

# TITLE *News*

NOVEMBER • DECEMBER 1988



*Welcome to the ALTA Family*

ALTA President 1988-89,  
Charles O. Hon III, and wife Ann.  
Our new president shares his  
thoughts for the upcoming year.



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Volume 67, Number 5

Managing Editor: Adina Conn

**Cover Photograph:** *The most recent addition to the family: 1988-89 ALTA President Charlie Hon, with wife Ann. The happy couple takes a moment from their respective, busy schedules to pose for ALTA.*

## FEATURES

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**4 Up Close And Personal: The 1988-89 ALTA Presidential Profile**

*By Gary Garrity and Adina Conn*

The New Year brings a start of new beginnings and events—it also brings with it a new ALTA President. In this special story, ALTA President 1988-89, Charles O. Hon, III, speaks to members regarding his life, his work, and his plans for the Association for the forthcoming year.

**8 The Recording System And Slander Of Title**

*By Ray E. Sweat*

In an article by one of the Association's foremost counsel experts, read an examination of the historical evolution of modern land recordation systems. This sets the stage for a discussion of recent developments in slander of title actions.

**12 Maher Appointed New ALTA Executive Vice President**

ALTA has a new Executive Vice President—James Maher. In a brief article, read about his hopes, plans, and involvement with the Association.

**14 When Your Job Endangers Your Health**

*By Kristine Sorchilla*

Trying to decide on your New Year's resolution? ... Are you a victim of stress in the workplace? ... Or have you been feeling a little out of sorts lately? Then this article is especially for you. In this feature, you'll learn about the most common forms of cardiovascular disease first-hand, from experts in the field, an actual testimony by a fellow Association member, and what member companies are doing to promote healthier working conditions.

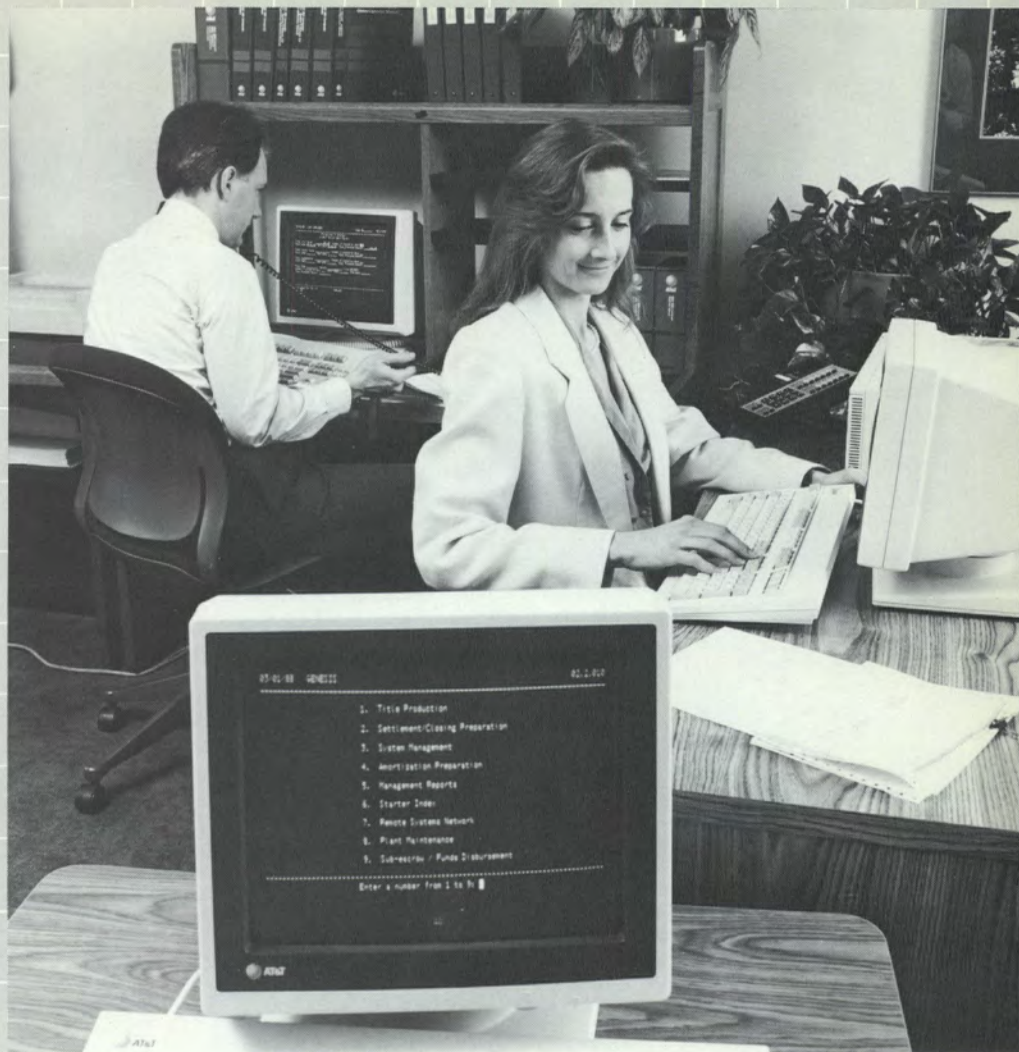
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## DEPARTMENTS

- 3 A Message From The President-Elect**
- 18 Names In The News**
- 20 New ALTA Members**
- 22 Around the Nation**
- 32 Calendar Of Meetings**



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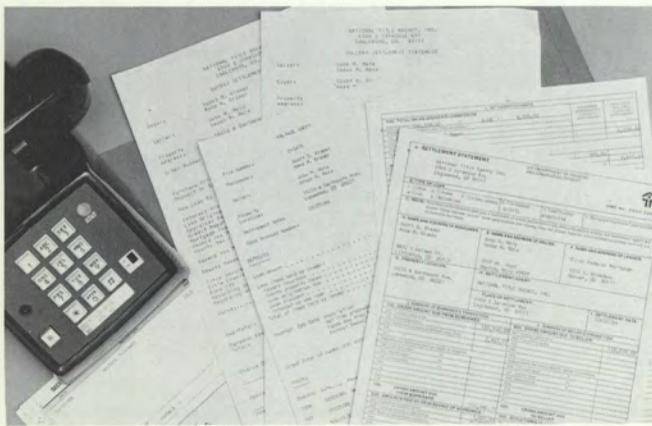
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## MESSAGE FROM THE PRESIDENT-ELECT



As a new administration is ushered into Washington, we will have fresh opportunities to promote and defend our industry and the valuable services we provide. We are in the enviable position of having representation in almost every county across the country. We have not, however, always taken advantage of this potential.

It is both a privilege and an honor to hold the post of president-elect of an association representing an industry that helps to secure the dream of home ownership.

Along with our vast potential, our industry today faces several pressing challenges. These include: rising claims, uncertain economic conditions and severely limited knowl-

edge of our product outside of industry circles.

Responses to these challenges are difficult to pin down. One step, however, in the right direction is the maintaining and increasing of industry allegiance. ALTA has done an admirable job of educating the public about the title insurance business. With your continued support, the Association can do even more to erase misconceptions about our products and educate the public and legislators regarding the valuable services we provide.

While economic conditions cannot be orchestrated by our Association, support of candidates for public office who speak for our industry and whose positions will help maintain healthy economic conditions is vital. Support, for example, for the Title Insurance Political Action Committee (TIPAC) in its pursuit of these aims is one important contribution every member can make.

The increase in claims is a problem which threatens to overwhelm our industry. Yet, this problem can be dealt with effectively through better management, more consistent hiring and training programs, and hard choices on coverages we underwrite. ALTA is an excellent source of training materials, but we must address this problem on a continuing basis—creatively and with adequate resources. We must either change certain policies and procedures or find new control mechanisms, or perhaps both. Our business must produce satisfactory returns on the capital committed or other interests will emerge to achieve such competitive rates of return.

I do not believe that we fully appreciate our political and industry potential. In ALTA, our trade association, we have a vehicle for supporting and protecting our industry and real property ownership in this country. How much success we enjoy depends upon the support and contribution of each Association member.

I pledge to you my best efforts to promote our industry's welfare during my term as president-elect. I ask you to join me in supporting ALTA as it continues to speak eloquently and forcefully for our industry and our policyholders in the coming year. With our educational, political and communications challenges, you owe it to yourself and your associates to make even greater use of ALTA resources.

