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Alabama Eminent Domain and Condemnation

Agency, Owner, Appraiser and Judicial Perspectives

November 30–December 1, 2006 • The Wynfrey Hotel • Birmingham

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Government Employees!**

Who Will Benefit:

- Attorneys and Legal Staff
 - Engineers
 - Environmental Consultants
 - Developers
 - Government Officials
 - Judges
 - Landowners
 - Planners
 - Real Estate Acquisition Consultants
 - Real Estate Appraisers
 - Right of Way Specialists
- ... and anyone concerned with eminent domain issues in Alabama.

Dear Colleagues,

We hope you will join us at this new Conference on Alabama Eminent Domain and Condemnation. We have assembled a faculty of the most experienced eminent domain professionals in the State of Alabama to address key topics and strategies that will give you the tools you need in this important field.

This Conference is particularly exciting because it will give you a balanced perspective from both condemnors and property owners, as well as from the bench. Private owner and agency condemnation attorneys will guide you through partial takings, winning strategies, appraiser depositions, inverse condemnation, and more. In addition, appraisers who specialize in condemnation cases will discuss substantive information and developments in the law. This program is rounded out with the opportunity to hear first-hand from the state legislators and the judges who make the key decisions.

We are proud of the high quality presenters at this Conference who will provide you with insights and strategies that you can use in your profession.

We look forward to seeing you at the Conference!



Edward S. Allen, Esq.
Program Co-Chair



Warren C. Herlong, Jr., Esq.
Program Co-Chair

Edward S. Allen, Esq.
Program Co-Chair
Balch & Bingham

Warren C. Herlong, Jr., Esq.
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Helmsing, Leach, Herlong, Newman & Rouse



Visit our website at [cle.com](http://www.cle.com) for a complete listing of MCLE requirements in all states. You will also find a schedule of our upcoming conferences and a listing of available homestudy courses.

Register Online at www.cle.com or Call (800) 873-7130
Conference Schedule and Speaker Biographies Inside



Thursday, November 30**Friday, December 1**

- 8:30 Registration and Continental Breakfast
- 9:00 **Introduction and Overview**
Edward S. Allen, Esq., Program Co-Chair
Balch & Bingham, Birmingham
- 9:15 **The Kelo Decision**
Public Use or Public Benefit?
The Honorable Michael F. Bolin, Associate Justice
Supreme Court of Alabama, Montgomery
- 10:00 **Alabama's Legislative Response to Kelo**
The State Perspective
Representative Richard J. Lindsey
Alabama House of Representatives, 39th District, Montgomery
- 10:45 Morning Break
- 11:00 **Condemnation Appraising**
Legal Requirements
Mandell Tillman, MAI
Tillman, Allen & Sizemore, Gadsden
- 11:45 **The Measure of Just Compensation**
Damage to Remainder
Richard Maloy, MAI, SRA, CRE
Maloy & Company, Birmingham
- 12:30 Lunch Break
- 1:45 **Partial Takings from the Agency's Perspective**
Enhancement
William M. Bouldin, Esq.
Guin, Bouldin & Alexander, Russellville
- 2:30 **Partial Takings from the Owner's Perspective**
Severance Damages
Warren C. Herlong, Jr., Esq., Program Co-Chair
Helmsing, Leach, Herlong, Newman & Rouse, Mobile
- 3:15 Afternoon Break
- 3:30 **A Circuit Judge's Perspective**
Suggestions for Litigants
The Honorable J. Scott Vowell
Presiding Circuit Judge, 10th Judicial District
Jefferson County, Birmingham
- 4:15 **A Probate Judge's Perspective**
Hearing of Complaint
The Honorable Patricia Yeager Fuhrmeister
Shelby County Probate Court, Columbiana
- 5:00 **Private Condemnations**
Access to Landlocked Property
James A. Bradford, Esq.
Balch & Bingham, Birmingham
- 5:45 Adjourn

