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# Say “yes” to the mess... How did we get there?

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**Through a series of actual closings you will see that title insurance is not always boring,**

**In fact, some of this stuff you couldn't even make up!**

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# Some may even be



# Out of area customer..

## No problem, right?

- Notary options
  - Remote Online Notarization
  - Mobile Notary
  - Local Title/Escrow office
  - Attorney
  - Notary public
  - Embassy in the area of the customer

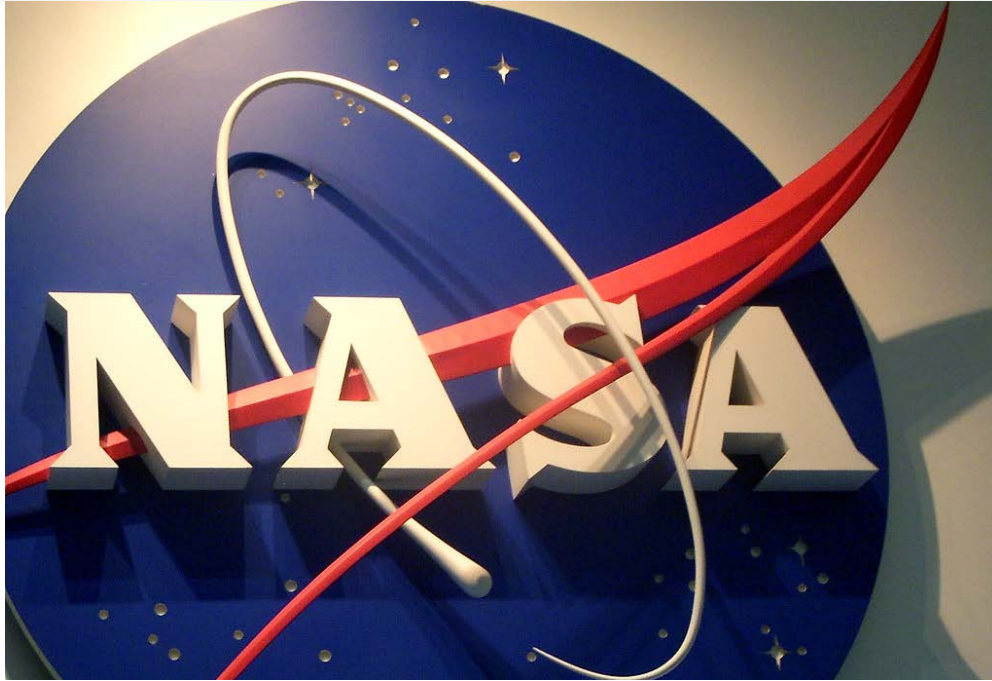


**What do you do when they are not on planet Earth?**

How do you think we  
accomplished this closing?



# A notarized Power of Attorney

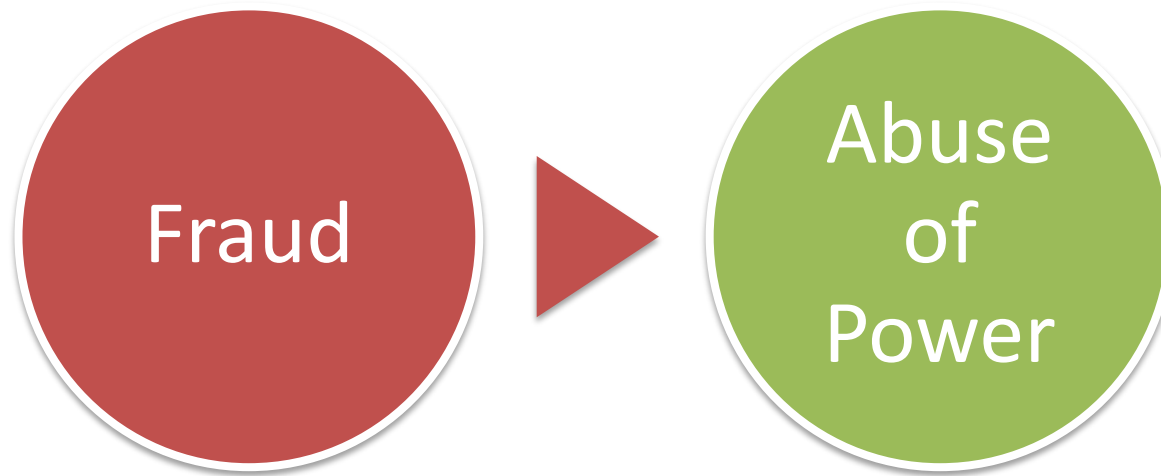




# Using a Power of Attorney

## Things you want to consider when a Power of Attorney is presented for use:

- Does it give the powers needed for the transaction (convey /encumber)?
- Is it properly executed?
- Is it notarized? Or is it only witnessed?
- Why can the principal not sign for themselves?
- When was the Power of Attorney executed?
- Was the Power of Attorney given for only a specific term or expiration date?
- Are there restrictions on price or interest rate specified in the powers given?
- When does the Power of Attorney take effect?
- Do you need a medical diagnosis from a physician?



