▲Tips&Traps▼

Have a bit of sage advice for a newcomer to your area of practice? Send us your "tips & traps"! Your colleagues will be grateful. Email suggestions, cautions, and tales of woe to bb@mnbar.org

▼ All in the Family

If you represent a spouse of a divorcing couple who are buying their home on a contract for deed from the parents of the other spouse, be prepared to defend your client's equity from loss in connection with a cancellation of the contact for deed. The parents and the other spouse will have every incentive to take the home equity out of the split of assets in the dissolution proceeding so that the parents can later sell the home to their child on friendly terms, free and clear of the former spouse. Depending on the circumstances, there may be a defense to the notice of cancellation of contract for deed relating to the divorce: the other spouse's sudden refusal to continue making contract payments, the parents' previous forbearance suddenly disappearing motivated by revenge against their son/daughter-in-law, the other spouse's unwillingness to cooperate in closing on a refinancing of the contract for deed. Whatever the reason, in order to protect your client's equity, prior to the running of the statutory (typically 60-day) cure period and prior to commencement of the parents' unlawful detainer proceeding, you need to both (1) commence a civil action against the parents separate from the dissolution proceeding and (2) arrange for a hearing on a temporary injunction or temporary restraining order against the cancellation. If the cancellation is enjoined, you can then litigate the merits of the "extramarital" cancellation. If, however, you are unable to protect the equity against the cancellation, you may be able to recoup the equity in the dissolution property division. *See* Minn. Stat. §559.21; *Smith v. Spitzenberger*, 363 N.W.2d 470, 472 (Minn. App. 1985); *Fraser v. Fraser*, 642 N.W.2d 34 (Minn. App. 2002); Minn. Stat. 518.58, subd. 1a, *Welsh v. Lumbar,* A06-1232 (Minn. App. 05/29/07) (unpublished).

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▲ News Council

Individuals, businesses, and organizations that feel their rights have been violated by the media in Minnesota should consider using the Minnesota News Council as a vehicle for redress. The Council, an organization drawing half of its members from the media and half from nonmedia sources, hears complaints about fairness and accuracy in the media. It attempts to resolve those and, if unresolved, provides a forum for hearings leading to a determination. The Council does not have the authority to grant affirmative relief, such as injunction or damages, but its rulings are widely publicized and can provide a measure of solace for an aggrieved party. Many media outlets, including large and small newspapers, are members of the Council. Although it does not provide equitable relief for damages, the Council can be an efficient and economical forum for resolution of disputes with the media, for claims that may not be susceptible, because of substance or economics, to conventional litigation. Before proceeding, claimants should make sure that their claim does not have sufficient merit or economic worth to proceed with litigation because the Council will not hear cases unless a litigation waiver is signed. Media members need not participate in the process, but they stand to benefit by doing so in order to obtain a release of claims as well as engage in a process that may improve news gathering, reporting, and editing functions.

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▼ All Sign Here

Parties may settle a dispute related to admitting a will for probate by reaching a court-approved compromise but only if the terms of the agreement are in writing and signed by *all* competent persons having beneficial interests or having claims that will or may be affected by the compromise. Minn. Stat. §524.3-1102. The court may not approve a compromise even if it determines that one or more of the nonconsenting/nonsigning parties does not have a good-faith will contest claim and determines that the compromise is otherwise just and reasonable as to the nonconsenting/nonsigning party. This was the ruling in *In re the Estate of: John J. Sullivan a/k/a John Joseph Sullivan, Deceased*, A06-171, (Minn. App. 12/05/06).

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▼ Grammar Police

People quip that lawyers communicate as if charging clients by the word. But not only are we typically long-winded: lawyers are often the biggest grammar offenders. Consider the examples of litigators and judges alike, who routinely describe the crux of a legal argument as "centering around" a singular determination or issue. Unfortunately, that's complete nonsense. A determination of legal liability may certainly center "on" something, but centering "around" isn't centering at all. Take, too, the routine and embarrassing misuse of "penultimate." To the untrained ear, this fancy word drips with the suggestion that something is ultimate-plus. In reality, the word means the exact opposite: something is instead only next to last. Finally, there is that heinous offender "irregardless." Not only is the "ir" a redundancy, but when coupled with "less," it produces a classic double-negative. Please join me in fighting word crimes by avoiding these criminal missteps.

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