

## WFG Underwriting Bulletin



To: All Utah Policy Issuing Agents of WFG National Title Insurance Company

From: WFG Underwriting Department

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Subject: Judgment Pertaining to Trusts

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The Utah Supreme Court recently issued an opinion confirming a recorded judgment against individuals attached to property held in a revocable trust, where the individuals retain control of the trust. *Mulligan v Alum Rock Riverside LLC* (2024 WL 3449259 2024 UT 22).

### Facts:

Alum obtained a judgment in California against Brett Del Valle. Brett Del Valle is a real property developer. Alum domesticated the judgment in Utah's Third District and recorded the judgment in Weber County, Utah, where Brett and his wife, Traci, owned property in the name of the Del Valle Family Revocable Trust. The trial court indicated the trust was established and administered by Brett and Traci, confirming they were both settlors and trustees of the trust. After the judgment recorded in Weber county, but before Alum obtained a Writ of Execution to seize and sell the property, the Del Valle property was transferred to Mulligan by deed. Mulligan object to the Writ, arguing (1) a judgment lien was NOT created because the judgment was not filed in the registry of judgments as dictated by Utah Code 78B-5-201, (2) the writ was not available because Brett Del Valle did not hold title to the property as an individual, and (3) the district court lacked jurisdiction to issue the Writ because the property was located in a different judicial district.

### Result:

The court held the foreign judgment, because it was recorded in Weber County, did create a lien, pointing to Utah Code 78B-5-305(1) as the ultimate reason for its decision. The court provided extensive analysis, including past statutory changes, on why the Registry of Judgments is outdated, being "entirely supplanted by the county-recorder regime as of July 1, 2002" (2024 UT 22, ¶ 42)

With respect to the title being in the trust, the court held:

*"In short, because settlors of revocable trusts can access the full bundle of property-rights sticks, they cannot keep those sticks from their creditors. Here, as co-settlor and co-trustee, Brett retained the hallmarks of ownership over the property. As the district court noted, Brett and Traci could, at any time, 'revoke the Trust, . . . amend it, . . . [or] transfer property from it.' Under these circumstances, we hold that, for purposes of the Judgment Act, Brett owned the property at the time the judgment was entered against him. Accordingly, Alum Rock's lien attached to the property when Alum Rock recorded the lien with the county recorder." (2024 UT 22, ¶ 62) . Finally, the court held there is no law limiting the District Court from issuing the Writ for a property not in the jurisdiction of the district court.*

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**The Agent may be held responsible for any loss sustained as a result of the failure to follow the standards set forth above.**

**In Practice:**

With any judgment, it is important to cast as wide of a net as possible and show the judgment if there is a connection to the vested owner. Here the trust name included the Del Valle name, and Brett Del Valle was a trustee, making it easy to identify, but in cases where it is not so clear, it may not be possible to complete judgment search until the entity or trust documents are reviewed to determine who is involved with the entity. Contact the state underwriter whenever you have questions about a judgment attaching to the subject property.

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