

# CLIENT AND FRIEND NEWSLETTER

April 2025

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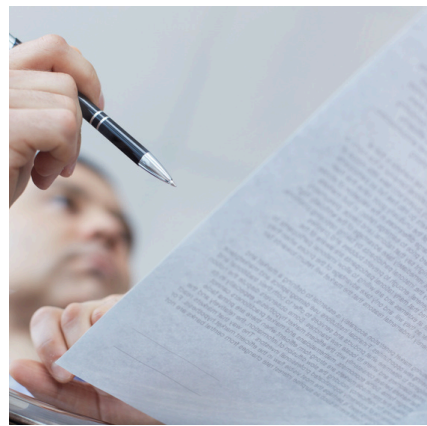
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## DEED THEFT: A WAY SOME OF US CAN BETTER PROTECT OUR REAL ESTATE BY BETH A MCDANIEL, JD, CLEA

Deed theft' occurs when a fraudster impersonates a real property owner and uses a quit claim deed -- often known as a 'dirty deed' -- to illegally transfer ownership of a real property. The goal is typically to sell the real property or to...

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## CORPORATE TRANSPARENCY ACT – THE LATEST: NO FEDERAL REPORTING REQUIREMENTS FOR US CORPORATIONS BY BETH A MCDANIEL, JD, CLEA



In prior newsletters, we provided updates regarding the reporting requirements under the 2021 Corporate Transparency Act and the related litigation which has suspended, reinstated, and suspended again, the reporting requirements and the hefty daily fines associated with non compliance. On March 2, 2025, the U.S. Treasury department indefinitely paused the enforcement of the Corporate Transparency Act for domestic entities and stated that their focus...

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## REDUCTIONS TO THE KING COUNTY SUPERIOR COURT PROBATE EX PARTE CALENDAR BY BETH A. MCDANIEL, JD, CELA

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## GRAND THEFT PROBATE: HOW TO BEST PROTECT YOUR ESTATE FROM A SIMILAR SCHEME BY BETH A. MCDANIEL, JD, CELA

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## CONT: CORPORATE TRANSPARENCY ACT – THE LATEST: NO FEDERAL REPORTING REQUIREMENTS FOR US CORPORATIONS BY BETH A MCDANIEL, JD, CLEA

going forward will be on foreign companies.

Related, on March 21, 2025, the Financial Crimes Enforcement Network (finCEN) announced new interim final rules for foreign entities, requiring nonexempt foreign entities to report to finCEN within 30 days. A foreign reporting company is defined as “a corporation, limited liability company, or other entity that is formed under the law of a foreign country and that is registered to do business in the United States by the

filing of a document with a secretary of state or equivalent office under the law of a state or Indian tribe.”

As courts have criticized finCEN for its lack of public input, through May 25, 2025, finCEN is accepting comments from interested parties regarding the new interim final rules. New final rules are expected by the end of 2025.

We will let you know if anything changes (again).

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**Disclaimer: this newsletter is informational only and should not be construed as legal advice.**

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## CONT: DEED THEFT: A WAY SOME OF US CAN BETTER PROTECT OUR REAL ESTATE

mortgage it for financial gain. Here, the notary public is either complicit to the fraud or has been deceived by forged identification documents. While the prevalence of 'dirty deeds' is unclear, publicized cases in other states involved vacant land and rental properties – sometimes with the cooperation of the tenants. Victims of such theft often face costly legal battles, spending thousands of dollars to prove to the court their rightful ownership.

A few Washington counties, like Pierce, Snohomish, Chelan, and Clark, have recording notification alert systems which will send property owners a notification e-mail every time something is recorded under a registered name or parcel number. As different

variations of names can be used, it is recommended that every possible name be entered into the county's notification system.

I am unsure whether there are plans to offer a recording notification alert system in other counties like King, but I do plan to inquire with my King County representative. If you live in a county which does not offer a recording notification alert system, I encourage you to contact your county representative.