- 8:15 Continental Breakfast
- 8:45 **Overview of Day Two**
Warren C. Herlong, Jr., Esq., Program Co-Chair
- 9:00 **Taking the Deposition of the Agency's Appraiser**
Identifying Basis of Opinion
Patrick M. Lavette, Esq.
Davenport & Lavette, Birmingham
- 9:45 **Taking the Deposition of the Owner's Appraiser**
Eliminating Surprises at Trial
Charles S. Wagner, Esq.
Jefferson County Attorney's Office, Birmingham
- 10:30 Morning Break
- 10:45 **Winning Strategies for the Owner**
Maximizing the Verdict
Gary L. Jester, Esq.
Jester and Jenkins, Florence
- 11:30 **Winning Strategies for the Agency**
Presentating Exhibits; Demonstrative Aids
Edward S. Allen, Esq., Program Co-Chair
- 12:15 Lunch Break
- 1:30 **Condemnation Procedure**
Pitfalls
J. Casey Pipes, Esq.
Helmsing, Leach, Herlong, Newman & Rouse, Mobile
- 2:15 **Inverse Condemnation—Agency**
What is a Taking?
Issac P. Espy, Esq.
Espy, Nettles, Scogin and Brantley, Tuscaloosa
- 3:00 Afternoon Break
- 3:15 **Inverse Condemnation—Owner**
Taking and Damaging
Jesse P. Evans, Esq.
Haskell Slaughter Young & Rediker, Birmingham
- 4:00 **Ethics**
Communicating with a Represented Party
Robert E. Lusk, Jr., Esq., Assistant General Counsel
Alabama State Bar, Montgomery
- 5:00 Evaluations and Adjourn

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SuperConference
October 26-27, Tampa
Private Equity SuperConference
November 16-17, Charlotte

Land Use: Getting to Yes
December 7-8, Denver
Eminent Domain
December 11-12, San Francisco

Litigating Land Use
December 11-12, Tampa
Nevada Water Law
January 29-30, Reno

For more information about these and other programs, visit our website at www.cle.com.

Eminent Domain

meet your faculty

Program Co-Chairs

Edward S. Allen has handled condemnation matters during the majority of his 43 years of practice. He is also engaged in commercial litigation, including public utility, contract, civil rights, riparian rights and real property matters. He served on the Alabama Law Institute's Eminent Domain Law Revision Committee through the period in which the committee drafted the Alabama Eminent Domain Code, adopted by the Alabama Legislature in 1985. Since the enactment of the Code, he has continued to serve on the Institute's Eminent Domain Law Committee.

Warren C. Herlong, Jr., has spent a majority of his 28-year general civil litigation practice focusing on condemnation, where he has represented agencies and owners with a predominance in owner representation. He served for three years as co-chairman of the American Bar Association's 58,000-member Section of Litigation, Committee on Condemnation, Zoning and Land Use. He is the Alabama representative in the Owner's Counsel of America, a Miami-based organization of one lawyer per state who primarily represents owners in condemnation actions. Mr. Herlong practices condemnation statewide in Alabama.

The Honorable Michael F. Bolin was a practicing attorney in Birmingham from 1973 through 1988, when he was elected Probate Judge of Jefferson County. He served in that position until his election to the Alabama Supreme Court in 2004, and began serving as an Associate Justice on that Court in January 2005. He was active in the Alabama Probate Judges' Association, where he served as President, Secretary, and Treasurer.

William M. Bouldin is a private practice condemnation law attorney. He previously served as an attorney for the City of Russellville for over 20 years. In 1995, he was appointed as the Deputy Attorney General of Alabama to work on condemnation proceedings.

James A. Bradford has over 25 years of experience in representing individuals and companies in a wide range of litigated matters involving contract, eminent domain, environmental, insurance, landlord/tenant, product liability, professional negligence, real estate, tort, and wills and estates law.

Isaac P. Espy is a patent attorney who practices natural resources law, real estate law and construction law. He is a licensed professional land surveyor and a licensed professional engineer.

Jesse P. Evans is a real estate litigation attorney. His practice includes all phases of development, construction, disputes, condemnation, land use, and zoning and ownership. He is the author of *Alabama Property Rights and Remedies, Third Edition*, and is an Adjunct Professor at the University of Alabama School of Law.

The Honorable Patricia Yeager Fuhrmeister has been the Probate Judge of Shelby County, Alabama, since January 1995. She was formerly the Chair of the Alabama Probate Judges' Association Committee on Continuing Education, and she is a lecturer at various CLE events in the field of probate law and procedure.

Gary L. Jester represents clients in ERISA, property condemnation, product liability, bankruptcy, wills, real estate, divorce, personal injury, auto accidents and other matters.

Patrick M. Lavette is a trial attorney whose practice includes representing individuals in a broad range of civil matters. He has represented property owners in eminent domain cases involving surface and mineral condemnation for highway, sewer, railroad, power line, and road projects.

