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[“THE QUILL”](#)

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The Quill – June 2022



THE QUILL ARTICLE

The Intersectionality of Real Property Law and Estate Law (Cont.)

As a reminder, please see the fact pattern below which was included in last month's newsletter.

FACT PATTERN:

In 2020, our office insured a commercial transaction which included a small tract of land owned by 50 heirs. Yes, you read that correctly...50 heirs! The land

was previously owned by husband and wife who had 12 children. The husband and one child predeceased the wife. The wife died in 1968. By the time the property was sold in 2020, 10 of the 12 children and several of the children's heirs (grandchildren), 26 in total, had passed away. All of the deceased parties died intestate. Three grandchildren died within two years of the date of closing. One passed away in another state. Finally, several heirs were divorced and one of the grandchildren had an estranged spouse whom no one in the family had spoken with in many years and no one knew where he lived or if he was still alive.

The title commitment included the below estate related requirements:

- 1) Recording of a deed duly authorized and executed by the heirs and their spouses of the Decedent, vesting fee simple title in the Buyer(s). Additionally, the personal representative of any heirs who died within two years of the date of the deed, must join in the execution of said deed.

- 2) Receipt of proof satisfactory to the Company that the heirs shown on the Decedent's Family Tree, attached as Exhibit B, are in fact the heirs at law of the Decedent. Evidence should be in the form of: 1) one or more affidavits of heirship from disinterested persons who are familiar with one or more branches of the family and 2) death certificates or sufficient evidence stating the date of death of any deceased heirs (i.e., obituary). The Company may make additional requirements and exceptions upon receipt and review of such information.

- 3) Receipt by the Company of an Indemnification Agreement duly authorized and executed by the Personal Representative of any heirs of the Decedent, who died within two years of the date of the conveyance deed into the proposed insureds and their spouses, if any, indemnifying and holding the Company harmless from any and all losses of any kind whatsoever which it might incur as a result of payment(s) of any amounts in connection with said Estate(s).

- 4) Receipt of proof satisfactory to the Company that all state and federal estate and inheritance taxes against the Estate of the Decedent have been paid in full, and that sufficient assets remain to pay all debts of said Estate.

For the three heirs who passed away within two years of the date of the closing, including the heir who died out of state, no estate file had been opened prior to date the Purchase and Sale Agreement was executed. Pursuant to NCGS 29A-17-12, the Company required the seller to open an estate in the county where the property was located, publish 1st notice to creditors and joinder of the personal representative (PR) on the vesting deed. Also see, NCGS 28A-3-1 for the heir who passed away out of state and no estate file had been opened in the state where the heir was a resident.

Seller's counsel was able to locate two disinterested parties who were familiar with the family to execute heirship affidavits. Also, while there were still 50 heirs who needed to execute the vesting deed and other closing documents, they all executed powers of attorneys appointing one of the decedent's children (one of the 12 siblings) to execute the documents on their behalf. The PRs for the three heirs who passed away within two years of the closing transaction, executed the deed and closing documents in their capacity as PR. Finally, seller's counsel certified that there were no state or federal estate and inheritance taxes associated with the estate of any of the deceased parties.

Stay tuned for next month's article...we'll include some final comments related to this fact pattern and discuss additional commonly asked estate questions. If you have any specific questions related to this article, please feel free to reach out to Natasha Branch directly at Natasha.Branch@fnf.com.

UPDATE – ISSUANCE OF FINAL TITLE POLICIES

We want to clarify our statement in our April 2022 Quill about delivery of final policies. Please be assured that we will continue to mail paper policies to attorneys and insureds, when requested. Like most of you, our office has moved to a mostly paperless environment. However, we understand, sometimes hard copy policies are expected. We are happy and more than willing to meet our customers' expectations.

Our final title opinion form offers the paper option if you provide us with the mailing address or addresses. Below is an example of the language that now appears at the bottom of the Company's Final Title Opinion.

Email Owner's Policy to (email address): _____

Email Lender's Policy to (email address): _____

(Hard copies of policies will be mailed only if requested and a mailing address is provided.)

Thank you so much for your business and understanding!!

TOOL FOR YOUR LEGAL TOOLBOX

Please find an Underwriting and Abstract Checklist for a Decedent's Estate linked [here](#). We hope you find this checklist helpful with closing transactions which include an estate or multiple estates in the chain of title.

BARRISTERS FAMILY UPDATE!

We are excited to announce our newest member of our Barristers family, Sarah Fuentes! If you hadn't heard Kate Foshee decided to get her hands dirty with some commercial closing work and has taken a position with a commercial firm in Charlotte. We will miss her but also wish her the best! Sarah is stepping into Kate's former role here at Barristers as our newest Underwriting Counsel!



Sarah was born in Albuquerque, New Mexico. She moved to South Carolina to become a Gamecock and she earned a BS from the Darla Moore School of Business at USC, then decided to hang around for a few more years and attend Law School at USC. In 2015, Sarah became a member of the South Carolina Bar. She started her practice as a residential real estate title attorney and never looked back. This path brought her to Charlotte where she took the NC Bar in 2020.

Sarah loves spending time reading, playing video games with her husband, and chasing their two cats around their house. You can reach Sarah at Sarah.Fuentes@fnf.com

THE QUILL MEME

Happy Father's Day To All Our Amazing
Dads Out There!

me: *turns off tv cause it was too loud*
my dad: hey i was watching that
him 2 seconds ago:



When Dad cracks another Dad
joke but you really need 20
bucks...



THE QUILL RIDDLE?

What gets wetter the more it dries?

The answer to the May riddle:
Q: How many jelly beans in the jar?
A: 244!

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

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