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Symposium:

A Festschrift in Honor of Dale A. Whitman

Foreword: Thank You, Dale

R. Wilson Freyermuth

Often in symposium issues, it is customary for the organizer to prepare a foreword that introduces each author and presents a brief synopsis of each article. As is true for most symposia, the authors in this issue (and their articles) are worthy of such praise and attention. I hope you will read and enjoy each of the articles, but this foreword is not going to summarize or describe them. Instead, with the indulgence of the other authors, this foreword will focus on Dale Whitman – in whose honor these articles were prepared and presented at the University of Missouri-Columbia School of Law on April 13 and 14, 2007.

Throughout his long career, Dale Whitman has been one of the leading intellectual lights in the field of mortgage law. Since he began his teaching career at the University of North Carolina, Dale has achieved an impressive and sustained record of outstanding scholarship. He has published 37 articles and 8 books (most in multiple editions) – including *Real Estate Finance Law*, the definitive authority on the mortgage law field (now in its Fifth Edition). As the list in the appendix to this foreword indicates, Dale's partnership with Grant Nelson must certainly rank as one of the most productive academic partnerships in all of American legal scholarship.

The most significant product of this partnership is the landmark Restatement (Third) of Property: Mortgages, approved by the American Law Institute in May 1996, for which Dale and Grant served as co-Reporters. In the Restatement, Dale and Grant comprehensively attempted to bring ration-

ality and coherence to mortgage law – a body of law not always known for its rationality and coherence (as teachers of mortgage law can attest). While it is still early to judge the ultimate success of their efforts in a quantitative way, citation review indicates that the Restatement is having a substantial influence in the continuing evolution of mortgage law.¹

Dale's leadership and stature as a scholar has likewise prompted his involvement in numerous other law reform efforts. Dale served as the Reporter for the Uniform Nonjudicial Foreclosure Act, approved by the National Conference of Commissioners on Uniform State Law in 2004. He has served as an adviser (either for the American Bar Association, the American College of Real Estate Lawyers, or the American College of Mortgage Attorneys) to drafting committees for the Uniform Real Property Electronic Recording Act and the Uniform Transfer on Death Deed for Real Property Act, and he serves on the Joint Editorial Board for Uniform Real Property Acts. Dale's involvement and contributions to law reform provide not only a role model for those of us teaching in the real estate field, but also a wonderful blueprint for how one's scholarship can best influence the content and practice of law.

What is most admirable about Dale's sustained record of productivity as a scholar and law reformer is that he achieved that record while fulfilling substantial administrative and professional service commitments (in addition to the law reform commitments noted above). Dale served with distinction as Dean of the University of Missouri-Columbia School of Law from 1982 to 1988. During this period, Dale was instrumental in raising the private funds necessary to obtain the legislative commitments for the construction of Hulston Hall, the current law school building, which opened in 1988. Dale has served on over 25 ABA accreditation teams, and in various leadership positions within the Association of American Law Schools – including two terms on the AALS Executive Committee and culminating in his service as AALS President during 2002. And as Dale's colleagues can attest, he has always carried more than his fair share of administrative and committee service here at Missouri.

This substantial service never slowed down Dale's productivity as a scholar, nor did it diminish his excellence as an outstanding, committed teacher. Dale has always been in front of the curve in creatively using technology in his courses – he was among the first to experiment with using the Web, podcasting, and web-based audio-visual lecturettes in his courses. Likewise, Dale regularly contributes his vast insights on property and real estate issues as a frequent participant on the DIRT discussion list, to the great benefit of the real estate practitioners and other academics who subscribe to the list (and continue to be taught by his insights). It is fitting – but not surprising – that Dale would contribute to this symposium with a paper sharing

1. As of November 27, 2007, Westlaw's allcases database indicates at least 159 citations to the Restatement, including 74 since the beginning of 2004.

his thoughts on the most important concepts in the teaching of the Property course.²

While Dale's professional accomplishments are outstanding, even more noteworthy is the personal manner with which he achieved them. Dale has high intellectual standards, but he demonstrates great patience, kindness and compassion in his interactions with both students and colleagues. Most notable in this regard, of course, is Dale's legendary wit and humor. Frequently, this wit was skillfully directed in class, either to help expose a poor judicial opinion, a questionable argument, or just to lighten the spirits of the students. Notably, however, Dale can aim that wit at himself as well. Earlier this year, Dale received some unexpected media attention when a troubled student at another law school was arrested after having fired two rounds from an assault weapon – into (and through) a copy of Dale and Grant's real estate finance casebook! When contacted by a reporter for the *Wall Street Journal's* law blog, Dale remarked "I've had people that say my scholarship is shot through with holes, but I've never had anyone prove it literally."

