| | | | <p><i>spouse to join in execution of a deed to possible homestead property. Should TES 7.1 & 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> |
|--|--|--|---|

| | | | |
|-----------------|---|--------|---|
| <u>Wittrock</u> | ? | Report | <p>VIDEO ACKNOWLEDGMENTS</p> <p>??</p> |
|-----------------|---|--------|---|

| | | | |
|----------------------------|-----|------------|--|
| <u>Epperson & Seda</u> | NEW | Feb Report | <p>JUDGMENTS/DECREEES & CONSTRUCTIVE NOTICE</p> <p><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> <p>AN ARTICLE ON THIS SUBJECT BY KRAETTLI EPPERSON HAS BEEN PUBLISHED IN THE JANUARY 2018 OBJ</p> |
|----------------------------|-----|------------|--|

| | | | |
|-------------|---|--------|---|
| <u>Seda</u> | ? | Report | <p>USE OF AFFIDAVIT IN LIEU OF PROBATE OF A WILL</p> <p>??</p> |
|-------------|---|--------|---|

Approval of Previous Month’s TES Committee Minutes: Barbara Carson)

PRESENTATIONS

=====PENDING=====

10:00 a.m. – 10:45 a.m.

| | | | |
|------------------------------------|---|----------------------|--|
| <u>Fischer</u> Epperson | ? | Feb Draft | <i>DEFAULT JUDGMENT INVALID WITHOUT NOTICE</i> <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> |
|------------------------------------|---|----------------------|--|

| | | | |
|--|---|----------------------|--|
| <u>Brown</u> Astle Epperson | ? | Feb Draft | <i>RELEASE OF LIS PENDENS</i> A lis pendens notice is simply notification of pending litigation affecting real property interests. Should there be a TES clarifying that cancellation of lis pendens notices are not mandatory? |
|--|---|----------------------|--|

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

PRESENTATIONS (CONT'D)

11:00 a.m. – 12:00

| | | | |
|--|-----|-----------------------|--|
| <u>Wittrock &</u> <u>Epperson</u> | ??? | Feb Report | <i>ACCESS TO DEATH CERTIFICATES</i> <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> <i>A suggestion was made to rely on an Affidavit.</i> |
|--|-----|-----------------------|--|

| | | | |
|-----------------------------------|-----|--------------|--|
| <u>Wimbish</u> Carson Astle | ??? | Feb Draft | <i>LOT SPLIT APPROVAL</i> Does a division of a platted lot into two or more lots each of greater than 5 acres require lot split approval? |
|-----------------------------------|-----|--------------|--|

| | | | |
|----------------------------|----------------|---------------|--|
| <u>Seda & Epperson</u> | 30.1 et seq | Feb 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 www.eppersonlaw.com; there was also a 2016 OU Law Review article published on this issue)</i> |
|----------------------------|----------------|---------------|--|

***** END OF PRESENTATIONS *****

MARCH 17, OKC

| | | | |
|---|---|---------------|---|
| <u>Epperson</u> Schaller McLean Astle Doyle | ? | Mar Report | LEGAL AND PHYSICAL RIGHT OF ACCESS ???????????????????????????????? |
|---|---|---------------|---|

| | | | |
|---------------------------|---|---------------|--|
| <u>Sullivan</u> McLean | ? | Mar Report | TENANCY BY ENTIRETY ???????????????????????????????? |
|---------------------------|---|---------------|--|

| | | | |
|--------------------------------|---|---------------|---|
| <u>Reed</u> Seda Wimbish | ? | Mar Report | SIGNING M&M LIENS BY NON-CORPORATE REPRESENTATIVES ???????????????????????????????? |
|--------------------------------|---|---------------|---|

APRIL 21, TULSA

| | | | |
|---|-------|---------------|---|
| <u>Schaller</u> McMillan (Schuller) | 30.14 | Apr Report | <i>FEDERAL BANKRUPTCY COURT PROCEEDINGS</i> <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</i> |
|---|-------|---------------|---|

| | | | |
|--|--|--|---|
| | | | <i>add a Caveat that all titles are subject to any bankruptcy filings anywhere in the country without local notice being filed.</i> |
|--|--|--|---|

=====APPROVED=====

=====UNSCHEDULED=====

| | | | |
|-----------------|---|------------|---|
| <u>(Brown?)</u> | ? | Jan Report | <i>SPECIAL ADMINISTRATOR AUTHORITY TO CONDUCT REAL ESTATE SALES</i> |
|-----------------|---|------------|---|

=====REJECTED=====

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

=====

COMMITTEE OFFICERS:

Chair: Kraettli Q. Epperson, OKC (405) 848-9100
kqe@mehoge.com

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

(C:\MYDOCUMENTS\BAR&PAPERS\OBA\TES\2018\Agenda 2017 02 (Feb)

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