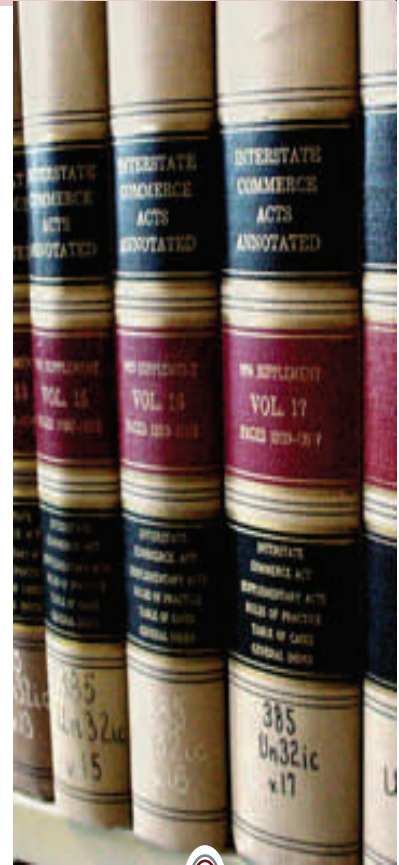


Community Legal Services, Inc.  
305 South Second Avenue  
Phoenix, AZ 85003

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# Arizona Statewide Consumer Law Project

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Advocating Justice  
for the Consumer



This is the fourth issue of the Statewide Consumer Law Project (“SCLP”) Newsletter. As with prior issues, its purpose is to spotlight new and existing consumer issues and SCLP activities.

Comments and suggestions are appreciated and may be directed to Brad Gelder, Attorney, SCLP, at [bgelder@clsaz.org](mailto:bgelder@clsaz.org)



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### **Three Day Right of Cancellation**

No, consumers generally do NOT have a 3 day cancellation period when purchasing most products, including a used car. Contrary to popular belief, consumers generally do **not** have a right under Arizona law to rescind or cancel the purchase of a consumer product or service within three (3) days. Arizona law does provide that a “home solicitation” sale of goods or services may, with an exception for emergency circumstances, be cancelled until midnight of the third business day after the day on which the buyer signed an agreement subject to this law. Obviously, this law does not apply to most consumer purchases, including ones made on the Internet.

### **Convenience Titling**

#### **Bank, Credit Union and Savings & Loan Accounts**

This term - which I think I just invented - refers to the practice of adding another person to a checking or savings account - usually an adult relative - to facilitate the payment of the owner’s financial obligations. Quite often, this is done by an elderly recipient of social security who wants an adult child to be able to pay his or her bills directly from the recipient’s account.

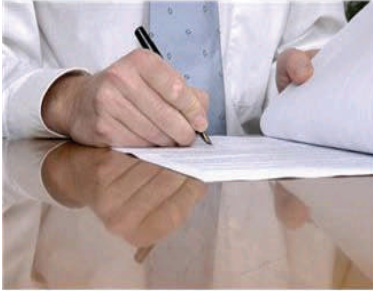
The danger of this practice is that, in the eyes of the law, the person who is added to the account title as a “convenience” is regarded as a co-owner of the funds in the account. As a result, the account is subject to garnishment (attachment) by the judgment creditors (past, present, or future) of ALL persons named in the account title. Adding another person to the account is deemed a presumptive “gift” even if that was not the intent and none of the monies in the account actually belong to the added individual. This is the presumption even if the monies otherwise would be exempt from - protected from seizure by - creditors because of the source, e.g., social security, pension, disability insurance.

A much better solution is for the account owner to add another as an “authorized user” rather than as a joint “owner”. This enables the “authorized user” to write checks, but without the risk the account may be subjected to the garnishment writ of the user’s present or future judgment creditor(s). Warning - this still entails an element of risk because the authorized user can, of course, remove funds from the account.

## Convenience Titling

### Real Estate

Similarly, we have been contacted by several senior citizens who have executed quit claim deeds in favor of another. A few years ago, this was happening frequently in connection with equity stripping frauds, i.e. people who were having difficulty making their mortgage payments were being defrauded out of their homes' equity by being tricked into transferring title to a con artist who then took the remaining equity in the home by taking out second or even third mortgages.



More recently, we have seen such deeds executed by the property owner in an effort to avoid probate or to facilitate the transfer of property upon death of the parent. Last year, we encountered a situation where an elderly aunt added her niece's name to her home by deed ostensibly to facilitate the payment of real estate taxes. When the niece later defaulted on loans she took out, which were secured by mortgage or deed of trust, the home was foreclosed upon.

Whatever the motivation, there usually is a better way to achieve the objective and without subjecting the property owner to these types of risk. Moreover, if the home is subject to a mortgage, changing title of the property frequently violates a provision of the mortgage documents and may itself be grounds for foreclosure.

Our advice? Contact a real estate or estate planning attorney to determine a safe and effective manner to achieve your objective.

## Client Cases

### Landlord Tenant Case

Rose Winkeler, formerly an attorney in the Housing Unit of Community Legal Services, recently co-counseled with SCLP in an action brought against the tenants' former Section 8 (subsidized housing) landlord. After the lease was terminated, the tenants learned the landlord had charged them money above that permitted by the landlord's agreement with the City of Phoenix Housing Department. We were able to recover more than \$5,000 of the \$5,800 the landlord had over charged the tenants.

## CLIENT CASES

### Mobile Home Negotiation

Our client purchased a mobile home from a private seller and later discovered damage issues, principally to the roof. Also, we discovered that the seller had transferred title back to her name when disputes arose. Both seller and our client were more comfortable communicating in Spanish.

The Volunteer Lawyers Program put us in touch with one of its Spanish speaking volunteer attorneys, Juan Moreno from Bryan Cave. In partnership with Juan, we negotiated a settlement with the seller which reduced the purchase price from \$15,000 to \$9,000. In addition, the seller agreed to restore clean title of the home to our client.

### Partition Settlement

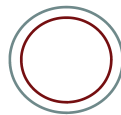
SCLP recently undertook the representation of an elderly client who was the Defendant in a partition case coming to trial. She did not have an apparent defense nor any means to purchase the former joint tenant's interest in the property. Fortunately, the property was unencumbered - no mortgages or liens - and we were able to settle the case by means of a reverse mortgage. The proceeds were used to purchase the former joint tenant's interest with excess proceeds payable to our client.

While there are many caveats and limitations regarding reverse mortgages - including age restrictions and higher than usual closing costs - the settlement could not have been made without the use of one.

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***“The language of law must not be foreign to the ears of those who are to obey it.” - Learned Hand***

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