

**Expand Your Title Toolkit and Client Base:  
Mineral Title Curative and Quiet Title Actions**



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**Who can be more nearly a fiend than he who  
habitually overhauls the register of deeds in  
search of defects in titles, whereon to stir up  
strife, and put money in his pocket?**

**-Abraham Lincoln**

# Common Title Issues

- Probate (or lack thereof)
- Trust Description
- Drafting Concerns

## Probate

- But I thought property interests are transferred at the moment of death?
  - This vests heirs/devisees with an ownership interest and equitable title – the right to acquire formal legal title through probate
- But what if there's a will?
  - Judicial proceedings still required to determine 1) that the will is valid, and 2) that the devisees are qualified to take title to the property
- But what about intestacy statutes?
  - Judicial proceedings required to conclusively determine the identity of the heirs
- But what if my client signed an Affidavit of Heirship?
  - No!

## Ancillary Probate

- Where no local administration is pending, a foreign personal representative is granted the same powers as a local personal representative upon filing a certified copy of appointment
- Summary proceeding where value of estate *in Wyoming* is under \$200,000
- Determination of Heirship

## Trusts

- Trust must be “defined”
  - Name of the Trust
  - Name of the Trustee(s)
  - Date of the Trust
- Or the conveyance document must include the recording information for the document where this information can be found
- If this information is missing, the conveyance fails as to the trust and is a conveyance to the grantee in its individual capacity
- Can record a “verified statement” to correct

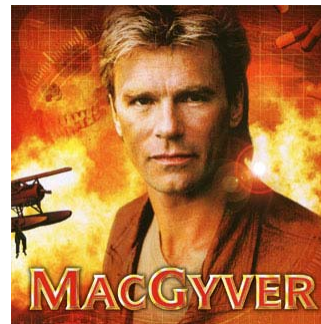
## Drafting Issues

- What type of interest were they trying to convey?
- What quantum of interest were they trying to convey?
  - *Duhig*
  - Fractional Royalty vs. Fraction of Royalty
  - Mineral Acres
  - Simultaneous Conveyances
- Who reserved the minerals?

## Solutions?



Vs.



## Declaration of Interest

- Helpful when everyone involved is in agreement on what the various parties own but documents of record are ambiguous on that question.
- Understanding of the parties must be consistent with at least one possible interpretation of the ambiguous language.
- Clarifies the parties' intent for the benefit of third parties.

## Stipulation of Interest

- A declaration of interest will not work if there is no way to interpret the various documents of record to support what everyone in the group believes they have.
- However, if everyone in the group is in agreement, all parties can execute a recordable stipulation of interest containing language of grant and cross conveyance.

## Example Stipulation Language

- NOW THEREFORE, we, the below named parties, do hereby agree that all the oil, gas and other minerals underlying the above described lands are owned by the following parties to this agreement in the proportions set forth below:
- THE PARTIES HERETO DO GRANT, QUIT CLAIM AND CONVEY UNTO THEMSELVES AND TO EACH OTHER such interest as necessary to create the undivided interest set opposite the name of each of said owners in and to the interest herein.
- **MUST contain language of cross-conveyance and grant!**

## Corrective Deeds

- Another option is to create a corrective deed for every deed in the chain that contributes to the confusion and record them in the proper order to bring about the desired outcome.
- Obviously undesirable for ancient title issues or where the property has changed hands several times

## Other Useful “Tools”

- Disclaimer of Interest
- Division Order
- Quitclaim Deeds
- Ratifications
- Subordination Agreements

## Quiet Title Action



## When is Quiet Title Necessary?

- If **ALL** the parties are unwilling to sign a stipulation acknowledging the agreed upon interests in property, the only option is going to be resolution through a quiet title action, whereby an individual can “quiet” or eliminate any adverse claims of former owners and establish a new title as owner of the interests.
- WHAT
- WHO
- WHY

## Examples of quiet title situations:

1. Oil and gas lease disputes
2. Royalty ownership disputes
3. Orally gifted property
4. Boundary dispute due to a surveying error
5. Foreclosure
6. Fraudulent conveyance of the property



## WYO. STAT. ANN. § 1-32-201 Action to Quiet Title

- An action may be brought by a person in possession of real property against any person who claims an estate or interest therein adverse to him, for the purpose of determining the adverse estate or interest.