Richard P. Toft



# Up Close And Personal: The 1988-89 ALTA Presidential Profile

*By Gary Garrity and Adina Conn*

Theirs was a college romance. She came from Dallas; he, from Chattanooga. They met their first week at Vanderbilt University during freshman orientation.

"I'd avoid him. He's trouble," the girl from Dallas was told, by her college roommate from Chattanooga. "I knew him from home, and I'd make certain to keep your distance from him."

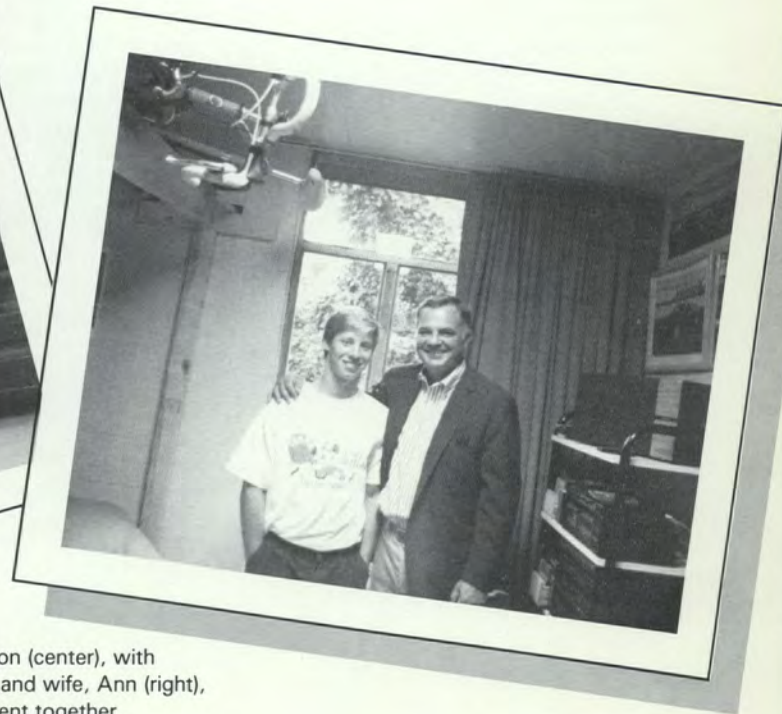
Naturally, this advice only served to heighten the interest of the girl. And so the relationship began, with the two becoming fast friends, together every day (except weekends), from morning until night. They dated other people, until one day, six weeks after they met, he asked her out. The rest . . . is history.

Twenty-five years later, Ann Eliot Hon from Dallas and Charles O. Hon III, from Chattanooga have remained friends—the very best.

Both lead active lives. The new ALTA President is also President of the Title Guaranty and Trust Co. of Chattanooga, a 101-year-old business that has been in his family for five generations. Hon has also enjoyed a successful career with his many years of voluntary service to the Association. Past Chairman of the ALTA Abstracter-Agent Section, he has also served as a member on the: Bylaws, Finance, Government Affairs,



Top photo: Charlie Hon (center), with daughter Emily (left), and wife, Ann (right), enjoy a relaxed moment together.



Bottom: Charlie Hon and son Chad, visiting together in Chad's dorm at Vanderbilt University.



and Young Title People's Committees. In addition, he is former chairman of the ALTA Committee on Committees as well as the ALTA Planning Committee, a member of the Board of Governors, and member of the Section Executive Committee.

Ann is equally committed to her volunteer work in the Chattanooga community. Past President and current Board member of the Junior League, Ann also finds time to serve as Board member to Family and Children's Services, Chattanooga's largest United Way agency which oversees approximately 30 program services including: a newly created spouse abuse shelter, three residential youth facilities, homemaker services for the elderly, foster care for children in protective custody, as well as adoption services. Ann has also served on the Boards of the Goodwill Industries, the Hunter Museum of Art, the Title XX Advisory Committee to the Tennessee Department of Human Services, the Garden Club of Riverview, and, the Little Miss Mag Day Child Care Center (a governmental and privately subsidized child care center for the benefit of working mothers).

The Hons have two children, 18-year-old Chad, a freshman in engineering at Vanderbilt University, and 15-year-old Emily, a student attending Baylor School, a private academy in Chattanooga. As good mannered as they are good-looking, together, the Hon clan epitomizes the picture perfect family found on the pages of model photo albums.

Here, in a very special Title News story, the newly elected ALTA President speaks candidly, sharing his thoughts regarding his entree into the industry, its current state, personal challenges, disappointments and finally his expectations for the Association, while in office.

***When you were in school, did you have any idea you would be doing what you are today?***

No. When I was young, I thought I wanted to be a lawyer but had no idea that I would be in the title insurance business. Prior to law school, my understanding of the law was from Perry Mason. And, I had enjoyed courses in criminal law and evidence while in law school.

After graduating from law school and passing the bar exam in 1970, I took my best job offer. It just happened to be with Title Guaranty. My father was President of the company, as was his father and his grandfather. Part of my employment agreement was that I also be allowed to practice law outside of the real estate field. So, I was

thrilled to be appointed by the court, to represent indigents accused of criminal violations. I became disillusioned very quickly, however, when it finally dawned on me that the vast majority of those whom I represented, unlike Perry Mason, were truly guilty.

***Was it assumed you would venture into the family business?***

I don't know that my immediate family felt that way . . . No, I don't think my parents thought I'd pursue a career in the title industry.

***Were there any role models who really helped to shape your life on a personal and professional level?***

Jim Boren and my father. Jim's knowledge of the industry and the work he did—particularly in Tennessee, was remarkable. He would take the bull by the horns and run with it. If something needed to be done, Jim was always there to see the job through. Also, he's honest, well-respected, and always willing to give of himself.

With respect to my father . . . As a child, I remember my father's work ethic. He had five children—sent all of us to private schools, from seventh grade on up. I'd remember him getting home late from work and studying in order to take the exam. My father read the law. He must have been the last one in Tennessee to be able to read the law and be allowed to take the bar exam. And he really cared about people. He taught me not to take any short-cuts as far as the title business was concerned. He taught me the value of the moral obligation of providing people with the services they intended to receive, and not necessarily what they ordered.

***What kind of work presents the greatest challenge for you?***

With respect to business—structuring a transaction that others have said cannot be done. But being a parent is by far my greatest challenge in life, so far.

***What has been the biggest disappointment in your career?***

The period between 1979-1983. That's when the bottom fell out of the market. It appeared to me there was nothing we could do about the situation. Numerous staff cuts were made within my office. I realized that regardless of what one did, you couldn't save yourself. I understand peaks and valleys. But the valleys were so deep and lasted so long, that I felt out of control as to how deep we fell. It was as if you had no control over how much you fell.

“ **M**y father taught me not to take any short-cuts in the title business. He taught me the value of the moral obligation of providing people with the services they intended to receive, and not necessarily what they ordered. ”





ALTA President Charlie Hon presents a Title Industry Political Action Committee (TIPAC) contribution to U.S. congressional candidate John Tanner (left), Tennessee State Representative.

***There have been numerous events in the past years which have changed the title industry. Which do you feel have had the greatest impact upon our business and why?***

The failure of Congress to adequately address the deficit problem has had, and will continue to have, great impact on our business because of its effect on interest rates and consumer confidence. Also, the advent of the money market funds and the resultant flow of funds away from traditional mortgage lenders has had a tremendous impact on our business.

The entrance of the brokerage houses through their money market funds into what had traditionally been the savings and loans and banks' territory caused a tremendous upheaval, as those affected industries looked for other profit centers and began encroaching upon each other's territory. Years ago you would have thought I had lost my mind if I had used the term "non-bank bank."

The competition within our industry for agents and the seeming willingness to sign

anyone who might control some business would have been unheard of 30 years ago. One subtle change that is partly responsible for the preceding change is that most underwriters are now owned by huge conglomerates who pressure the title company management to show immediate bottom line results without much regard for long-term consequences.

***What do you see as the leading issues on the horizon for ALTA as you enter your presidency?***

Certainly one of the leading issues would have to be the attempt by the Comptroller of the Currency to allow national banks to become title insurance agents and/or underwriters. The effort to repeal or modify McCarran-Ferguson, if successful, could result in disastrous problems for our industry. Losses seem to be reaching levels that threaten our industry's financial stability.

***How do you feel the Association can most effectively deal with these matters?***

ALTA has taken all available steps at this time, concerning the Comptroller of the Currency matter. We have brought suit in Federal District Court seeking to have the Comptroller's decision reversed. We have joined with other insurance industry groups in a lobbying effort which we hope will convince Congress to retain McCarran-Ferguson. On the issue of losses, the Association must make greater effort to educate its members as to the causes of the most troublesome loss categories and how to avoid them.