For links to the notification alert systems in Pierce, Snohomish, Chelan, and Clark counties, go to our website [bethmcdaniel.com](http://bethmcdaniel.com), resources, links, and look under local government.

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## REDUCTIONS TO THE KING COUNTY SUPERIOR COURT PROBATE EX PARTE CALENDAR

King County Superior Court has long provided great access to probate and guardianship hearings. Before the pandemic, these matters were heard in-person at 10:30 AM each weekday across three courtrooms -- one at the Maleng Regional Justice Center in Kent and two at the King County Superior Court in downtown Seattle. Shortly after the start of the pandemic, the court transitioned these calendars from in-person to Zoom. Not long after, the court limited the number of daily Zoom hearings.

In December 2024, the three King County Court Ex Parte Commissioners assured members of the King County Bar Association's guardianship and elder law section that although budget cuts were coming, Zoom hearings would remain.

Apparently the court's

administration had other ideas as on January 27, 2025, the King County Court Clerk announced that due to the expiration of Covid-era funding, effective March 7, 2025, the Ex Parte and Probate Department, which hears probate and guardianship matters, was moving from Zoom to a limited, in person calendar as, per the announcement, fully remote calendars could no longer be accommodated due to limited staffing. The last scheduled Zoom hearings occurred Monday, March 24, 2025.

Pursuant to the court's website, guardianship and probate matters are now be heard in Kent on Thursdays at 1:30 PM and in Seattle on Wednesdays and Fridays in two courtrooms at 9:00 AM. In short, 15 weekly pre-pandemic courtrooms for probate and guardianship hearings are now reduced to just

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## CONT: REDUCTIONS TO THE KING COUNTY SUPERIOR COURT PROBATE EX PARTE CALENDAR

five weekly courtrooms.

Here are some important, related considerations:

1) **Not all matters require a hearing.** Since around 2016, the King County Superior Court has allowed parties to submit uncontested orders for entry without a hearing through the Ex Parte Via the Clerk process. Originally introduced as a way to generate sufficient income to save the Ex Parte Probate Department, Ex Parte Via the Clerk enables parties to present a court order for entry -- without a hearing -- upon payment of a presentation fee. This process is typically used when there are no parties who require notice. For example, in most probate cases, the initial request for an order admitting the Will to probate and appointing a personal

representative does not require notice. Additionally, Ex Parte Via the Clerk is used when all interested parties consent to the entry of an order without a hearing.

In matters where there are parties who require notice, attorneys are starting to provide 'Notice of Presentation' to interested parties where appropriate. Here, interested parties are advised that if no one objects, an order will be presented for entry Ex Parte via the Clerk on or after a certain date. For example, an order requesting approval of an annual conservator or trustee report.

2) **It is still possible to appear via telephone.** If it is difficult for a party to attend an in-person hearing due to physical limitations or distance, it is possible for such a

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## CONT: REDUCTIONS TO THE KING COUNTY SUPERIOR COURT PROBATE EX PARTE CALENDAR

party to participate in an in-person hearing via telephone. Here, one of the parties would advise the court clerk that a party wants to appear via telephone. The party would then be called by the court commissioner or judge and put on speaker phone before the beginning of the hearing.

**3) It now takes longer to schedule a hearing.** Currently, in King County, probate and guardianship hearings are scheduled for at least three months out. This differs from how hearings were scheduled pre-pandemic, when most hearings could be scheduled to occur within 14-17 days.

**4) It is still possible to have a hearing on an emergent basis.** If the matter cannot wait three or more months to be heard, there is a way to request a hearing on a more emergent basis. Of course, the court

must agree that an earlier court date is necessary. Also, by statute, the hearing on a new guardianship/conservatorship petition must occur within 60 days, which the court must accommodate.

