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Sitting in my real property class during the first year of law school, I remember thinking who would ever need to know the difference between an easement in gross vs. easement appurtenant, joint tenants vs. tenants in common, void deed vs. voidable deed? Little did I know that I as a real property litigator, this type of information would be the backbone of my practice.

Real property litigation is challenging, exciting and, dare I say, sometimes fun. A typical case (if there is such a thing) usually involves some sort of a scam where the mortgage lender, believing the deal is legitimate, makes a loan to a fake borrower to buy a property. Because the borrower doesn't exist or never intend to buy the property, payments on the loan are not made, the loan goes into default and the mortgage lender begins foreclosure. The real owner of the property then realizes that the property has been transferred – whether someone forged a deed or the owner signed the deed believing it was something else (like a refinance) – and files a lawsuit to stop the foreclosure and unwind the loan. There are cases involving neighbors (not acting very neighborly) fighting over an easement or the location of a property line; although this may sound mundane, people become very passionate over the placement of a fence and the litigation can be intense. The lawsuit will involve terminating the easement or seeking a prescriptive easement.

Inherent in real property litigation – like any litigation – are time pressures. Litigation is dictated by deadlines. Once the complaint is filed, the courts, operating under the "fast track" rules, aim to get cases to trial within the one year filing anniversary. After the initial flurry of activity, sometime involving ex parte applications for temporary restraining orders to stop foreclosure sales, written discovery and depositions usually get under way. Document subpoenas for loan files, escrow files, title files, notary public journals, amongst other things, are usually needed. Depending on the case, a motion for summary judgment may be appropriate and there may be other law and motion if there are discovery disputes. The parties often agree to participate in mediation which is usually a great opportunity to assess the strengths and weaknesses of your case as well as the opposition. The final step is preparing for trial, however, more often than not, the parties reach a compromise on the eve of trial. Each case has it's own nuances and personalities which makes each litigation interesting and unpredictable and certainly anything but boring.