***What do you see as the greatest strengths of ALTA as we move toward 1989?***

Our greatest strengths are in our numbers and our commitment. As I have moved through the chairs and traveled throughout the country, I have become even prouder of the quality of the people we have in the industry. Our numbers are significant, but what is probably more significant politically, is the geographical base of our industry. ALTA membership is truly national, and I would doubt there exists a single senator or representative who is not personally known by at least one of our members.

***In what areas do you feel the Association is in greatest need of improvement?***

The Association could make better use of its membership base. Too many times a vote on Capitol Hill that is critical to our industry will take place, and our member-



ship will have failed to respond to staff's requests for personal calls and letters to congressmen. During my administration I hope to increase our members' associations with those in the federal legislature. Many state associations do a much better job than ALTA in this respect, and yet national issues can be so much more critical to our industry.

***You are on record for calling on fellow ALTA members to take greater pride in their industry. What do you see as the most effective means for encouraging this within the Association?***

I think that the chair officers should address this topic at state conventions as well as at national ones. When we allow ourselves to be the whipping boys within the real estate industry, we cannot expect the general public or our partners in the real estate conveyancing field to treat us in any other way. I disagree with many leaders in our industry when discussing the forms and coverages that we give today. I am in favor of input from our insureds, but feel that we have given away the store too many times. I think this is now reflected in our excessive recent losses. I know that I cannot dictate what coverage or what language will be contained in my standard automobile or life policy. We sell a good product at a very reasonable price and should not be looking for ways to give away more, especially with profits down and losses up.

***Many members seem to feel that balanced participation of Association activities among abstractor, agency and underwriter personnel has reached its most impressive level ever. Do you share this view?***

ALTA seems to be in the midst of a period of great harmony. I have been active within the Association for approximately 12 years and do not recall any time with less divisiveness within this membership. I don't know that any more can be done to encourage full participation. Our membership has responded to requests for their participation and has been given meaningful assignments where the results of their work are much in evidence.

Although participation in government affairs activities of ALTA and state title associations seems to have reached an all-time high among the membership, there appears to be a consensus among those closest to this endeavor that considerably more local involvement needs to be attained. How can an increasing number of title professionals be encouraged to become politically active at the local level on behalf of their industry?

I referred to this previously, but I believe that it is critical to the future of our industry and feel that we cannot say enough about it. Our Association has the potential to become increasingly effective politically. In the past, however, we have failed to realize this potential. I will ask for the assistance of all the state associations in compiling lists of contact people. ALTA staff will ask to be copied on any letters requested on contact people and follow-ups made if copies are not received in a timely manner.

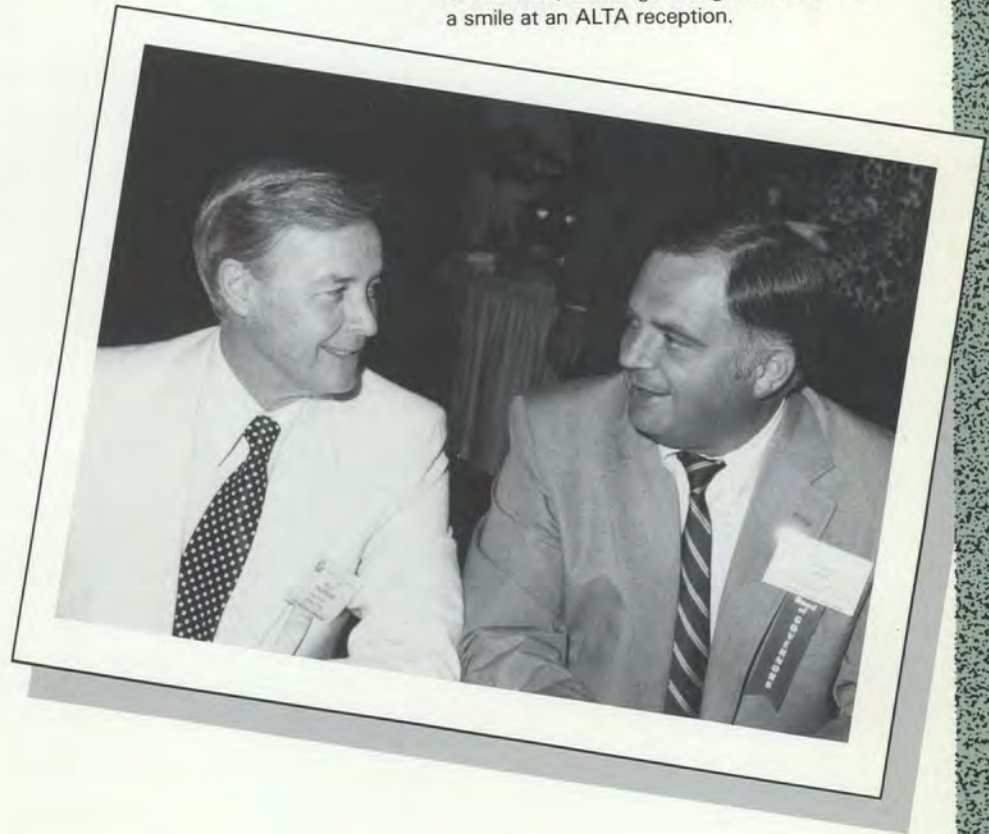
***How do you view the present level of liaison between ALTA and affiliated regional and state title associations?***

ALTA should request more input from state associations, and should serve as a clearing house for information about different state regulatory and legislative matters.

“ **O**ur greatest strengths are in our numbers and our commitment . . . I have become even prouder of the quality of people we have in this industry.

”

Bill Thurman (left), ALTA chairman, Abstractors and Title Agents Section, and Charlie Hon, exchange thoughts, ideas, and a smile at an ALTA reception.





# The Recording System And Slander Of Title

By Ray E. Sweat

*In this article, read about a recent case which raises new concerns regarding slander of title actions.*

Recording Systems are not necessary nor useful where the population is illiterate and sedate. At common law, title to real estate was transferred by "enfeoffment," a public ceremony conducted on the property. The transferor made a symbolic transfer of seisen by handing to the transferee a twig, clod or other part of the real estate. Once this enfeoffment took place the transferor had no further interest in the real property and could not thereafter give good title to another. This priority was based on the common law principle "first in time, first in right".

Written documents later came into use merely as a convenient method of memorializing the terms of the conveyance. In 1535 the Statute of Uses was enacted and it became possible to convey property without a public ceremony of enfeoffment. In 1536 the Statute of Enrollment was passed as a companion bill to the Statute of Uses. The Statute of Enrollment proved largely ineffective, since it, in its final version, only covered bargain and sale of freehold estates which under the Act had to be accomplished by a sealed writing, enrolled in one of King's Courts of record within six months.

The Statute of Enrollment was not well received. From the beginning, it was avoided by a one-year lease, creating a leasehold estate not covered by the Statute, followed immediately by a release of the reversion to the lessee-purchaser. In 1677 the Statute of Frauds was enacted and written documents became necessary to the creation or transfer of most real property interests. It was now possible to privately create interests in land without public ceremony or public knowledge.

Real estate in England is still subject to feudal tenurial ownership rather than

American allodial ownership. Americans own real property without obligation of vassalage or fealty, that is, free, not beholden to any lord or superior, other than taxing and regulatory authorities.

The first reference to the record of a deed in the New World is in the records of Plymouth Colony in 1627. The original contract of bargain and sale of land is set out in full in the record and signed by the parties to the contract. Although there were earlier acts in some of the colonies including Massachusetts, the first recording act as we know such acts today was enacted October 7, 1640 by the General Court of the Massachusetts Bay Colony.

