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### **ALTERED DEEDS; when are they valid?**

Despite the best intentions, sometimes deeds get altered by someone other than the person granting the property, before they are recorded. What is the effect of the deed, once it is recorded in California?

A recent California appellate decision addressed the issue in a case with unusual facts, this time dealing with a transaction between family members. George was facing a lawsuit and decided he should have his name taken off a Deed to California property by granting the property to his niece, F.S., the consideration being described as “gift.” (This conveyance was possibly fraudulent as to George’s creditors, who might have been able to have it invalidated, but that is another story) George and his niece lived in South Carolina, so he sent the deed to California to be recorded. (The record does not indicate whether he sent it to another relative in California, but given the family feud this decision describes, it sounds likely.)

Before it was recorded, the deed was altered by some unknown third person to add two grantees, in addition to F.S., to the deed. In the lawsuit, other family members who claimed they should be on title sought to have the deed voided, as it had been altered.

The court first noted that a material alteration by a party to the deed renders it void. But that was not the case here. The court then observed that, in the context of an executed contract, a third party’s alteration of the contract does not render it void in its entirety; rather, the contract is enforceable in accordance with its original terms. Here, the deed was executed and delivered to F.S., and thus vested title in F.S. before a third party altered the deed. The alteration does not divest F.S. of title. The alteration is void only as to those individuals who were added later. (Lee v. Lee, Fifth Distr. F056107)

This conclusion reaffirms the basic rules of contract law: it was an executed contract, and was valid between the original parties. Which me reminds me of a question I have been asked recently: If some deeds property to Jane Doe and records the deed, but Jane Doe does not know about it and would not agree if she knew, does the deed

convey the property? The answer is no- a contract requires a meeting of the minds of at least two people, and in the case of a deed, this would not be effective to convey the property. A contract requires an offer, and acceptance by the offeree. Jane Doe did not accept the offer. However, it would create a nightmare for Jane Doe, who must file a lawsuit to have the deed declared void, and seek damages against the scheming grantor.

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