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BARRISTERS TITLE

— *services* —

A Division of Fidelity National Title

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## The Quill – Nov. 2020

THE  
QUILL

we're  
*Thankful*

We are thankful for YOU! Barristers is excited to announce that because of your generous October orders we were able to donate \$6,965.31 to Earlier.org, and \$6,965.31 to Second Harvest Food Bank of Metrolina. We've sent over \$40,000 to Earlier.org since beginning this partnership and we're happy to support Second Harvest this year during a much needed time in our local community. Wow!

So Thank You, Thank You, Thank You!! We are so very pleased that, with your help, we are able to be part of something that is so much bigger than us. We

could not have done it without your support!

We are truly honored to have such amazing and generous clients!

## THE QUILL TIP: ESTATES: WHO SIGNS THE DEED?

This question is perhaps the one I get the most. The property owner is deceased and died with a Will. . .can the Executor convey the property without the joinder of any other individual? It can be a complicated legal issue, but here is a Tip: focus on the devise of real property found in the Will. If there is a specific devise of real property, such as “All of my real property to . . .” then that’s the clause you want to focus on. Whomever is the devisee under that clause needs to sign your Deed. Sometimes it’s the Executor or Executrix, which looks like this: “All of my real property to my Executrix. . .” That clause is often accompanied by a direction to sell the real estate, but not always. However, most of the time that devise is to specific individuals like this: “To my Sister Sally Smith, all of my real estate” or “I leave all of my real estate to my children who survive me.” In those cases, those individuals named in the devise should sign your Deed. Occasionally, there is not a specific devise of real property and we must look to the Residuary Clause of the Will. In that case, the same advice holds. Identify who is the devisee of that clause.

As I said above, the law is not terribly clear as to whether or not an Executor can convey without the joinder of the Devisees of the real property under the Will. There is some indication that an Executor may do so when it is in the “Best interests of the administration of the Estate.” Legal commentators do not agree as to what circumstances must exist for an Executor to act in the best interest of the administration of an Estate. I will tell you that it is better to be safe than sorry. Even if the Executor has the legal ability to do it, it may be best for your client to get the devisees to sign the Deed anyway. Let me offer you a real world example:

The Will has several specific bequests of cash. To Sally, I leave \$10,000. To Mike, I leave \$5,000. To Jim, I leave \$7,500. The Will also has a Residuary Clause that leaves everything else to a charity. . .let’s call it Charity Corp. The Executor sells the property without the joinder of Charity Corp on the Deed and the proceeds are paid to the Estate. So far, so good right? Turns out that that the proceeds of the sale of the real estate are sufficient to pay Sally, Mike and Jim their specific bequests leaving nothing for Charity Corp which was the Residuary Devisee. Charity Corp, through their lawyer, argues that if they don’t get all of the proceeds of the sale of the real estate then they will file a Quiet Title Action to the real property since they were the devisee of the real property under the Will and therefore the titled owner. Who wins? I don’t have an answer, but what I know for sure is that you don’t want your buyer/client slapped with a lawsuit two weeks after they close in your office.

This example illustrates the notion that sometimes, the law does not afford us the answers and the best practice is to eliminate any potential claimants to the property by having them sign the Deed. Like I said. . .better to be safe than sorry.

sb

## AMY'S CORNBREAD CASSEROLE RECIPE

"This is actually my daughter's recipe but we always make her bake it for us. It is yummy!" – Amy Champagne

### Ingredients:

- 1 stick of butter
- 1 box of Jiffy cornbread mix
- 1 cup of sour cream
- 1 egg
- 1 teaspoon of sugar
- 1 can of corn drained
- 1 can of cream corn

### Directions:

Mix all the ingredients together and bake at the temperature on the Jiffy mix box until golden brown. It's best made in a shallow baking dish, not a deep dish. Enjoy!



## BARRISTERS CHRISTMAS SPOTIFY PLAYLIST

We wanted to kick this unique holiday season off with a bang and what better way to do that then with a fresh playlist? If you're ready to crank up those Christmas tunes click [HERE](#) to listen to Barristers Christmas 2020 Playlist.

Barristers Title Services underwrites for Fidelity National Title and First American Title.

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