This Act provided:

"For avoding all fraudulent conveyances, & that every man may know what estate or interest other men may have in any houses, lands, or other hereditaments they are to deale in, it is therefore ordered, that after the end of this month no mortgage, bargaine, sale, or graunt hereafter to be made of any houses, lands, rents, or other hereditaments, shalbee of force against any other person except the graunter & his heires, unlesse the same bee recorded, as is hereafter expressed: And that no such bargain sale, or graunt already made in way of mortgage, where the graunter remains in possession, shalbee of force against any other but the graunter or his heires, except the same shalbee entered as hereafter expressed, within one month after the end of this Courte, if the party bee within this jurisdiction, or else within 3 months after hee shall returne. And if any such graunter, etc., being required by the grauntee, etc., to make an acknowledgement of any graunt, etc., by him made, shall refuse so to do, it shalbee in the power of any magistrate to send for the party so refusing, & commit him to prison without baile or mayneprize,

*The author is executive vice president and special counsel to the Chief Executive Officer at Ticor Title Insurance Co., Los Angeles, California. He is a member of the Indiana and the American Bar Associations, and he belongs to Corporate Counsel, Real Property, Probate and Trust, and Insurance sections of the ABA. He is also a current chairman of the ALTA Judiciary Committee, chairman of the Association's Wetlands Committee, and chairman of the ABA's Real Estate Financing Committee's Subcommittee on Bankruptcy Issues to Real Estate Financing. He is also a member of the American College of Real Estate Lawyers.*



until hee shall acknowledg the same. . . . And it is not intended that the whole bargain, sale, etc., shalbee entered, buy onely the names of the graunter & grauntee, the thing & the estate graunted, & the date; and all such entryes shalbee certified to the recorder at Boston within 6 months yearly."

This statute is similar to today's modern recording statutes.

- (1) The instrument was good as between the parties even though not recorded;
- (2) Prior acknowledgment was necessary to recordation; and,
- (3) Compliance with the Act was made necessary within one month if the party was within the Colony and three months after return to the Colony if then outside jurisdiction of Colony.

There also exist certain differences. Full recording was not essential, only the main features—such as names of grantor and grantee, the property and estate granted, along with the date.

#### Recording Acts

There are three major types of recording acts in the United States, that is, Pure Notice, Race-Notice and Pure Race. Under the notice type act, found in most states, an unrecorded instrument is invalid as against a subsequent purchaser without notice, whether or not the subsequent purchaser records prior to the first purchaser.

The race-notice statute protects the subsequent purchaser if two requirements are met:

- (1) Subsequent purchaser records prior to time earlier purchaser records; and,
- (2) Subsequent purchaser takes without actual knowledge of earlier conveyance.

The pure race statute places a premium on the race to the court house. The subsequent purchaser must record before the earlier purchaser, but is protected even though aware of the earlier conveyance.

Most of the earliest recording acts were of pure race type. Today, most of the recording statutes are of the pure notice type. The majority of either exclude short term leases but cover a myriad of other interests or estates in land.

Today's recording statutes are designed to protect a bona fide purchaser or encumbrancer for a valuable consideration, and except in pure race statutes, only a purchaser or encumbrancer without notice or knowledge of the earlier transaction. Appli-

cation of the different statutes will get different results based on the same facts.

With respect to the recording process, there must first be a writing to have a recordable matter and it must comply with the Statute of Frauds enacted in 1677 as referred to above. The Statute consisted of twenty-five sections covering a wide variety of situations some within and some without the scope of real property. We, at this point, are principally interested in Section 3 which provided as follows:

"no leases, estates or interests, either of freehold or terms of years, or any uncertain interest, . . . of, in, to or out of any messuages, manors, lands, tenements or hereditaments" shall be "assigned, granted or surrendered unless by deed or note in writing, signed by the party so assigning, granting or surrendering the same, or their agents thereunto lawfully authorized by writing. . . ."

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**"Disparagement of the property in land or slander of title is similar to an action in defamation, except defaming written statements constitute libel, while oral defamatory utterings are called slander."**

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This concept has been captured by legislative bodies in the several states.

At this point, we are interested in documents which affect or concern real property including writs of attachment; notice of filing bankruptcy petition; contracts affecting fixtures on real property; deeds; federal tax liens; homesteads; judgments; leases; lis pendens; mechanic's lien; mortgages; options; partnerships; patents from sovereigns such as United States or a specific state; powers of attorney; probate matters affecting real estate; assignment of rents; covenants, conditions and restrictions affecting real property; subdivision maps; vacation of streets and zoning.

If a document of the type permitted under the law to be recorded, is executed by the obligor and properly authenticated, and thereafter recorded, and in many states properly indexed as well, it is said to be constructive notice to all persons who deal with the subject matter of the document, that is, Blackacre.

There are several varieties of notice and some sloppy usage of the verbage "knowledge" and "notice". Knowledge, sometimes referred to as actual knowledge, is a state of mental awareness of a fact. Actual notice comes about by service of legal process upon a person of suitable age and discretion that has the legal necessary status to bind the person to be charged. Constructive notice as we have seen comes about through effective recording. Imputed notice or knowledge comes about because of a legal relationship such as principal and agent. Inquiry notice results in constructive notice when a person becomes aware of a fact that a reasonable prudent person would pursue to become more learned of the condition causing the fact.

What does a title person do when he or she comes upon an instrument of record which is not eligible for record? If it is not eligible for record it is NOT constructive notice to a bona fide purchaser or encumbrancer for valuable consideration. Should the title person report the matter and queer the protected position of the bona fide party for valuable consideration?

In *Seeley v. Seymour* 190 CA 3d 844 (1987) Seeley acquired Blackacre in the City of San Francisco in 1972 for \$97,000. In 1978 Seymour offered to purchase Blackacre from Seeley for \$250,000. Seeley rejected the offer but indicated a willingness to lease Blackacre on a long term basis. The parties carried on intensive negotiations through their attorneys and brokers but never reached an agreement. Nevertheless, in August 1978 Seymour unilaterally prepared a document he entitled "Memorandum of Agreement" which referred to a ground lease for a period of sixty years. Seymour alone signed the document August 30, 1978 and had his signature notarized September 13, 1978. On September 18, 1978 Seymour took the document to an escrow officer at the Modesto (an adjoining county some miles east of San Francisco) office of Safeco Title Insurance Company. Seymour was a regular valued customer of Safeco and an acquaintance of the Modesto escrow officer. Seymour asked the escrow officer to record, as an accommodation, the Memorandum of Agreement re Blackacre in the office of the recorder of the city and county of San Francisco.

Safeco Title Insurance Company maintained a desk in the office of the recorder for the city and county of San Francisco and presented insured documents at a special location, not at a public window. Under the arrangement with the recorder such

*continued on page 27*



# Season's Greetings from ALTA



Robin E. Keenan  
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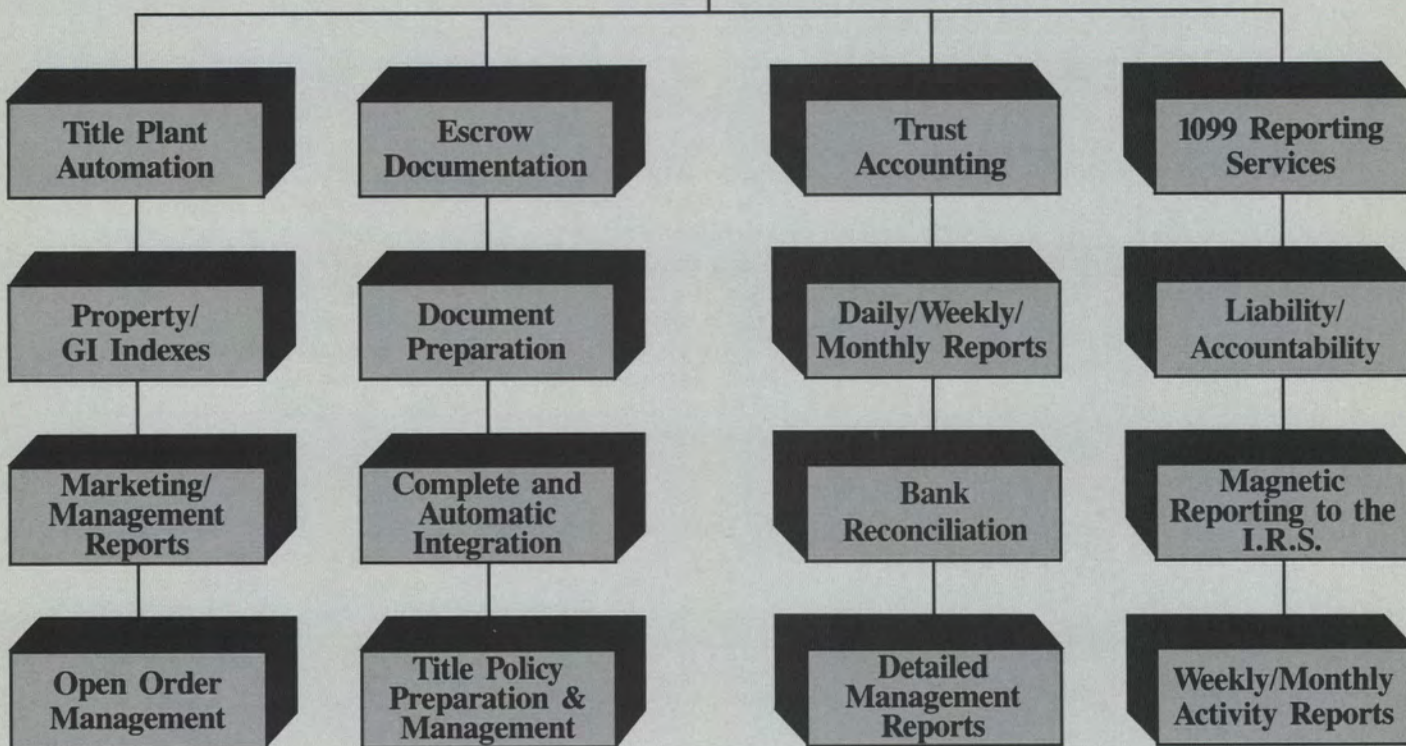