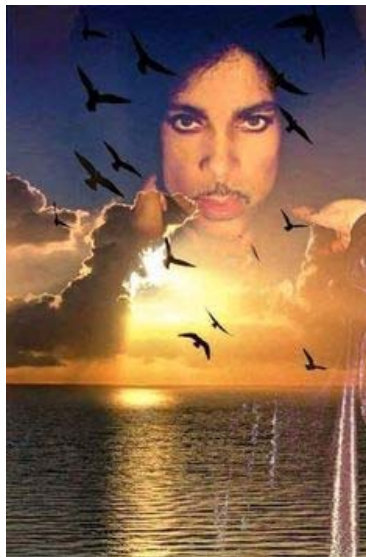
## Elements to Maintain a Quiet Title Action

- The plaintiff must have:
  - (1) possession, and
  - (2) legal title or some interest in the property.
- When no other interest is available, however, the claimant may maintain an action to quiet title to the property even though he does not have possession.
- *Goodrich v. Stobbe*, 908 P.2d 416 (Wyo. 1995).

## Parties

- Any person or entity whose name appears in documents affecting title to the subject property should be named as a party in the complaint.
- Bill Smith, William Smith, Will Smith
- Don't forget – properly naming the plaintiff is critical as well
- Service should be accomplished via personal service if possible.

## Deceased Parties



## Unknown Parties

- “All unknown persons who claim any interest in the subject matter of this action.”
- Service on unknown parties can be accomplished through publication.

## Due Diligence in Finding Parties

- Consulting the following resources constitutes due diligence:
  - tax rolls, deed records, judicial and other official records, telephone directories, city directories, state archives, state libraries, church records, association records, the assessor’s office, and state health departments.
- Confer with Client and known parties.
- Google it!
- Beware, the **MOST COMMON ERROR** in a quiet title action is the failure to give notice.

## WYO. STAT. ANN. § 1-6-108. Lis Pendens: Notice of pendency of action affecting real property

- The notice of lis pendens should:
  - Identify the court where the action is pending and the case number if available.
  - Identify the parties to the action and the nature of the claim.
  - Identify the property at issue with a legal description.

## Wyoming Rules of Civil Procedure Form 16 Complaint in Action to Quiet Title

1. (Here set out the grounds upon which the court's jurisdiction depends.)

2. Plaintiff is the owner in fee simple and is in possession of mineral rights in \_\_\_\_\_ County, State of Wyoming, described as follows:  
(insert description).

3. Defendant claims an interest therein adverse to the plaintiff.

Wherefore plaintiff demands that his title to said tract of land be quieted against the defendant, that defendant be adjudged to have no right, title or interest therein, that defendant pay to plaintiff the costs of this action, and that plaintiff have such other and further relief as is just.

## Settlement or Defense of a Quiet Title Action

- Disclaimer
- Quitclaim Deed
- Do Nothing
- Defend Vigorously
- Make a Title Insurance Claim
- Stay In The Case, Don't Participate, But Agree To Abide By The Final Decree

## Sources

- Sheryl L. Howe & Scott L. Turner, *Advanced Mineral Conveyancing and Title Issues – Part 1*, 2014 No. 1 RMMLF-INST Paper No. 1.
- Laura Lindley & Sarah Sorum, *Advanced Mineral Conveyancing and Title Issues – Part 2*, 2014 No. 1 RMMLF-INST Paper No. 2.
- Angela L. Franklin, *Nuts and Bolts of Mineral Title Examination*, 2012 No. 1 RMMLF-INST Paper No. 18.

# Questions?

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