Each of the authors in this symposium owes immense intellectual and professional debts to Dale. For myself, I am grateful to Dale for numerous things – not the least of which is my position on the Missouri faculty. I began teaching in 1991 as a visitor at the University of Denver. During that year, for family reasons, Dale decided to leave Missouri for BYU – opening up a need on the Missouri faculty for someone (me) to teach Property and Real Estate Finance. In a very significant (if entirely coincidental) way, I have Dale to thank for my being hired at Missouri. And for that, I am grateful to Dale because Missouri has been a wonderful place for me to teach Property over the past 15 years. In large measure, this is because of the high expectations that Dale fostered in our students as their teacher and Dean – both as to the students' interest in the subject of Property and as to the high standards they expect in their professors. And best of all, after six years away, Dale rejoined the Missouri faculty in 1998. For these last ten years, it has been a daily blessing for me to have Dale as a colleague in the adjacent office, and to benefit from his experience, his wise counsel, and his seemingly endless supply of jokes and puns. I am the better for all of it, except perhaps the puns – and probably even those, too.

Thank you, Dale.

2. Dale A. Whitman, *Teaching Property — A Conceptual Approach*, 72 MO. L. REV. 1353 (2007).

APPENDIX

Publications of Dale A. Whitman

Books

REAL ESTATE TRANSFER, FINANCE & DEVELOPMENT, Seventh Edition (with Grant S. Nelson) (West Group 2006) [First edition 1976; second edition 1981; third edition 1987; fourth edition 1992; fifth edition 1998; sixth edition 2003]

CONTEMPORARY PROPERTY, Second Edition (with Grant S. Nelson & William B. Stoebuck) (West. Publ. Co. 2002) [First edition 1996]

REAL ESTATE FINANCE LAW, Fifth Edition (with Grant Nelson) (West Publ. Co. 2007) [First edition 1979 (with Professors Grant S. Nelson and George Osborne); second edition 1985 and supplement 1989; third edition 1994; fourth edition 2001]

ANATOMY OF A MORTGAGE (with R. Wilson Freyermuth, John P. McNearney, & Debra P. Stark) (American Bar Ass'n 2001)

THE LAW OF PROPERTY, Third Edition (with William B. Stoebuck) (West Publ. Co. 2000) [First edition 1984, supplement 1987; second edition 1993 (both prior editions with William B. Stoebuck and Roger Cunningham)]

LAND TRANSACTIONS AND FINANCE, Fourth Edition (with Grant S. Nelson) (West Publ. Co. "Black Letter" series, 2004) [First edition 1983; second edition 1988; third edition 1998]

RESTATEMENT (THIRD) OF PROPERTY: MORTGAGES (co-reporter with Grant S. Nelson) (American Law Institute, 1997) [Tentative drafts published in 1991, 1992, 1994, 1995, and 1996]

BASIC PROPERTY LAW, Fifth Edition (with Roger A. Cunningham, Olin L. Browder, Grant S. Nelson, and William B. Stoebuck) (West Publ. Co. 1989)

Articles

Deconstructing Lingle: Implications for Takings Doctrine, 40 J. MARSHALL L. REV. 573 (2007)

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Eminent Domain Reform in Missouri: A Legislative Memoir, 71 MO. L. REV. 721 (2006)

Adopting Restatement Mortgage Subrogation Principles: Saving Billions of Dollars for Refinancing Homeowners, 2006 BYU L. REV. 305 (2006) (with Grant S. Nelson)

Redefining the Bar Examination: Notes from the Joint Working Group Conference, 74 B. EXAMINER 21 (Feb. 2005)