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# Maher Appointed New ALTA Executive Vice President

“*“The challenges of any new position are usually considerable, and the job of ALTA Executive Vice President is certainly no exception.*”

In an announcement shortly before the recent ALTA Annual Convention, 1987-88 Association President Marvin C. Bowling, Jr., reported that the organization's Board of Governors had elected James R. Maher to fill the vacant position of ALTA executive vice president.

The Board voted affirmatively on the recommendation of a Selection Committee headed by then President Bowling, which previously considered a substantial number of applications for the position and conducted interviews with selected candidates.

As chief staff executive, Maher will have overall responsibility for the association's various programs and activities, according to Bowling, who is executive vice president-law and corporate affairs, Lawyers Title Insurance Corporation. These include legislative, legal, educational, public relations, publications, research, employee group insurance, and meeting services.

Maher's primary areas of responsibility with the Association have included his work with the Forms Committee, the Title Underwriter Counsel, liaison to the American Congress on Surveying and Mapping.

Other members of the Selection Committee were these 1987-88 ALTA Board Members: Charles O. Hon, III; Richard P. Toft; Bill Thurman; and John R. Cathey.

When asked to comment on his new position, Maher responded, "The challenges of any new position are usually considerable, and the job of ALTA Executive Vice President is certainly no exception. I look forward to those challenges, however, and, to continuing my many current projects and activities."

Executive Vice President Maher joined the ALTA staff as general counsel in 1984 after nearly 10 years with the U.S. Department of Housing and Urban Development, Office of General Counsel, where his duties included serving as attorney-advisor in the Home Mortgage Division and later becoming trial attorney in the Inspector General and Administrative Procedures Division.

He received his undergraduate and law degrees from The American University, Washington, D.C., and is a member of the American and District of Columbia bar associations.

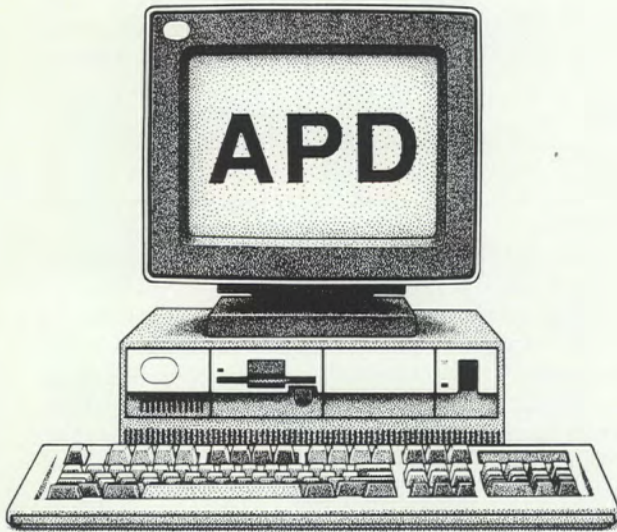
"Jim has done an excellent job for us as general counsel since April of 1984 and has demonstrated qualities which, I believe, will make him a fine manager," President Bowling said in announcing the selection to the Association membership.

Maher, his wife, Kathy, and their son reside in McLean, Virginia.





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# When Your Job Endangers Your Health

By Kristine Sorchilla

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Risk

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## Stress and Its Symptoms—The Workplace

It's 8:45 a.m. You've been at your desk since 7 a.m. trying to finish a last minute proposal. The clock ticks away, and suddenly you find yourself left with fifteen minutes before the actual presentation. Glancing at your watch, anxiety accelerates when you realize you are unable to meet your deadline. If you blow this one, forget about that promotion.

The feeling at first, is so subtle, you barely acknowledge it. Just a slight squeezing in the center of your chest. Suddenly, you are overcome by a sweating nausea and shortness of breath. The tightening becomes pain, spreading through your arms, neck and shoulders, worsening with every second.

At first you are overwhelmed by paralytic fear. Then suddenly, the pain subsides. It's over as quickly as it began. You become aware of a few co-workers gathered around you. You smile sheepishly, declaring you're fine and blame it on an "anxiety attack."

In a short span of two minutes, your body has given you a severe warning. You have just experienced the first symptoms of a heart attack. This is a warning no one can afford to ignore. According to the American Heart Association, each year cardiovascular disease kills some 200,000 Americans under the age of 65. Of these, five percent are under the age of 40.

Extensive clinical and statistical studies have identified several factors that increase the risk of an individual suffering a heart attack or stroke. The more risk factors present, the greater the chance of a person developing some form of cardiovascular disease. Some of these factors cannot be changed, such as increasing age, sex (men have a greater heart disease risk than women), and heredity (children with par-

ents who have cardiovascular disease are more likely to develop it themselves). Others like cigarette smoking, high blood pressure, blood cholesterol levels, diabetes, obesity, physical inactivity and stress can be changed or treated under a doctor's supervision.

For most Americans, some of these factors are a part of everyday life, in the home as well as in the workplace. Since the job is where most Americans spend the majority of their days, it is there where some smoke more than they should, or where others, perhaps, eat more or a little unhealthier than they should. The workplace also becomes the environment where stress is most prevalent. Faced with deadlines, an overabundance of work, or fierce competition, stress can build up to levels that may endanger an employee's health.

Each year, employers spend thousands of dollars to help employees alleviate the burden of medical expenses following heart attacks, strokes and other diseases. According to the American Heart Association, the total cost of heart and blood vessel disease paid by employers in 1986 was estimated at \$78.6 billion; the majority of which was paid by companies in the form of time lost at work, disability, health and life insurance premiums.

Today, however, many companies are discovering more cost-efficient ways to fight heart and blood vessel disease. More and more universities, medical institutions and organizations are discovering that while treatment-oriented health care is important, prevention programs are even more effective. Many companies now sponsor health promotion programs that help employees help themselves in the fight against cardiovascular diseases.

## Wellness In The Title Industry

In recent years, some title insurance companies have followed the nationwide fitness trend by adopting wellness programs for their employees. Transamerica Title Insurance Company employees in Los Angeles are eligible to participate in such a program sponsored by the company's life insurance division.

The company provides a gym for employees as well as a sports club called "Team Transamerica" for runners and racquetball players. Says Diana Bagley, program administrator for Transamerica Life Insurance Companies, "Our business philosophy sets forth a commitment for wellness for employees and the general public. We're aware of the effects wellness programs have had on employee morale and productivity, and that's our bottom line."



Programs such as Weight Watchers, Overeaters Anonymous and Alcoholics Anonymous are also offered and classes on smoking cessation are conducted on demand.

Another feature of the wellness program is a series of lunchtime lectures called "Lunch and Learn." The lectures, offered bi-monthly, deal with health-related issues such as cardiovascular fitness improvement and cancer prevention. The sessions are also taped for employees who are unable to attend the program.

Ticor Title Insurance Company also sponsors a pilot wellness program in its Southern California offices. Employees can call an 800 number connecting them to a counselor with whom they can discuss stressful problems dealing with spouses, children, alcohol, drug abuse, or job situations. Says Martha Heiberg, vice president and personnel director for Ticor, "Employees receive up to three face to face sessions free, and are given a referral to another community resource if additional counseling is required."

Another aspect of their Employee Assistance Program is brown bag lunches that feature discussion of topics such as stress reduction and stress management. These are held on a monthly basis in Ticor's main office in Los Angeles, and on a pilot basis in offices throughout San Diego, Orange, Ventura, Los Angeles, San Bernardino and Riverside counties.