**Why are we concerned, what is the risk?**

# Vet the validity..

- Have you done an internet search to confirm the notary exists?
- Do the principals know the POA is being used for a transaction?
- Do you know the notary requirements for that area?
  - Seal requirement
  - expiration dates for notary or is it indefinite?



# Out of state divorce





# Problem with out of state divorce

The court has no jurisdiction to award the property in another state.

Even if the decree awards the property, we would typically want a deed from the former spouse or a court order from the state the property is located.



# What do you do if that isn't possible?



- Your customer has a restraining order against the former spouse and is in hiding.
- After speaking with her legal counsel you learn that the ex-spouse, is capable of 1<sup>st</sup> degree murder and has already attempted it once.

# Now what?

Analyze the facts:



- A state superior court issued a decree of dissolution awarding the property to the wife.
- The wife had paid the taxes and utilities since the divorce.
- The wife's mom provided the funds for them to originally purchase the house.

# What are the risks?

- Delay closing and force a court order or deed.. (Unhappy customers and potential fear for their safety).
- Husband trying to claim an interest in the property (depending on circumstances, possibly low risk).



# What did we do?

- A proposal was made to record the out of state divorce decree in the local county where the property was located, to put notice of record that the wife was to receive the property.

**\*\*There was some additional considerations due to clients involved.**

# Deed



- DIY deed to distribute estate property...
- what can go wrong?

# Fact pattern:

- Deceased owner held property as her separate estate
- Did have a will
- No probate
- Obtained lack of probate affidavit and copy of will
- Deed recorded from surviving spouse of deceased party to himself and 2 others.

# Do we have a problem yet?

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# We soon find out..

The other 2 people now in title with the surviving spouse are 6 and 8 years old.



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# What is the risk here?

- The minor has a reasonable length of time after becoming of legal age (18 years) within which to disaffirm any contract (deed, mortgage, etc.) executed by him during his minority.
- Therefore, where we have knowledge that the person vested with the title is a minor (under 18 years) we cannot issue a purchaser's policy insuring a prospective purchaser from the minor without inserting an appropriate paragraph concerning the legal disability of the vestee, unless, of course, the sale is being made by a general guardian in accordance with the guardianship statutes.



# Age of majority:



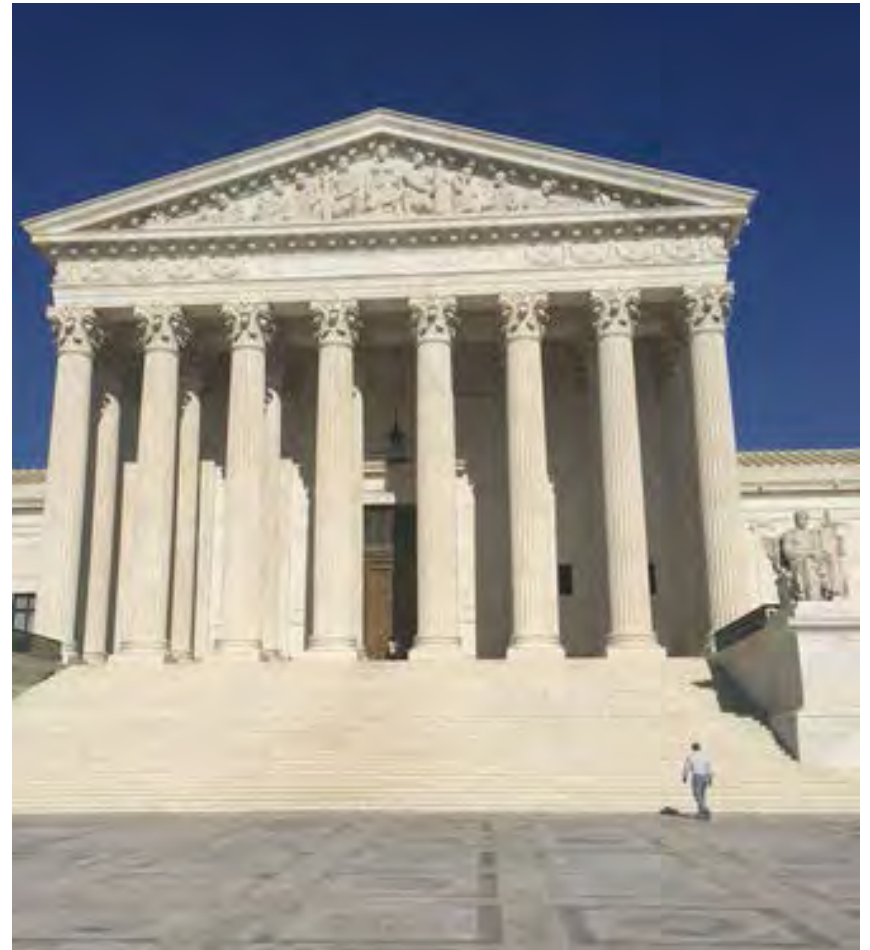
- Since August 9, 1971 the Legislature preserved the right of 18 year olds to be deemed full age.



