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Client Alert: Dwight Deloatch v. Robin Deloatch

26 Jun 2020

The District of Columbia Court of Appeals recently highlighted a United States Supreme Court decision that went largely unnoticed in the real estate industry. As the highlighted rule stems from the highest court in the land, real estate practitioners in all jurisdictions should take note.

In *Dwight Deloatch v. Robin Deloatch*, Mr. Deloatch noted an appeal nearly four (4) years after the District of Columbia Superior Court issued its final judgement of absolute divorce. Noting that the thirty (30) day window by which an appeal must be filed pursuant to the Rules of the Court of Appeals had long expired, the Court of Appeals issued an order directing Mr. Deloatch to show cause why the appeal should not be dismissed. The Court of Appeals—as with many other appellate courts—had previously held the deadlines by which to note an appeal were "mandatory and jurisdictional" such that any late appeal must be dismissed.

Notwithstanding the long line of caselaw confirming that appeal deadlines were jurisdictional, the Supreme Court has since noted its "own 'less than meticulous' use of the word jurisdictional" as the legislature alone can determine a court's basic jurisdiction. The Court of Appeals, quoting the Supreme Court, held that "a time limit prescribed only in a court-made rule is not jurisdictional; it is, instead, a mandatory claim-processing rule subject to forfeiture if not properly raised by the appellee," or, at least in the District of Columbia, *sua sponte* as provided for by the Rules.

The impact of appeal timelines not being jurisdictional has the potential of greatly disrupting the real estate industry. For example, the vast majority of escrow agreements used in real estate transactions provide for the disbursement of held funds upon either written joint instructions or a "final order". As appeal deadlines are not jurisdictional, one wonders when a trial court's order becomes "final" as it may not be the date set forth in the applicable rules. As a result, escrow agreements should likely be revised to be more precise and not rely upon the previously used "final order" language.

Jackson & Campbell, P.C. represents title insurers and insureds in Maryland, Virginia, and Washington, D.C. and we strive to keep our clients and other title professionals up to date on various developments in the law. Additionally, we present no cost in-house updates of the nation's most noteworthy cases and national trends following the spring and fall American Land Title Association's Title Counsel meetings.

If you have any questions about this case or laws impacting real estate in and around the Washington, D.C. region, feel free to contact us. Our Real Estate Litigation and Transactions Practice Group is ready to assist.

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TAGGED: District of Columbia Court of Appeals, Virginia Real Estate Update, Maryland Real Estate News, District of Columbia Real Estate, Dwight Deloatch v. Robin Deloatch, appeal deadlines