

TEXAS ANNOTATED SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

Jerry L. Lott, Jr.
Winstead PC



The University of Texas
School of Law

53rd Annual William W.
Gibson, Jr. Mortgage
Lending and Servicing
Institute

September 12-13, 2019
Austin, Texas

1

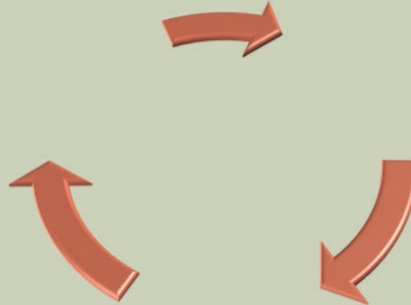
I. INTRODUCTION

- A. Overview of SNDAs
- B. Importance of SNDAs
- C. Before the SNDA: Leverage, Leases and Loans
- D. The Role of the Landlord

2

A. OVERVIEW OF SNDAs

- SNDAs are typically three-party agreements.*



*Don't forget the landlord/borrower.

- SNDAs are most commonly needed in the context of commercial transfers, acquisitions and refinancing.
- Delivering SNDAs can become a very expensive task depending upon the transaction.

3

B. IMPORTANCE OF SNDAs

- SNDAs are a mechanism by which parties are able to plan for the worst case scenario—FORECLOSURE.
 - SNDAs contractually modify lien positions, lease rights and party obligations.
 - SNDAs allow parties to avoid state law default rules.
 - Little case law guidance
 - State laws vary greatly
 - Recording statutes
 - Lien theory v. title theory
 - Notice (actual v. constructive)
 - Risks are difficult to calculate
 - As the likelihood of foreclosure increases, so does the importance of an SNDA.
- In one word, SNDAs mean: CERTAINTY

4

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Texas Annotated Subordination, Non-Disturbance and Attornment Agreement

Also available as part of the eCourse

[2019 William W. Gibson, Jr. Mortgage Lending and Servicing eConference](#)

First appeared as part of the conference materials for the
53rd Annual William W. Gibson, Jr. Mortgage Lending and Servicing Institute session
"Texas Annotated SNDA"