- Prior to that date it was age 21, except that females legally married to a person of legal age were deemed full and legal age.

# RCW 11.114

## Minors in title Act



# There is a method for this..

- (1) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian followed in substance by the words: ". . . . . as custodian for . . . . . (name of minor) under the Washington uniform transfers to minors act."

At this point, we need a guardianship filed!

However..

- We are told there is no money for them to go to court and obtain the guardianship.
- Also, the step-grandfather has deeded the percentage of interest in his favor which differed from what his deceased wife had bequeathed to him in her will.
- Since they had no funds to go to court, we declined to insure without the guardianship.





# More commonly we see this:



- A trust created for the benefit of a minor. Where the trust is managed by the trustee, who is an adult.



- A guardianship filed in Superior Court appointing a guardian to act on behalf of the minor.

**The story  
continues...**

2 years later... the file returns



## What Changed in 2 years?

- The step grandfather has passed away.



- Deceased grandmother owned other property in Texas, which so happen to strike oil and the grandkids are now rich!





# How did we get to yes?



- They were able to open the guardianship case for the children, and the guardian was ultimately given a court order authorizing the property to be sold.
- As for the step-grandfather's interest, his daughter signed a QCD releasing the interest the grandfather had.

# What lies beneath...









# The facts:

- Man owns home as his separate estate.
- Is married
- Wife and husband have argument that leads to her stabbing him multiple times and left him to bleed to death in the home. Then returns and buries him in the backyard.
- Wife tells friends and family the husband has run off with a rich woman and left her everything.
- Seeks and receives a court decree awarding her all of his assets. (House, stock, retirement fund, car collection).
- Wife takes loan against the property.
- She remarries and has told her new husband of the situation. The husband and some friends dig up and relocate the former husband.

# These are good friends







# 10 years has went by

- The property has been foreclosed and an investor has purchased and rehabbed the property for a flip.
  
- Now the investor is ready to sell.

# Why is it a problem for us to insure the investor sale out?



# Where is the risk?

- Remember the wife took out a loan on the property, after she obtained the decree awarding her all of his assets. That loan was subsequently foreclosed.



# Slayer and abuser statute:

## RCW 11.84.020

- Slayer or abuser not to benefit from death.
- No slayer or abuser shall in any way acquire any property or receive any benefit as the result of the death of the decedent, but such property shall pass as provided in the sections following. [2009 c 525 § 2; 1965 c 145 § 11.84.020. Prior: 1955 c 141 § 2.]

# Risk Analysis

- The wife should never have received the court decree awarding her his assets.

The statements she gave were fraudulent statements and she killed him.

- Because she never should have received the property, the loan that foreclosed should never have been given. Foreclosure had potential to be overturned.

# What did happen?

- How did we say yes to this mess?
- We were able to receive a deed from the deceased husband's estate, who would have been the rightful heir. Therefore removing the risk of the foreclosure being overturned.



# How did the story end?

- The wife was sentenced to 16 years in prison for second degree murder.
- The new husband and his friend did not face charges due to the statute of limitations for improper disposal human remains had run out.
- The new owners were able to purchase the new home with title insurance.

# Take-a-ways to remember:

1. The answer may not always be yes. Every situation has its own facts and story.
2. Each underwriter has their own level of comfort. Risk tolerances can vary.
3. Sometimes customer considerations (good client or bad client) can tip the scales on making a decision to take on risk.
4. Anytime a unique opportunity presents itself you should ***always*** consult with your underwriter.



Any  
Questions

