

# Arbitration Clauses In Florida

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This one-day seminar is designed for attorneys,  
paralegals and other legal staff.

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**West Palm Beach, FL  
April 4, 2006**

**Christopher B. Hopkins  
Allison S. Miller-Bernstein**  
*Cole, Scott & Kissane, P.A.*



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# Critical Issues On The Agenda

*This seminar will be presented by Christopher B. Hopkins and Allison S. Miller-Bernstein.*

9:00 a.m. - 10:00 a.m.

**I. Introduction To Arbitration Clauses**

- A. Purpose
- B. Costs And Benefits
- C. Analysis Of Florida Arbitration Code
- D. Analysis Of FAA
- E. Conflicts And Emerging Trends Of Law

10:00 a.m. - 11:00 a.m.

**II. Drafting The Arbitration Clause**

- A. Language
- B. Limitations
- C. Severance
- D. Venue For Resolving Disputes
- E. Exculpatory Clauses

11:00 a.m. - 11:15 a.m.

**Break**

11:15 a.m. - 12:00 p.m.

**III. Signing The Arbitration Agreement – Is The Right Person Signing?**

- A. Competent Party
- B. Representative Of Party
  - 1. Power Of Attorney
  - 2. Guardian
  - 3. Health Care Proxy/Surrogate
  - 4. Relatives
- C. Presentation And Execution
  - 1. To Explain Or Not To Explain
  - 2. Proper Training To Explain

12:00 p.m. - 1:00 p.m.

**Lunch (On Your Own)**

1:00 p.m. - 1:30 p.m.

**IV. Procedure For Enforcement In Court**

- A. Motion To Compel Arbitration
- B. Motion To Stay Discovery And Proceedings
- C. Discovery
- D. Avoidance Of Waiver

1:30 p.m. - 2:30 p.m.

**V. Arguments At Evidentiary Hearing**

- A. Illegal Contract
- B. Seifert Test
- C. Unconscionability Test
- D. Public Policy Test
- E. Rollins Test

2:30 p.m. - 2:45 p.m.

**Break**

2:45 p.m. - 3:45 p.m.

**VI. Arguments Against Arbitration**

- A. Waiver Of Arbitration
- B. Invalid Agreement
  - 1. Wrong Signor/Unsigned Agreement
  - 2. Incompetent Signor
- C. Procedural Unconscionability
  - 1. Weston Tests
- D. Substantive Unconscionability
  - 1. Language And Limitations Of Agreement
- E. Public Policy
  - 1. 4<sup>th</sup> District Court Of Appeal And Blankfeld/Lacey Precedent
- F. Arbitration Biased And/Or Costly
- G. Statutory Claim Not Arising From The Contract

3:45 p.m. - 4:30 p.m.

**VII. What To Expect In Arbitration**

*Lorman Education Services reserves the right to modify the agenda and the faculty when circumstances are beyond our control.*

## Our Distinguished Faculty

### Christopher B. Hopkins

**Christopher B. Hopkins** is a partner in the law firm of Cole, Scott & Kissane, P.A., where he manages the West Palm Beach office. Mr. Hopkins is a litigation and appellate lawyer with his focus in real estate and professional malpractice. He is the author of over 50 legal articles, a member of the editorial board of *The Trial Advocate Quarterly*, a frequent lecturer and CLE faculty member. Mr. Hopkins received his B.A. degree from the University of Richmond, master's degree from Wesley Theological Seminary and J.D. degree from Tulane Law School. He is a member of The Florida Bar, Palm Beach Bar Association, Florida Defense Lawyers Association, Defense Research Institute (DRI) and the Florida Brewers Guild. Mr. Hopkins is admitted to practice in all federal and state courts in Florida, the Court of Appeals for D.C. Circuit, the 11<sup>th</sup> Circuit and the U.S. Supreme Court. He was named one of *Florida Legal Elite's* top "Up and Coming" lawyers in Florida in 2005.

