

Claims in Action

Stewart Title Lecture Series

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2009 Lecture Series – Speaker Profile



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Stewart Title Guaranty Company
Vice President – Claims and
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Presenter: Title Insurance Coverage in Action

In her role of Vice President – Claims and Compliance, Sandra Thwaites is responsible for overseeing all aspects of Stewart Title's claims and compliance department. Her background in commercial and residential underwriting, regulatory matters and claims handling provide her with the necessary expertise to ensure effective claims management and regulatory compliance.

Ms. Thwaites joined Stewart Title in 2003, bringing more than six years of experience in the Canadian title insurance industry to her role. In March 2004, she was asked to lend her experience to Stewart International's Australian operations and was responsible for overseeing and building the Australian team. She returned to Canada in 2006 to take her current position.

Before joining Stewart Title, Ms. Thwaites held progressive positions within the Canadian title insurance industry. Prior to that, she was a member of the legal team at a major oil and gas company handling real estate and environmental issues. She began her career as an associate in the real estate department of Weir & Foulds in Mississauga.

Ms. Thwaites earned a Bachelor of Arts and a Bachelor of Laws from Queen's University in Kingston and was called to the Bar in 1989. She has served seven years on the executive of the Women's Law Association of Ontario, including two years as its president.



Title Insurance - Claims in Action

CLAIMS - what to do when a claim occurs?

How to file a claim:

- Put it in writing
- Send by fax to: 1 877 503 0949
- Send by email to: claims.canada@stewart.com
- Send by mail to: Royal Bank Plaza, North Tower, 200 Bay Street, Suite 2200, Toronto M5J 2J2



Title Insurance- Claims in Action

CLAIMS - what to do when a claim occurs?

What to include:

- Policy number and property address
- Brief description of the title defect
- If time sensitive, include relevant dates
- Supporting documentation
- Agreement of Purchase and Sale



Title Insurance - Claims in Action

Processing of Claim:

- Confirm policy issued (and paid for!)
- Acknowledgement of claim issued
- Assigned to claims handler
- Confirm claimant insured under policy
- Claim investigated to determine if covered by CTR, if specific exception in Schedule B or endorsement, or if excluded by general exclusions
- Once coverage has been determined, then decision will be made on how to resolve claim (ie, pay loss, clear defect, engage duty to defend)



Title Insurance - Claims in Action

Important Points to Remember:

- Claims should be reported promptly as it can prejudice coverage under the Policy
- Only pre-approved legal fees are covered: if you incur fees on behalf of your client without notifying Stewart Title first, no obligation to indemnify
- If only a lender's policy is purchased, there is no coverage for property owner
- Exclusions in policy for defects known to the insured, or which cause no loss
- Exclusions in policy for matters revealed in pre-purchase building inspection



Title Insurance – Claims in Action

RECENT FRAUDS

“But I don’t want to own the house”

- Insured received a fee to sign documents
- Insured told tenant’s rent would cover mortgage payments or sufficient equity in property
- Mortgage amount in excess of market value of property
- Insured pursued on covenant as well as for title to the property



Title Insurance – Claims in Action

Recent Frauds

Inter family frauds

- Senior owns multiple commercial properties mortgage free
- Junior impersonates Senior and mortgages commercial properties
- Fraud indicia: private lenders, properties had been mortgage free for long periods of time, age on ID inconsistent with length of property ownership



Title Insurance – Claims in Action

Recent frauds

Theft by lawyer

- Vendor's lawyer provides undertaking to discharge vendor's institutional mortgage
- Funds never forwarded to lender
- Fraud indicia: no mortgage discharge statement provided to purchaser's lawyer



Title insurance – Claims in Action

Recent Claim

- Insured selling property
- Purchaser's title search reveals property subject to a writ against prior owner
- Insured's lawyer had clear certificate from wrong registry office
- Claim covered, creditor paid, and writ assigned to Stewart Title
- Sale transaction closed as scheduled



Title Insurance – Claims in Action

Recent Claims

Missed Parking Unit

- Insured selling condo unit
- Purchaser's solicitor discovers that parking unit separately PIN'd and registered in name of person who had owned the unit in the 1970's.
- Transfer of parking unit had been missed in all transfers in over 30 years.
- Stewart undertook to get court order vesting parking unit in new purchaser's name
- Transaction closed as scheduled

