



**Ohio Dormant Mineral Act
Special Institute
Hilton Columbus/Polaris
December 12, 2016
Columbus, Ohio**

**Sponsored by the
Energy & Mineral Law Foundation**

Program Committee

- Sheila Nolan Gartland
Program Chair
*Vorys, Sater, Seymour
and Pease LLP*
Columbus, OH
- Kevin C. Abbott
Reed Smith LLP
Pittsburgh, PA
- Nicolle Bagnell
Reed Smith LLP
Pittsburgh, PA
- Ilya Batikov
*Vorys, Sater, Seymour
and Pease LLP*
Columbus, OH
- Kevin Colosimo,
Frost Brown Todd LLC
Pittsburgh, PA
- Anthony W. Jesko
*Dickie, McCamey
& Chilcote, P.C.*
Pittsburgh, PA
- Clay K. Keller
Jackson Kelly PLLC
Akron, OH
- Gregory D. Russell
*Vorys, Sater, Seymour
and Pease LLP*
Columbus, OH
- Joseph A. Tarantelli
*Chesapeake Energy
Corporation*
Oklahoma City, OK
- William J. Taylor
Kincaid, Taylor & Geyer
Zanesville OH
- Matthew Warnock
Bricker & Eckler LLP
Columbus, OH

Program schedule

8:30 - 9:15 a.m. **Arguing — Corban: How We Got There; Where Are We Going?**

This interactive panel is composed of distinguished attorneys who were intimately involved with the Supreme Court of Ohio's decisions on the Dormant Mineral Act, and represent the interest of surface owners, mineral owners and lessees. They will discuss the issues before the Supreme Court of Ohio in *Corban v. Chesapeake Exploration L.L.C.*, and the court's holdings. In addition, they will offer insight as to issues left open by the court, the impact of the court's holdings and interpretations of the court's opinion.

- Moderator: Ilya Batikov, *Vorys, Sater, Seymour and Pease LLP*, Columbus, OH
- Nicolle S. Bagnell, *Reed Smith LLP*, Pittsburgh, PA
- Matthew Warnock, *Bricker & Eckler LLP*, Columbus, OH
- Joseph A. Tarantelli, *Chesapeake Energy Corporation*, Oklahoma City, OK
- Clay K. Keller, *Jackson Kelly PLLC*, Akron, OH

9:15 -10:00 a.m. **Procedure and Pitfalls of the "2006 DMA"**

This presentation will focus on savings events, specifically what constitutes a title transaction, after *Buell*; what efforts are necessary to locate owners prior to notice by publication; and does a lessee/operator have standing to challenge sufficiency of surface owner's actions under the 2006 DMA.

- Stefanie L. Burt, *Reed Smith LLP*, Pittsburgh, PA
- Gregory W. Watts, *Krugliak Wilkins Griffiths & Dougherty Co., L.P.A.*, Canton, OH

10:00-10:15 a.m. Break

10:15-11:15 a.m. **Ohio's Marketable Title Act and the ODMA: Siblings or Distant Cousins?**

In light of the Supreme Court of Ohio's decision in *Corban*, renewed attention is being paid to the Ohio Marketable Title Act and whether the Act can be used to extinguish severed mineral interests. This session will discuss the history and purpose of the Ohio Marketable Title Act, summarize how the Act applies, and discuss whether, how, and when the Act operates to extinguish severed mineral interests.

- James (Jay) A. Carr II, *Vorys, Sater, Seymour and Pease LLP*, Columbus, OH
- Craig E. Sweeney, *Bricker & Eckler LLP*, Marietta, OH



BATIKOV



BAGNELL



WARNOCK



TARANTELLI



KELLER



BURT



WATTS



CARR



SWEENEY

11:15 a.m.-12:15 p.m. **Understanding Unitization**

This session will explain the unitization process in Ohio, discuss practice before the Division, identify potential challenges, and consider its application following the *Corban* decision.

- Gregory D. Russell, *Vorys, Sater, Seymour and Pease LLP*, Columbus, OH



RUSSELL

12:15-1:30 p.m. **Hosted Luncheon**

1:30-2:30 p.m. **How Do I . . . Cure Titles to Severed Minerals?**

This presentation will focus on resolving issues remaining after *Corban*, *Walker v. Shondrick-Nau* and *Albanese v. Batman* by declaratory judgment, quieting title and probate procedures. Ohio's Dormant Mineral Act (DMA) adopted in 1989 and amended in 2006 and 2013 provided a basis and procedure for curing title issues under the Marketable Act (MTA) provisions of the Ohio Revised Code. The Ohio Supreme Court's decisions in *Corban*, *Walker* and *Albanese* clarified some but not all issues raised by lower court decisions. Final resolution of many competing claims to title to severed minerals may be best positioned as quiet title actions, declaratory judgment, partition actions, and probate court proceedings.

