

# MICHIGAN LAWYERS WEEKLY

## A sidebar with ... Frank R. Simon

By: Douglas Levy In News Stories ⌚ August 10, 2015

For Frank R. Simon, growing up in the family business meant using “business” in the plural form: his family owned several of them, from retail to service to manufacturing.



Frank Simon

In that environment, he also gained insight into the relationship between family members and attorneys.

But Simon said he noticed troubling things within those affairs. Misunderstandings on project expectations. Unrealized results. A lack

of cost-effectiveness. Projects not done on a timely level. So he decided to go to law school and be the kind of attorney he wished he could have had working with his family.

Now Simon wears many hats in his Bloomfield Hills-based corporate law practice Simon PLC — among them, commercial litigator, loan workout attorney, distressed property receiver and real estate broker. His name has been seen more frequently in the news in 2015, as he was appointed by Oakland County Circuit Court as the receiver for Southfield's now-shuttered Northland Center mall. The landmark shopping center fell into receivership when its owner defaulted on a \$31 million loan.

**You have a graduate degree in banking, which is something not many attorneys would pursue. How does that give you an advantage in your practice?**

It taught me how banks think. What they look at when pricing loans, what they look at on the deficiency-default side, how they do write-offs, or submit asset-classification files to the feds. It helped me understand typical bank workouts, so I have a sense of what they're looking for.

**Are there times when you have to use more than one of your practice specialties in the same matter?**

Many times. We may get a matter from the bank, where a property is in a default or a workout, and I'm using my broker hat because I know what the going rate is on leases or space, maybe even what the building is worth. I also have access to certain things as a broker such the comps [comparable sales] in the area. I know how to analyze whether something is a bad debt.

**When did you start doing receivership work?**

I was in it 12, 13 years ago, way before the recession hit and before receivership became a more popular remedy. I've been court-appointed as a receiver for approximately 90 matters in the last several years, all in Michigan. They've ranged from the smallest of the smallest, like a carryout restaurant to gas stations, to as large as hotels, office buildings and Northland. Northland is the largest one

assetwise, square-footagewise and debtwise.

**What are some of the misconceptions about receivership?**

That it takes a long time, which is not the case. Quite the opposite — it's probably the quickest remedy. It's quicker, cleaner and more effective than a foreclosure. You can sell a property immediately once you become a receiver. With a foreclosure, you can't do that; you have to wait on a redemption period, usually six months. Also, you can manage the cash flow because you're in charge. You have immediate control over rental income. And with receivership, you can cancel contracts and agreements immediately.

**Did that apply to the merchant tenants at Northland?**

Yes, especially in a multi-tenant facility. We had leases in place and we canceled them all.

**Are there any disadvantages of a receivership?**

It costs more money than a foreclosure because there are more things you have to do and more people involved. First, there has to be a lawyer for the bank or company who wants the receiver, there's the second person who's the receiver, and there's the lawyer for borrower. With foreclosure, there's just the one lawyer for the bank.

**You're essentially the caretaker of Northland. A lot of people could maybe see you as the end point of their memories in going there while growing up. Does that weigh on you?**

Of course it does. But we always look at the community aspect — what's better for the community, how do we keep jobs there. That's why right now we're looking at buyers for the property. I think eventually it will be better for the city for a new development there.

**What have been your biggest challenges in your practice?**

For receivership, definitely Northland, not just for the tenants and canceling leases, but construction and ongoing maintenance issues. It's a complex one because it involves a lot of moving parts. On the bank workout side, we handled a large, complex business at a Downriver [southwest Wayne County] stamping plant. It had several hundred employees who we had to handle delicately while the

business was in its workout. Start-to-finish it took about a year.

**How were you able to handle those employees, who probably viewed you with a sense of fear and distrust?**

We always try to make sure to communicate, to let them know what the goal and intent are here. We try to avoid surprises and keep communicating from the get-go so they understand the process.

**You have three children ages 5 and younger. Do you think when they grow up there will be any indoor shopping malls left?**

I think there will be some, probably the Class A ones, which are the luxury, high-end ones. Maybe more of the B or C malls [the kinds that serve the middle- to lower-income crowd] will become open-air. But unless you're a high-end mall, you probably won't survive because so many people buy things online. You don't even need to go to the mall anymore.