



# Common Claim Issues

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# Agenda

- 1 Execution & Acknowledgment
- 2 Conveyances of Homestead Property
- 3 Forgery & Claims of Forgery
- 4 Legal Description Claims
- 5 Lack of Legal Access
- 6 Lines of Credit Not Properly Closed



# Execution & Acknowledgment

## Execution

- Record title holder fails to sign a deed or mortgage.
- Record title holder is not listed in granting clause of deed or mortgage.

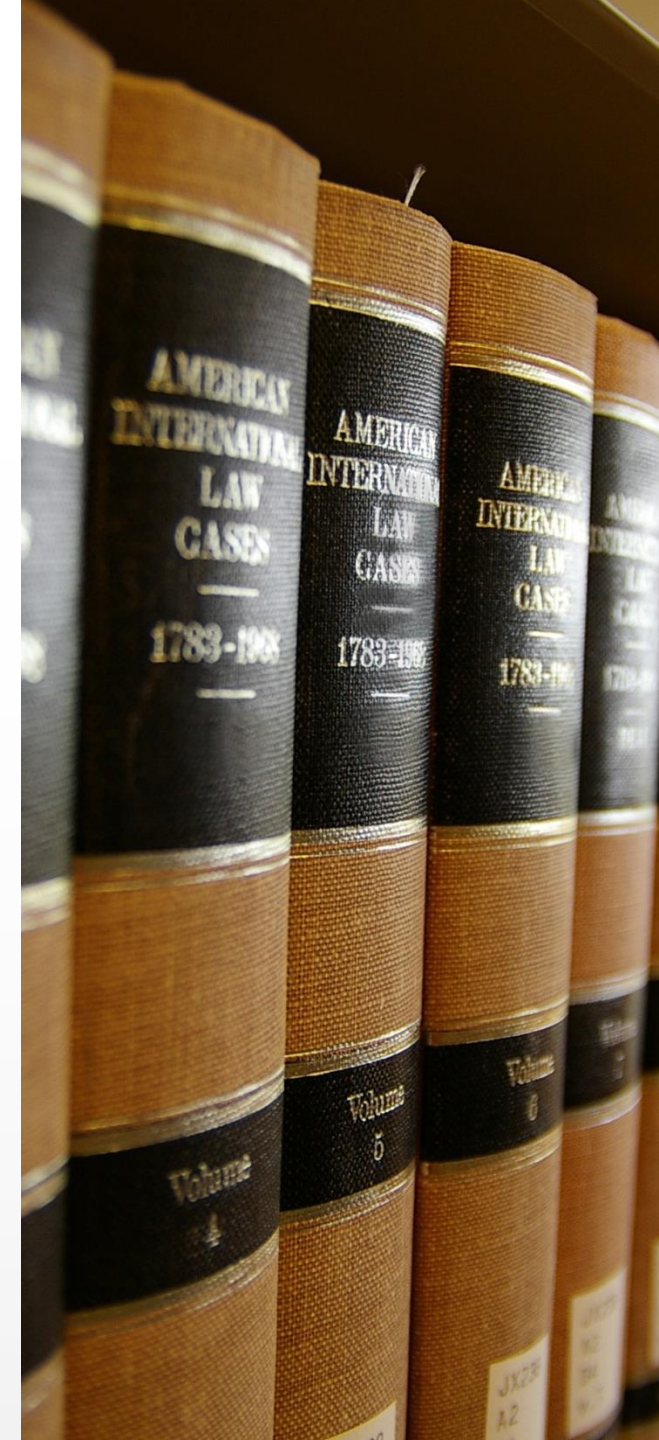
## Acknowledgment

- A conveyance not witnessed or acknowledged is ineffectual to convey legal title.
- Use the proper statutory form of acknowledgment.
- Out of state acknowledgments are recognized in Alabama.



# Conveyances of Homestead Property

- Conveyance or mortgage of homestead property must be signed by both spouses and acknowledged.
  - Alabama Constitution, Article X § 205.
  - Ala. Code § 6-10-3.
- Conveyance is void in its entirety, even as to any excess in the value over the homestead exemption value.
  - *Pratt v. Langston*, 669 So. 2d 967 (Ala. Civ. App. 1995).



# Forgery & Claims of Forgery

1

Deed or mortgage signed outside settlement agent's office.

2

Deeds between family members are at a higher risk of being forged.

3

Borrower produces a payoff statement or release of mortgage.

4

A mortgage is released without a record source of funds to satisfy the mortgage.

5

A party asks to sign using a power of attorney.



# Legal Description Claims

- Adequacy of legal description
- Legal description is not attached as an exhibit to the conveyance.
- Incorrect legal description attached
- Missing or incorrect lot number
- New surveyed legal description does not match record legal description.
- Curing legal description claims



# Lack of Legal Access

- Failure to confirm insured property has legal access.
- Failure to confirm that the road providing access is a public road.
- Failure to search title to the servient estate where legal access is via an easement.



# Lines of Credit Not Properly Closed

- 1** Require the borrower to freeze line of credit prior to closing.
- 2** Confirm payoff amount the day of closing.
- 3** Obtain written authorization from borrower to close the line of credit.
- 4** Retain transmittal letter and confirmation of delivery of payoff and written authorization to close the line of credit.
- 5** Follow up post-closing to make sure the mortgage is canceled of record.





# Thank you for your attention!

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