### Allison S. Miller-Bernstein

**Allison S. Miller-Bernstein** is an associate in the West Palm Beach office of Cole, Scott & Kissane, P.A. She is a litigation and appellate lawyer with her focus in the areas of insurance defense, professional malpractice litigation and nursing home defense. In addition, she serves as appellate counsel in a broad range of cases including disputes over the enforcement of arbitration. She received her B.S. of business administration degree from the University of Florida and her J.D. degree from Nova Southeastern University. She is a member of The Florida Bar and is admitted to practice in all state courts within the state of Florida, the U.S. District Court for the Southern District of Florida and the U.S. District Court for the Northern District of Florida.

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## General Information

West Palm Beach, FL • April 4, 2006

### Hotel • Address

Registration: 8:30 a.m. - 9:00 a.m. • Session: 9:00 a.m. - 4:30 p.m.

Lunch Break: 11:45 a.m. - 12:45 p.m. (On Your Own)

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**FACULTY:** Mitchell E. Herr, Stephen Warren, Stephen P. Artusi, Holland & Knight LLP; Morris Hollander, Rachlin Cohen & Holtz LLP; Christopher Polaszek, Milberg Weiss Bershad & Schulman LLP; Seth L. Rodner, Fowler White Boggs Banker P.A. ©2005. 172 pages.

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**IRC SECTION 1031 EXCHANGES OF INVESTMENT PROPERTY AND INVESTMENT ANALYSIS IN FLORIDA** — Real Estate Investment vs. Others; Taxpayer Motives For Exchanging; Methods Of Exchanging; Measuring Return On Investments; Components Of An Investment; Review Of Substantive Issues Regarding Real Estate Investing; Reverse And Improvement "Parking Arrangement" Exchanges.

**FACULTY:** Cherie M. Embree, Asset Protection, Inc.; Robin L. Webb, CCIM, Coldwell Banker Commercial NRT. ©2005. 242 pages.

**ITEM:** 355850TMX CD AND MANUAL \$149  
355850MAN MANUAL ONLY \$69

**TITLE EXAMINATION IN FLORIDA** — What Is An Endorsement; Why Endorsements. Managing Risks; Who Needs Endorsements; Types Of Endorsements; Attorney's Fees; Conflicts Of Interest – Multiple Representation; Disclosure Of Defects In Property.

**FACULTY:** Mark A. Ginzo of Ginzo and Associates, Inc., Ronald G. Klein of Klein and Fortune, P.A. and Alan E. Krinzman of Adorno & Yoss, LLP. ©2005. 122 pages.

**ITEM:** 350343MAN MANUAL ONLY \$79

## The Benefits For You

This seminar is an overview of drafting and enforcing arbitration clauses in contracts. It will focus on the drafting and enforcement of arbitration agreements, including a detailed analysis of the recent changes to Florida law on arbitration. It is designed to familiarize the attendee with the procedure surrounding the drafting and enforcement of arbitration agreements. Additionally, it takes the attendee through the process of litigating the enforcement of an arbitration agreement. In summary, this seminar will provide its attendees with the practical knowledge they will need to create arbitration agreements, execute arbitration agreements and deal with litigation in the area of enforcement of arbitration.

### Seminar highlights:

- How to draft arbitration clauses and exculpatory clauses in contracts
- The procedure for drafting and enforcing arbitration agreements
- Recent trends and conflicts in arbitration enforcement law

## Written Materials/CD Audio Recordings

You will receive a professionally prepared manual at this seminar. This manual has been compiled by the faculty specifically for this seminar. The seminar will be recorded. Your registration constitutes your consent to such recording. If you cannot attend, you may order a set of the digitally recorded CDs and the accompanying manual from this program by using the registration form on the back panel.

## Continuing Education Credit

*Please remember to bring your license number, ID or other necessary information to the seminar. This will ensure timely reporting of continuing education credit.*

This course has been submitted to The Florida Bar for 7.00 hours of CLE credit. Application pending.

This program has been submitted to the National Federation of Paralegal Associations for 6.00 hours of NFPA continuing education credit. Approval pending.

# Arbitration Clauses In Florida • West Palm Beach, FL • April 4, 2006



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