- Scott D. Eickelberger, *Kincaid, Taylor & Geyer*, Zanesville, OH
- Ryan H. Linn, *Kincaid, Taylor & Geyer*, Zanesville, OH



EICKELBERGER



LINN

2:30-3:30 p.m. **Torts 101 . . . or Not — New Questions Raised by *Corban***

This session will explore potential tort claims including Trespass and Slander of Title. Specifically, this session will analyze whether landowners and/or severed mineral rights holders may still find themselves in litigation on such tort claims following the *Corban* decision and if so, what are some defenses that could be asserted to defend against these claims.

- Ashley L. Olikier, *Frost Brown Todd LLC*, Columbus, OH
- Stephen P. Kocon, *Frost Brown Todd LLC*, Pittsburgh, PA



OLIKER

3:30-3:45 p.m. **Break**



KOCON

3:45-4:30 p.m. **Handouts and Paybacks: Remedies for Payments Made to the Wrong Party**

So you may have the wrong people leased. The recent clarification as to scope and applicability of Ohio's Dormant Mineral Act determined by the Ohio Supreme Court may have left several E&P's with leases possibly subject to divestiture. Lessors who have become divested of mineral rights in favor of prior owners may face claims by operators seeking to claw-back lease bonus and royalty payments under several theories, including breach of general warranty of title, illusory contract, mutual mistake of fact, mistake of law, and rescission. Unlike other producing jurisdictions, Ohio has yet to enact a statute that provides for statutory recovery of payments made to lessors who later become divested of title or who never owned the minerals. While a surface owner may be required to pursue the procedures of the 2006 amendment to the DMA to clear prior mineral reservations that threaten a lease, this segment will investigate the validity of claims and potential remedies of operators who find themselves in the unenviable scenario of holding a lease held in suspense.

- Anthony W. Jesko, *Dickie, McCamey & Chilcote, P.C.*, Pittsburgh, PA
- John R. Seeds, *Dickie, McCamey & Chilcote, P.C.*, Pittsburgh, PA
- T. Owen Beetham, *Beetham Law Office*, Cadiz, OH



JESKO



SEEDS



BEETHAM

4:30 p.m. **Adjourn**



Yes, I want to attend the Ohio Dormant Mineral Act Special Institute

Registration fee includes meeting materials and presentations, continental breakfast and breaks, and luncheon.

<i>Registration fees</i>	<i>Early Bird (by November 23)</i>	<i>After November 23</i>
General Registration	\$460	\$500
EMLF Members	\$400	\$450
Young Lawyers (3 years or less), Full-Time Law Faculty and Gov't Attorneys	\$325	\$375
Law Students (full-time)	\$100	\$100

First Name _____ M.I. ____ Last Name _____ Badge name _____

Organization/Firm _____ Title _____

Address _____

City, State, Zip _____

Daytime Phone _____ Fax # _____

Email Address _____ Guest _____

State(s) for CLE Credits? _____ Do you need AAPL Credit? _____

Fees:

Conference registration \$ _____

Total \$ _____

The program will be accredited for attorneys and contains 375 minutes of Continuing Legal Education (CLE), or approximately 6.25 hours in states which calculate a CLE hour based on 60 minutes, and 7.5 hours of CLE credit in states which calculate a CLE hour based on 50 minutes. Materials for the program will be available for viewing and downloading on a webpage for registrants only. The link to that page will be sent to you in the week prior to the conference. If your state bar requires hard copies of the presentations at the time of the program, please download and print the online materials so you will be able to comply with this requirement.

You may pay by _____ check or _____ credit card. EMLF accepts MasterCard, VISA or American Express.

Card # _____ Expiration date _____

Signature _____ CVV code (security code) _____

Cancellation policy

Registration refunds less \$75 will be made for cancellations received by December 2. No refunds will be made thereafter, but substitutions can be made at any time.

Three ways to register

- If registering online, go to www.emlf.org
- If registering by fax, call 859.226.0485
- If registering by mail, send form and payment to EMLF, 340 South Broadway, Suite 101, Lexington, KY 40508

EMLF has not blocked hotel guest rooms for this educational event.
 Go to 614.885.1600 for accommodations, or go to
<http://www3.hilton.com/en/hotels/ohio/hilton-columbus-polaris-CMHPOHF/index.html>