



Ask the TITLEMAN™ #232

Q & A

John T. Lotardo, Attorney-at-Law

Q. I hope that you can answer some title questions for me. I have been researching some issues on judgments and in many state discovered that many liens and judgments are settled through a satisfaction of judgment with the Clerk of the Court. Presumably they were unable to locate the plaintiff or plaintiff's attorney from a judgment. For example, in Florida you can deposit funds with the Clerk of the Court and the Clerk then issues a satisfaction of judgment. Does Arizona law have a contingency for judgments and liens to be satisfied by the Clerk of Court?

A. You have an option here of obtaining a bond of some sort recorded judgments. Although sometimes judgment lien discharge bonds are issued by a bonding company to remove a lien, a court may judicially remove a judgment lien under certain court proceedings. However, I am not aware of the typical court accepting the funds directly as the court system is typically not set up to accept monies on behalf of judgment creditors.

Q. What's the best way to destroy the right of survivorship when two parties hold property as joint tenants with right of survivorship? Can one joint tenant just record an affidavit terminating the right of survivorship?

A. From a purely title perspective, that's how I would do it assuming all I want to end up with is Tenants in Common.

Q. I have two single men who acquired title who are now selling a piece of property. They then were legally married in California, and transferred title to reflect both with the same last name. Apparently, one changed his last name to match the other. He has an Arizona driver license in the new name as well as the Assessor's office changed its records. Is there some court approval needed or what? I just hesitate because if I want to call myself Santa Claus they'd probably make me go to court to change it.

A. On occasion we have had same sex married couples from California acquire title here in Arizona. I would treat them as you would anyone where the name(s) of the title holders change. The question is what is his legal name? Although Arizona really does not recognize their marriage presently, I believe it will recognize a name change done in Ca. More than likely his name was legally changed in Ca- you can verify that. If so, then you would show the vesting in his new name who acquired title in his old name, just to keep the title understandable. Oh, and by the way, if memory serves me, the name Santa Claus is already taken so you may have to pick another similarly festive name.

The information supplied is of a general nature and should not be relied upon as legal advice. You should consult with your own legal counsel. To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein. Copyright © 2011 John T. Lotardo, All rights reserved.

John T. Lotardo aka the TITLEMAN™ is Senior Vice-President/General Counsel for Stewart Title & Trust of Phoenix, Inc, State Counsel for Stewart Title Guaranty Company and is a regularly featured columnist. In addition, he is a frequent speaker and presenter on real estate-related topics. Have any questions for him? Send it to him at titleman@askthetitleman.com.