Some 2,000 employees currently participate in the program. If the pilot program proves successful, it will be extended and

expanded. "We want a program we can refer people to so they can get assistance when they need it," Heiberg explains. "This is what many companies are doing; there's a nationwide concern about employee wellness." Ticor also has offered Weight Watchers and may offer a smoking cessation class if there is sufficient interest.

The unfortunate fact remaining, however, is that out of the thousands of cardiovascular-related deaths each year, many could have been prevented through lowering blood pressure, elimination of smoking, reducing cholesterol intake or simply recognizing the warning signs.

### A Case In Point

Jim Boren, president of Mid-South Title Insurance Corporation in Memphis, Tennessee, is a walking example of someone who is alive today thanks to recognizing and acting on the warning signs of a heart attack.

Six years ago last June, Boren experienced a tightening in his chest that felt like indigestion as well as the inability to walk very far. Shortly after this initial incident, Boren underwent bypass surgery.

Three doctors diagnosed Boren and associated his cardiovascular problems with several factors—placing varying degrees of emphasis on diet, weight, lack of exercise, and heredity. All agreed, however, that Boren's condition partly originated from a tremendous amount of stress. "I don't know that I felt a great amount of stress at that time," Boren recalls. "I knew I was under

some, but I'm the type of person to place myself in stressful situations."

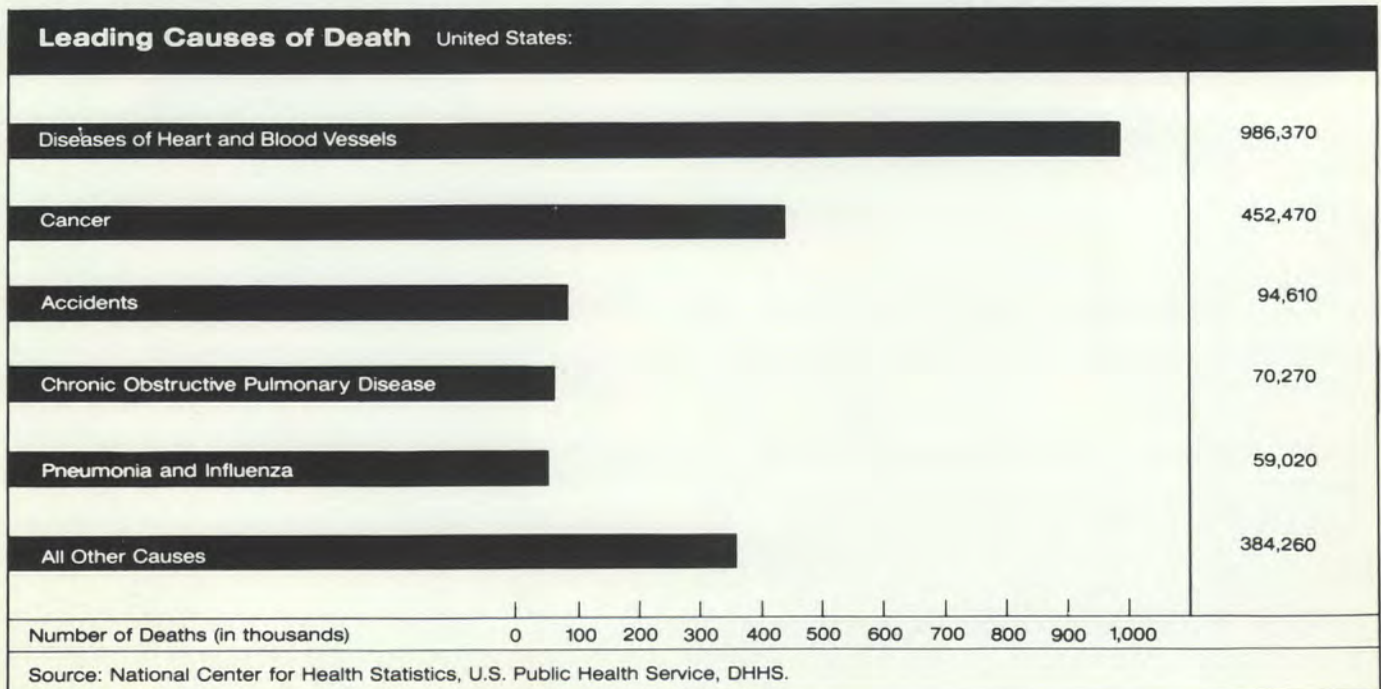
Today, 35 pounds lighter and an avid walker, Boren claims his stress has not disappeared, but he has simply learned to deal with it more efficiently. He credits his system of stress management and present good health to simply reorienting his priorities. He walks five miles a day five days per week, maintains a low-fat, low-sodium diet, and receives a tremendous amount of support from his wife and other family members.

### Stress And Its Disguises

Studies indicate the most common symptoms of stress are muscular disorders such as stomach aches or backaches. The stereotypical worn-out, nervous types usually are not heart disease patients, possibly indicating that people who show their anxieties are better off, although no scientific proof exists at this time.

"For decades scientists have searched for evidence to link stress to heart disease," says S. Leonard Syme, professor of Epidemiology at the University of California School for Public Health and an expert on stress and heart disease. The real breakthrough, however, has come in the past five or six years. These breakthroughs partly dispel stereotypical images of executives, doctors or lawyers as having the most stressful careers and show that many holding lower level positions are the individuals

*continued on page 22*





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For example, the recent changes in the HUD-1 form gave rise to several major enhancements in our Settlement/Disclosure program. It now features WYSIWYG



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# COMPUTER OR OURS:

(What You See Is What You Get); you can view the actual, completed settlement form on screen exactly as it will print. We incorporated 1099 reporting and then developed a separate 1099 Reporting program for your other IRS accountability requirements.

But that's just one — by no means all — of the latest in our continual enhancement efforts (see the accompanying box). Each of our software application programs has undergone revisions of varying extent and degree to make them what they are today.

## You Just Have to Push the Buttons.

If you can work a juke box, you can work any of Sulcus's land title programs. They're that easy. These programs work singly or in concert. At the touch of a button, you move information from one to another. At the touch of a button, you can view your completed form

on the screen. At the touch of a button, your paperwork will fairly sing from the printer. We call that ease Sulcusizing. Sulcusizing is simplifying.

## It Plays on Your Machine or Ours.

Originally, Sulcus sold only turnkey systems in which the customer got everything from us. That's what it took in those days when people weren't familiar enough with the new technology. Many of our customers still prefer the turnkey approach. So we provide it all — hardware, software, training, and ongoing support.

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## Here Are The Latest Renditions.

Changes in our programs fall into three categories: A minor adjustment or fine tuning, a more substantial operational improvement, and a major advance in capabilities.

Our version numbers reflect the changes: the first digit signifies major advances; the next, an operational improvement; the last set, fine tuning. For example, as you see in the chart, the sixth major revision of Settlement/Disclosure has had five operational improvements and eight fine tuning adjustments made to it.

This chart shows the current revisions of each of our land title programs.

Program	Revision Number
Settlement/Disclosure	6.5.08
Forms Generation	3.9.09
Escrow Accounting	6.1.01
Regulation Z	6.4.07
Indexing	3.6.06
1099 Reporting	1.0.01
Amortization	5.4.02
Turbotract	2.2.03
Word Processing	3.1.00
MIRS	6.2.00

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## NAMES IN THE NEWS



Cecchettini



Horn



Mueller



Walton



Bannon



Frederick

The Board of Directors of Title Insurance Company of Minnesota (Minnesota Title), has announced the election of **Richard A. Cecchettini**, president, to the additional office of chief executive officer. Cecchettini had held the position of President and chief operating officer since October 1987. He joined the company in 1981 as senior vice president—operations, and was named executive vice president and chief operating officer in 1983. Cecchettini is currently a member of the Board of Governors of the ALTA and chairman of the Association's Underwriter Section.

**Gary J. Horn** has been elected to the position of vice president and corporate manager of Taxes and Financial Analysis for Minnesota Title and Minnesota Title Financial Corporation. He had held the position of assistant vice president and corporate manager of Financial Analysis since 1984. The Boards of Directors of Minnesota Title and Minnesota Title Financial Corporation have also announced the election of **Michael G. Mueller** to vice president and assistant corporate controller for both companies. **Herbert R. Walton** has been named vice president and Pennsylvania/Delaware State manager for Minnesota Title by senior vice president and Northeast Regional manager, **Stephen C. Wilson**.