Richard J. Lindsey was elected in 1983. He serves as the manager of Lindsey Bros. Inc. He serves as a member of the Board of Directors for the Cherokee, DeKalb and Marshall Child Care Corporation, as a member of the Board of Directors for the Southeastern Cotton Ginners Association, and as President of Howells Cemetery Association.

Robert E. Lusk, Jr., previously served as Chief Counsel and Deputy District Attorney in Montgomery County. He has also served as Assistant Attorney General for the State of Alabama and as law clerk to Judge H. Randall Thomas, Fifteenth Judicial Circuit in Montgomery County.

Richard Maloy has extensive experience in all areas of real estate appraisal and consulting, including eminent domain, property damage, construction issues, and appraisal reviews. He has been qualified as an expert witness since 1978 in the state courts of Alabama and Tennessee, Federal District Court, Federal Land Commission, the U.S. Tax Court and federal Bankruptcy Court.

J. Casey Pipes has extensive experience in the fields of municipal and governmental law. In addition, he has performed a wide range of general civil litigation with a concentration on eminent domain work. He is a frequent speaker on issues relating to municipal law and eminent domain and has authored and co-authored various articles in the field of eminent domain.

Mandell Tillman and his firm focus on all aspects of real estate appraisal. He is a designated instructor for the International Right of Way Association, Region 6. Governor Riley reappointed him to the Alabama Real Estate Appraisers Board representing the Fourth Congressional District in May 2005.

The Honorable J. Scott Vowell is the Presiding Circuit Judge in the 10th Judicial Circuit in Jefferson County.

Charles S. Wagner has worked in his position for over 24 years. He has participated in all aspects of property acquisition, from commencement of public works projects to completion. He has handled numerous eminent domain cases, including *Moss v. Jefferson County*, which held in part that funds withdrawn by a condemnee prior to entry of a final judgment in Circuit Court in excess of the jury's award must be repaid to the condemnor with interest.

conference information

Continuing Education Credit

MCLE: This course has been approved for a maximum of 13 hours of credit, including one hour of legal ethics.

Planners: This course meets the requirements for up to 13 hours of AICP/CPDP credit.

For accreditation in other jurisdictions or disciplines, please contact **CLE INTERNATIONAL** at (800) 873-7130.

Registration

Advance registration is recommended, and you are encouraged to mail in your registration early. Or simply call in your registration or homestudy order to (800) 873-7130, fax the Registration/Order Form to (303) 321-6320, register online at www.cle.com, or email your registration to registrar@cle.com. Full payment is due at the time of registration. Walk-in registrations will be subject to space availability. Please call **CLE INTERNATIONAL** at (303) 377-6600 if you require any special accommodations.

CLE International Program Attorney:
Michelle M. Paulin, michelle@cle.com.

Reserve Your Room Early

The Conference will be held at The Wynfrey Hotel, 1000 Riverchase Galleria, Birmingham, AL 35249. To secure your space and get the best rates, please contact Community World Travel at (888) 724-0500, or www.communityworldtravel.com.

Tuition: \$595

The tuition fee of \$595 per person (\$495 for government employees, 501(c)(3) organizations, full-time judges, law students, and paralegals) includes attendance at all sessions, course materials, continental breakfasts, and coffee breaks.

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Save \$200 or more with our multiple registrant discount! For two or more registering from the same firm, the tuition fee is only \$495 per person (\$395 for government employees, 501(c)(3) organizations, full-time judges, law students and paralegals).

About CLE International

CLE INTERNATIONAL, a leading provider of continuing professional education, has been presenting high-quality programs nationwide since 1983.

Course Materials

Each registrant will receive a set of course materials, prepared by the speakers especially for this Conference, which will be a valuable future reference. The course materials alone are available for \$95 plus \$10 shipping and handling.

Homestudy Package

If you cannot attend, **CLE INTERNATIONAL** also offers a complete audio transcript of the Conference (including all course materials) for \$595 plus \$10 shipping and handling. This package may qualify for self study credit.

Cancellation

Full tuition refunds (less a \$50 administrative charge) will be given only if notice of cancellation is received by 5:00 p.m. MST on the Friday prior to the Conference. Substitutions may be made at any time.

Sponsorship Information

Sponsorship and exhibition opportunities are still available. For more information, please contact Jill Shannon at (303) 377-6600 or jill@cle.com.

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Agency, Owner, Appraiser and Judicial Perspectives

November 30–December 1, 2006 • The Wynfrey Hotel • Birmingham

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Alabama Eminent Domain and Condemnation

The *Kelo* Decision and Alabama's Response

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Shelby County Probate Court

Alabama House of Representatives

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