**5) For complicated or contested probate, parties may want to consider filing in another county.** Moving forward, if our office is retained to assist a client with a new probate in which one or more hearings will be required, we will ask the client whether they consent to filing the probate in another county as other counties still have the Zoom option and the ability to note hearings more expeditiously. Under Washington law, probate can be commenced in any county as long as no one objects.

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## CONT: REDUCTIONS TO THE KING COUNTY SUPERIOR COURT PROBATE EX PARTE CALENDAR

We recently filed a new probate in Pierce County, even though the decedent was a King County resident. This decision was driven by the fact that Pierce County, along with other Washington counties, continues to offer Zoom hearings on a more expedited timeline compared to noting an in-person hearing in King County. The hearing took place in mid-March and the probate is proceeding smoothly. Both an estate beneficiary and a declining

personal representative were able to participate remotely in the hearing via Zoom. If we had filed the probate in King County, we would still be waiting for a hearing date. Notably, no one -- including the court commissioner -- questioned why the probate was in Pierce County rather than King County. Of course, this is not an option for probates that have already been filed in King County.

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## CONT: GRAND THEFT PROBATE: HOW TO BEST PROTECT YOUR ESTATE FROM A SIMILAR SCHEME

Imagine that upon your death a stranger is appointed by the court to serve as administrator of your estate with little to no notice to your heirs. Imagine further that as administrator of your estate, the

stranger sells your house without a public sale, pockets the proceeds, does whatever they want with your personal property -- including putting your cars into their name, and directly transfers money out of

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## CONT: GRAND THEFT PROBATE: HOW TO BEST PROTECT YOUR ESTATE FROM A SIMILAR SCHEME

the estate account into their personal accounts.

As farfetched as this scenario may sound, in Washington state, from March 2019 to January 2024, one man, John Elliott, with the help of 'straw' administrators, sham companies, and a few lawyers, did just that in at least 213 estates (179 probates in Kitsap County, eleven in Spokane County, eight in Pierce County, eight in Skagit County, four in King County, and three in Thurston County). On April 4, 2025, the matter of the State of Washington vs John Elliott, et al, will be heard in the King County Superior Court.

According to the complaint, in December 2018, after 20 years of working as a real estate agent, Mr. Elliott lost his real estate license due

to his repeated misconduct. This followed his losing his insurance broker license in 2014, after working for more than 10 years as an insurance broker, due to his failure to maintain records, reconcile and properly maintain premium accounts, establish and maintain adequate records, and provide records for inspection.

Mr. Elliott developed this probate theft scheme by taking advantage of two Washington laws. One law, RCW 11.28.120 provides an extensive list of who may administer an estate, in order of priority, when a decedent dies without a Will or dies with a Will, but no one named can or is willing to serve. Per the statute, if after more than forty days following decedent's death no one has been appointed and it appears to the



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## CONT: GRAND THEFT PROBATE: HOW TO BEST PROTECT YOUR ESTATE FROM A SIMILAR SCHEME

satisfaction of the court that there is no next of kin eligible for appointment, or they waive their right, and there are no principal creditor or creditors, or such creditor or creditors waive their right, the court may appoint . . . any suitable person to administer such an estate.

The other law which Mr. Elliott took advantage of is RCW 11.96A.050(4), which states a probate can be commenced in any county as long as no one objects. For whatever reason Mr. Elliott's initial lawyer, Douglas Owens, who is a named defendant, thought Kitsap County was the easiest county in which to file a probate; thus, the majority of these probates were filed there.

Incidentally, according to the complaint, when Mr. Owen became aware of the fraud, he withdrew as Mr. Elliott's attorney, but never shared his concerns with the Court.

As part of the scheme, Mr. Elliott somehow ascertained whether owners of neglected real properties were deceased and got himself appointed as administrator of those deceased homeowners' estates. In some cases, Mr. Elliott locked the decedents' next of kin out of the residences.