Three state managers of First American Title Insurance Company have been promoted to regional vice presidents, according to President and Chief Executive Officer D. P. Kennedy. **Robert Bannon**, **Michael F.**



Norden



Booth



Geer



Kadlec



Morris



Weston

**Frederick, Jr.**, and **Peter Norden**, all based in the Northeast, will oversee the company's activities in the states of their respective regions. First American's operation in Connecticut and Rhode Island will be under the direction of **Bannon**; **Frederick** will oversee the states of Pennsylvania and Delaware; and **Norden** will oversee operations in the states of Maine, Massachusetts, New Hampshire and Vermont. **Wayne M. Booth** of San Dimas, California, has been promoted to president of First American Real Estate Tax Service, based in Brea.

The following people have received promotions at Chicago Title. **Linda M. Aird**, assistant vice president and Downstate Illinois agency manager; **Paul D. Bender**, assistant vice president and manager, Central Illinois agency service office, Champaign, Ill.; **Dorothy Cammon**, assistant escrow officer, Chicago; **H. Stat Geer**, manager, Kane/Kendall counties, Ill., and remains resident vice president, Geneva, Ill., Champaign, Ill.; **Fred P. Grunst**, assistant regional counsel, Chicago; **Randall Kadlec**, assistant general counsel, Chicago; **Eileen Morris**, assistant vice president, operations officer, Chicago. **Mark R. Turner** has been appointed assistant vice president and area manager, Nashville, TN; **James K. Weston** assumes the additional responsibility of managing the Downstate Illinois agency service offices and overseeing their underwriting, technical training and claims handling functions while remaining vice president

and regional counsel, Chicago. **Margaret A. Ziomek**, appointed assistant general counsel, Chicago.

**B. G. "Jack" Baumgardner**, chairman of the Board of Lawyer's Title Company of Houston, has retired after 43 years of service. A previous owner, **Baumgardner** sold the company to **P. G. "Buck" Eckels** in 1977. **Eckels** assumes the responsibilities of chairman of the board and **James G. Putnam**, previously executive vice president, has been named president. **Jim Shuttles** has been appointed to head Lawyer's Title of Houston's Business Development Division.

Lawyers Title announces the appointment of **F. Stuart Mozeleski** as a state agency manager in Maine. He is assigned to the company's office in Portland. **Mary A. O'Neil** has been appointed branch manager of the Lawyers Title office in Stamford, Ct. She is also senior state agency relations representative for the state.

**Donna Frey** has been promoted to marketing representative for Lawyers Title of North Carolina. She will cover the triangle Eastern North Carolina.

**Richard A. Angelo** has joined Commonwealth Land Title Insurance Company as vice president and regional counsel for the Mid-Atlantic region. Angelo is responsible for legal claims and underwriting activities in Delaware, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia. **Peter deWolf Smith** has been promoted to assistant vice president, based in Commonwealth's Maryland



Mozeleski



O'Neil



Angelo





Ostrander

State Office, Baltimore. **Peter H. Ostrander** has been named director of Commercial Sales for the Northwest Division of Commonwealth Land Title Insurance Company, Seattle.

Chairman and Chief Executive, Tigor Title, **Winston V. Morrow** announces the division of the company's national operations into four regions, simultaneous with the election of four executive vice presidents to manage the new regions.

Elected were: **Gerald Beeny**, Western Region, headquartered in Rosemead, CA; **William Barnes**, Central/Southwestern Region, headquartered in St. Louis, MO; **Raymond Bender**, North Central Region, headquartered in Chicago, IL; and **John Herald**, Eastern Region, headquartered in New York City.

**Howard J. Leino** has been named vice president and Colorado State manager of Tigor Title by **Winston V. Morrow**, chairman and chief executive. **Leino's** responsibilities will encompass management of Tigor's seven county locations throughout Colorado with headquarters at 1777 South Harrison Street, Denver.

**Selina E. Roque** has been appointed major account executive in the Miami office of Tigor.

Landmark Title, Inc., announces the promotions of: **Rand J. Zimmerman** to senior vice president, Manchester, NH; and **Roberta A. Baker**, senior vice president and counsel, Manchester.

**Martha Fitton** has been named to the position of closing operations manager, Manchester; and **Michael T. Chisholm** has joined



Chisholm

Landmark's Manchester headquarters as vice president.

American Realty Title Assurance Company (ARTA) is pleased to announce the promotion of **Bill Evans** to assistant vice president-agency division, responsible for agency development and overseer of ARTA's Agency division in Southern Ohio, Pennsylvania, and West Virginia. **Lyn Nelson** has been appointed assistant vice president-commercial operations, Lancaster, OH. ARTA Northwest appoints **Sarah E. Lutz** to the position of sales representative.

**Don H. Still**, chairman of the Board and president of Southern Title Guaranty Co., Inc., is pleased to announce the recent addition of **Nancy M. Och** as Dallas Regional Manager/National accounts. **Och's** primary responsibility includes the supervising and management of Southern Title Guaranty's National Account Network in the Dallas region.



Jacklitch



Burch



Nussbaum



Cipiti

The Ohio Bar Title Insurance Company announces the following appointments: **Thomas R. Jacklitch**, vice president, was promoted to director of regional operations, Columbus; **W. F. Tom Burch**, named regional manager in the Dayton, Ohio office, with responsibility for Southwest Ohio, Kentucky, Indiana and West Virginia; **James M. Nussbaum, Jr.**, named regional manager for Northern Ohio, and is based in the company's Akron office; **Nick J. Cipiti** was appointed executive assistant to the President; **Ernestine Daniel**, elected vice president/finance.

**W. Clark McFarland**, who has served the Arizona and Tucson title insurance industry for 32 years, is now an assistant vice president, special projects/title department, for Fidelity National Title Agency, Inc. **Brenda F. Sugden** has been named a lead escrow officer at Fidelity's headquarters, Tucson.

## Death of ALTA Section Leaders

Word has been received of the deaths of two ALTA Section leaders.

Services were in Red Oak, Iowa, for **Connie A. (Fritzi) Loomis**, a member of the Abstracters and Title Insurance Agents Section Executive Committee, who died at an Omaha, Nebraska, hospital after an extended illness.

She was president of The Loomis Abstract Co., Inc., Red Oak, a firm founded by her grandfather in 1874. After working part time for Loomis Abstract while a student, she began her title career there as an abstracter in 1965. The family suggests memorial contributions to the American Cancer Society.

Services were in San Mateo, California, for **Robert H. Morton**, a member of the Title Insurance Underwriters Section Executive Committee. He was a 42-year veteran of the title industry and was the chairman of Western Title Insurance Company until his recent retirement following sale of that concern. In addition, he was an Honorary Member of the California Land Title Association and was the first recipient of the CLTA Title Person of the Year award. The family suggests memorial contributions to Mills Peninsula Hospital, 100 South San Mateo Drive, San Mateo, CA 94401—or to a charity of the donor's choice.



## NEW ALTA MEMBERS

*(The names listed in parentheses are recruiters who have now qualified for membership in the ALTA President's Club.)*

### ACTIVE

#### Florida

Advance Title Services, Inc., Ocala (Glen Bradley, Industrial Valley Title Ins. Co., Largo, FL)  
Haven Title Company, Winter Haven (J.H. Boos, First American Title Ins. Co., Plantation, FL)  
Lore Title of Florida, Inc., Boca Raton (J.H. Boos, First American Title Ins. Co., Plantation, FL)  
Marathon Title Company, Marathon (Myrna J. Pope, Wolverine Title Co., Ann Arbor, MI)  
Plantation Title Company Inc., Fort Lauderdale (J.H. Boos, First American Title Co., Plantation, FL)

#### Indiana

National Escrow Title, Inc., Greenwood (Edward R. Schmidt, Commonwealth Title Services of Indiana, Inc., Indianapolis, IN)

#### Michigan

Blue Water Title Company, Sterling Heights

#### Minnesota

Renville County Abstract Company, Olivia

#### Missouri

American Land Title Company, Kansas City (Michael Fahey, American Land Title Co. of Omaha, Omaha, NE)  
Title Insurers, Inc., Clayton (Ted V. Brumfield, Title USA Ins. Co., St. Louis, MO)

#### New Jersey

Eastern Title Agency, Inc., Eatontown (Charles O. Hon, III, The Title Guaranty & Trust Co. of Chattanooga, Chattanooga, TN)

