



## CHEROKEE ASSOCIATION OF REALTORS®

### **GAR COMMITTEE REPORT FORM**

Committee: Legal Forum Writing Great Special Stipulations. Meeting Date: September 2015

Member Attended: Camille Gard

Association Executive Report Submitted To:

Date:

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Items Discussed: **It is NOW legal to write your own special stipulation. Yes, many of us have been writing our own for years. Attorneys were the only ones who could legally write contracts until now.** The legislature has given us the right. **Now we must prove ourselves capable and not make a mess of it and end up being sued.**

1. Consider whether a special stipulation is really needed. It may already be covered in the body of contract.
2. Do not hesitate to use examples in writing, to explain complicated issues or how money will be divided.
3. Decide what risks are really worth being addressed in a special stipulation.
4. It is better to be clear than short in writing stipulation. Longer and clearer is better. Seth Weisman has taken as long as two (2) hours to write a good one.
5. Look for a special stipulation, already been written before writing one of your own.
6. Think hard about what can go wrong before writing a special stipulation and use your experience to solve problems before they arise.
7. Address every possible outcome in the stipulation or write that the buyer can terminate if the desired outcome is not achieved.
8. A stranger to the contract should know exactly what the parties intended in reading the stipulation. Don't put just Realtor talk, put normal talk.
9. Avoid special stipulations that are agreements to agree. Don't put TBD because that is an agreement to agree. Must be present meeting of the minds, can't say you now have a meeting of the minds in the future. If done, and a problem, the entire contract won't hold up/not enforceable. Don't do TBD in the interest rate either.
10. Avoid using penalty provisions in stipulations. Don't say \$\$ penalty for each day not closed for example. Say Liquidated damages will be ..
11. Make sure that financing contingencies are definite.
12. Avoid stipulations that create a subjective standard of enforceability, such as sole satisfaction to Buyer because he could never be satisfied. Make it reasonable.
13. Have the client approve any special stipulations that are written by Realtors.

14. Put a cap on what the Seller or Buyer will pay on something. Spell it out. Attach pictures whenever possible, and or detailed information. Tell what the seller is Not going to do.
15. Remember a T & R is still needed to terminate a contract. Don't think just because the time has run out. **No matter the reason it has ended, It HAS NOT really ended until that one form, the Termination and Release agreement is signed.**

**Thoughts (Relevancy to CAOR):**

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Signature