In Washington, personal representatives must provide notice of their appointment to the decedent's heirs, legatees, and named beneficiaries. From the complaint, it appears that Mr. Elliott took minimal effort to notify the estate beneficiaries or somehow gained their trust. In some cases, Mr. Elliott provided false names to the court making it appear that he had given notice to the heirs when he had not given notice to anyone.

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In most of these estates, Mr. Elliott, or one of his co-conspirators, was appointed with ‘intervention powers,’ which meant the probates were under the supervision of the court; however, they rarely, if ever, followed the court’s reporting requirements. In a few cases, he was appointed with ‘nonintervention powers,’ which meant he was able to operate freely without court supervision. The scheme was exposed when, in June 2024, the Kitsap County Superior Court appointed a special master to review Mr. Elliott’s probates due to concerns of self-dealing. After receiving no cooperation from Mr. Elliott, on January 13, 2025, the Kitsap County Superior Court ordered him to serve 30 days in jail and a bench warrant was issued for his arrest.

The facts are egregious. On a single

day -- February 13, 2024 -- Mr. Elliott transferred a total of \$475,000.00 from 19 estate accounts into one of his business accounts. One estate that stands out is Estate of Henry Oakley (Kitsap County #23-4-00874-18). As administrator, Mr. Ellis sold the estate’s real property on March 7, 2024, yielding \$121,823.06 in net proceeds. To date, there is no record that any of that money went to Mr. Oakley’s heirs. In this estate, Mr. Elliott and his co-conspirators encountered a hurdle as Mr. Oakley was survived by a spouse who was in a memory care facility. In an e-mail exchange, a co-conspirator wrote Mr. Elliott and another co-conspirator saying: “We’ll need the son who has the power of attorney to sign a quit claim deed for any interest she may have.”

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Mr. Elliott responded:

“We might need a plan B. He’s averse to doing anything.”

As the co-conspirators managed to complete the sale, they somehow overcame the obstacle of the surviving spouse’s interest in the property.

What can be done to best prevent such a scheme upon your death?

1) **Have a Valid Last Will.** It is important to have a valid Will and for the individual named as your personal representative to know that they are named and that they have access to your original Will.

2) **Keep your Will Current.** It is important to keep your Will current regarding who is named as personal representative as they can predecease you, move away, or otherwise be unable to serve.

3) **Appoint an Initiative-taking Personal Representative.**

Optimally, your Personal Representative will take action to commence probate proceedings within 40 days of your date of death. Caveat: probate cannot commence until a death certificate is available. Worst case scenario, however, your Personal Representative must take legal action to remove an administrator. Of course, the legal fees to do so would be paid by your estate.

4) **Consider Alternatives to Probate.** Consider whether it makes sense to privatize the administration of your estate by using a revocable living trust or other non-probate method.

5) **Arrange to maintain your property.** Have an informal

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## CONT: GRAND THEFT PROBATE: HOW TO BEST PROTECT YOUR ESTATE FROM A SIMILAR SCHEME

arrangement with a family or neighbor to continue basic upkeep of your property should you die suddenly or have a medical emergency which necessitates a long care stay in a medical facility. Likewise, execute a Durable Power of Attorney for Finances so that an agent can pay your utilities, homeowner's insurance, property taxes, and other real property related bills should you become unable to do so yourself. Hopefully, the fallout from this scheme will be severe enough that others will think twice and that it

does not make it more difficult for well-intentioned, honorable personal representatives to administer estates.

A link to RCW 11.28.120, which states the prioritized order of whom can serve as administrator, and a copy of the full 68-page complaint against Mr. Ellis and his co-conspirators, with appendix, can be found on our website, [www.bethmcdaniel.com](http://www.bethmcdaniel.com) under the resources, links tab, local government.

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If have questions or wish to make an appointment, please contact our client care coordinator, Margo Passeau, at (425) 296-3121 or [margo@bethmcdaniel.com](mailto:margo@bethmcdaniel.com).

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