New Directions in Mortgage Law: Restatements and Uniform Laws, 33 N.Y. REAL PROP. L.J. 14 (Winter 2005)

Reforming Foreclosure: The Uniform Nonjudicial Foreclosure Act, 53 DUKE L.J. 1399 (2004) (with Grant S. Nelson)

Transfers by Vendors of Interests in Installment Land Contracts: The Impact of Revised Article 9 of the Uniform Commercial Code, 38 REAL PROP. PROB. & TR. J. 421 (2003)

Are We There Yet? The Case for a Uniform Electronic Recording Act, 24 W. NEW ENG. L. REV. 245 (2002)

Chinese Mortgage Law: An American Perspective, 15 COLUM. J. ASIAN L. 35 (2001)

Digital Recording of Real Estate Conveyances, 32 J. MARSHALL L. REV. 227 (1999)

Mortgage Drafting: Lessons from the Restatement of Mortgages, 33 REAL PROP. PROB. & TR. J. 415 (1998)

Reforming the Law: The Payment Rule as a Paradigm, 1998 BYU L. REV. 1169 (1998)

Rethinking Future Advance Mortgages: A Brief for the Restatement Approach, 44 DUKE L.J. 657 (1995) (with Grant S. Nelson)

Mortgage Prepayment Clauses: An Economic and Legal Analysis, 40 UCLA L. REV. 851 (1993)

Installment Land Contracts – The National Scene Revisited, 1985 BYU L. REV. 1 (1985) (with Grant S. Nelson)

Book Review: *Modern Property Law: Cases and Materials*, by Bruce, Ely & Bostick, 38 VAND. L. REV. 237 (1985)

Congressional Preemption of Mortgage Due-on-Sale Law: An Analysis of the Garn-St. Germain Act, 35 HASTINGS L.J. 241 (1983) (with Grant S. Nelson)

Secrecy and Real Property, 27 AM. U. L. REV. 251 (1978)

Financing Condominiums and Cooperatives, 13 TULSA L.J. 15 (1978)

The Installment Land Contract – A National Viewpoint, 1977 BYU L. REV. 541 (1977) (with Grant S. Nelson)

Federal Housing Assistance for the Poor: Old Problems and New Directions, 9 URB. LAW. 1 (1977)

The Real Estate Settlement Procedures Act: How to Comply – Problems and Prospects, 4 REAL EST. L.J. 223 (Winter 1976)

The Design of Videotape Systems for Legal Education, 1975 BYU L. REV. 529 (with Gerald R. Williams)

Home Transfer Costs: An Economic and Legal Analysis, 62 GEO. L.J. 1311 (1974)

Optimizing Land Title Assurance Systems, 42 GEO. WASH. L. REV. 40 (1973)

Book Review: *Urban Planning and Land Development Control Law* by Donald Hagman, 20 UCLA L. REV. 655 (1973)

Financial Institutions Have An Expanding Role in Revitalizing Cities, 29 J. HOUS. 183 (1972) (with Robert P. Sangster)

Rehabilitation of Housing: The Role of Savings and Loan Associations, 4 FED. HOME LOAN BANK BD. J. 26 (August 1971)

Transferring North Carolina Real Estate: Part I: How the Present System Functions, 49 N.C. L. REV. 413 (1971)

Transferring North Carolina Real Estate: Part II: Roles, Ethics, and Reform, 49 N.C. L. REV. 593 (1971)

Book Review: *The Zoning Dilemma* by Daniel R. Mandelker, 1971 WASH. U. L.Q. 133 (1971)

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	Book Review: <i>City Politics and Planning</i> by Francine F. Rabinovitz, 3 URB. LAW. 168 (1971)	
	<i>Survey of Recent Developments in the North Carolina Law of Eminent Domain</i> , 48 N.C. L. REV. 767 (1970)	
	<i>Defending the Low-Income Tenant in North Carolina</i> , 2 N.C. CENT. L.J. 21 (1970)	
	<i>Conflict of Spousal Immunity Laws: The Legislature Takes a Hand</i> , 46 N.C. L. REV. 506 (1968)	
	<i>Competing Security Interests in Fixtures</i> , 42 L.A. BAR BULLETIN 403 (1967)	