#### New York

Atlantic Title and Abstract Corp., Ithaca (Richard Marcus, Commonwealth Land Title Ins. Co., New York)  
Hanna Abstracts, Inc., Elizabethtown  
Northwoods Abstract Ltd., Bayside

#### Ohio

National Title Agency, Cleveland  
Tower City Title Agency, Inc., Highland Heights (Jerry Greene, National Land Title Agency, Strongsville)  
Xanders & Xanders Company, L.P.A., Cincinnati

#### Pennsylvania

Intercounty Abstract, Ltd., Fort Washington  
Midtown Abstract, Inc., Easton  
Pro-Search, Inc., Allentown (William W. Rice, Great Valley Abstract Corp., Wayne, PA)

#### South Carolina

Atlantis Title Agency, Inc., Beaufort  
Paralegal Services, Inc., Beaufort

#### South Dakota

Campbell County Abstract & Title Company, Mobridge (Frances Dupper, Walworth County Abstract & Title Co., Mobridge, SD)

#### Tennessee

Associates Title, Inc., Chattanooga (Ray Benefield, Attorney's Title, Nashville, TN)

#### Virginia

Judicial Title & Closing Company, Fairfax (Larry Furlong, Chicago Title Ins. Co., Fairfax, VA)  
Southwest Virginia Title Insurance Agency, Inc., Marion (Marvin C. Bowling, Jr., Lawyers Title Ins. Corp., Richmond)

### ASSOCIATE

#### District of Columbia

Donald N. Memmer, Washington (Thomas S. Jackson, Jackson & Campbell, Washington)

#### Illinois

Suzanne Bessette-Smith, Chicago (Jack Rattikin, III, Rattikin Title Co., Fort Worth, TX)

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## Major Increase Predicted in Foreign Real Estate

### Special from the American Society of Real Estate Counselors

Foreign real estate investment in the United States is expected to increase significantly over the next five years, real estate experts concluded at a recent conference of the American Society of Real Estate Counselors.

Responding to a survey at a three-day meeting devoted to the "Globalization of Real Estate Investments," 90 percent of those queried said foreign investment in the U.S. would increase. Further, two-thirds said they expected the increase to be "dramatic."

The leading real estate counselors in the country did not feel threatened by the influx of foreign capital.

"Foreign investment in real estate should be welcomed because it strengthens economic and political stability in the world," said Daryl Lippincott, Society president.

Added Lippincott, global partnerships diffuse hostilities because "You don't get

mad at property."

According to recently published figures from the U.S. Department of Commerce, foreign investment here has been growing steadily since 1980. While Japan has been the most aggressive, the United Kingdom, The Netherlands and West Germany also have been increasing their holdings.

Korea is likely to be the next major player, according to Claude M. Ballard, partner, Goldman, Sachs & Co. "They have made an economic miracle over there, and their money is coming our way."

Funds have begun to move here from the People's Republic of China. "Investments so far have been small, but more are expected in the future," Ballard added.

Real estate investment is merely following a broad trend toward a global economy, said George R. Peacock, past chairman and chief executive officer of Equitable Real Estate Investment Management, Inc.

He noted that only one American bank is among the 10 largest in the world and that the Common Market could soon represent an entity greater than the U.S. market.

Foreign money is attracted to this country, survey respondents said, because the U.S. offers the broadest liquidity and best growth opportunities, within a politically secure and economically stable environment.

A strong appetite for capital in the U.S., capital surpluses and few investment opportunities in other countries, plus unusual chances to buy U.S. real estate at depressed prices also were cited as reasons for the accelerating pace of foreign investment, the survey indicated.

When asked if they favored increased foreign investment, most of the counselors agreed. They included among their reasons that foreign investment "helps maintain peace, provides needed capital, stimulates economic growth, offsets negative trade balance and promotes a world economic community without trade barriers."

The Society's members overwhelmingly approved of foreign commercial and industrial investments, saying that the country otherwise would be short of capital to invest in new technology and enterprises and that it helped create new jobs.

Opinions of the counselors were evenly divided on the extent of globalization of the primary mortgage market. Those who saw positive effects pointed to its dampening effect on interest rates, the stabilizing influence on the supply of funds, the increase in values for investors, the reduced cost of capital and its help with the balance of payments.



## A TITLEPROFILE

Frank Card, President  
with  
Holly Keller, Vice President

**Company:** Professional Abstract Inc  
**Location:** Central Pennsylvania  
**Executive:** Frank Card, President  
**Underwriter:** Lawyers Title  
**Education:** Graduate Engineer from Rensselaer Polytechnic Institute  
**Favorites:**  
**Authors:** James Michener and Robert Ludlum  
**Recreation:** Golf  
**Sport:** College Football  
**Family:** Wife, Hazel  
**Vacation Spot:** South Carolina Shore  
**Computer System:** TITLEPRO  
**Work Stations:** 3



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## AROUND THE NATION

**Alan Brickley**, vice president and associate counsel, Oregon Operation, Portland, Chicago Title Insurance Company, was recently elected president of the Oregon Land Title Association. **Brickley** will serve in his newly elected position from June 1988 to June 1989. **Mary Lou Dean** of the Abstract and Title Company, La Grande, OR, was elected vice president of the OLTA.

The Illinois Land Title Association celebrated its 80th Annual Convention at the Adams Mark Hotel in downtown St. Louis. The featured speaker for this year's program was Congressman **Henry J. Hyde** (R. Illinois 6th District) who focused his remarks upon the Iran-Contra affair. Also appearing on the program were **Joseph D. Gottwald**, Section Representative, Abstracters and Title Insurance Agents Section, ALTA, **Cara Detring**, President of the Missouri Land Title Association, and representatives from the Farm Credit Bank of St. Louis, Surveyor's Association, and Attor-

ney's Title Guaranty Fund.

Elected to the presidency of ILTA was **Duane L. Serck**, Mid-Illinois Title Services of Bloomington. Other elected officers were **James K. Weston**, 1st Vice President, **D. Brewster Parker**, 2nd Vice President, and **Ann B. Mennenoh**, Secretary/Treasurer. Newly elected directors were **Gregory M. Kosin**, Greater Illinois Title Company, Chicago, and **Robert H. Rogers** of McHenry County Title Company, Woodstock.

The following individuals were elected as officers to serve one-year terms to the North Carolina Land Title Association—**T. Alfred Gardner**, Lawyers Title of N.C., Inc., Greensboro; Vice-President—**Gary Chadwick**, SAFECO Title of N.C., Inc., Wilmington; Treasurer—**Peter E. Powell** with First Title Insurance Co. in Raleigh; and Secretary—**Larry D. Johnson** with Commonwealth Land Title Co. of N.C. in Raleigh.

In other business, **Jack L. Donnell**, a former President of NCLTA, retired from Jefferson-Pilot Title Insurance Co. and currently an attorney with Smith, Helms, Mulliss and Moore in Greensboro, was elected the Association's first Honorary Member.

## HEALTH ALERT

*continued from page 15*

who experience vast amounts of stress in their jobs.

As Syme explains, "Executives possess a certain degree of flexibility in their daily routines." A clerk or secretary has a schedule dictated by supervisors. Also, the latter are the employees who must deal with the small problems such as copier breakdowns, consumer complaints, last-minute projects or any unexpected task or problem that can throw a whole office off schedule.

The solution to easing stress on workers at lower job levels may be to design environments in such a way that workers have more say on how the job is structured. This method is used by many companies in Japan and also by the Volvo corporation in Sweden. As a result, productivity increases while the disease rate among these workers decreases.

Consequently, more programs today are focusing on environmental changes. It is programs such as the American Heart Association's "Heart at Work" that focus specifically on environmental changes in the workplace. Says Deborah Edwards, program coordinator for the Association's Washington, D.C. chapter, "This program focuses on reducing health care costs and absenteeism through prevention by creating a supportive environment that uses positive reinforcement to permanently change health habits."

The benefits of the program are reflected in decreased absenteeism and insurance claims as well as in employees' improvement in attitudes and lifestyles. Says Edwards, "First, the program boosts morale. Secondly, it creates more camaraderie among the workers. And finally, risk prevention helps people take responsibility for themselves. If they're conscious of the risks, the risks decline."

The message these wellness programs stress is that heart disease is indeed preventable. The key to a healthy work environment must encompass all employees in efforts to monitor eating habits and smoking, develop exercise programs and learn to put stressful situations or projects into perspective. By converting stress into positive reinforcement, it can boost productivity rather than lead to unhealthy and sometimes deadly habits. After all... no job is worth dying for.

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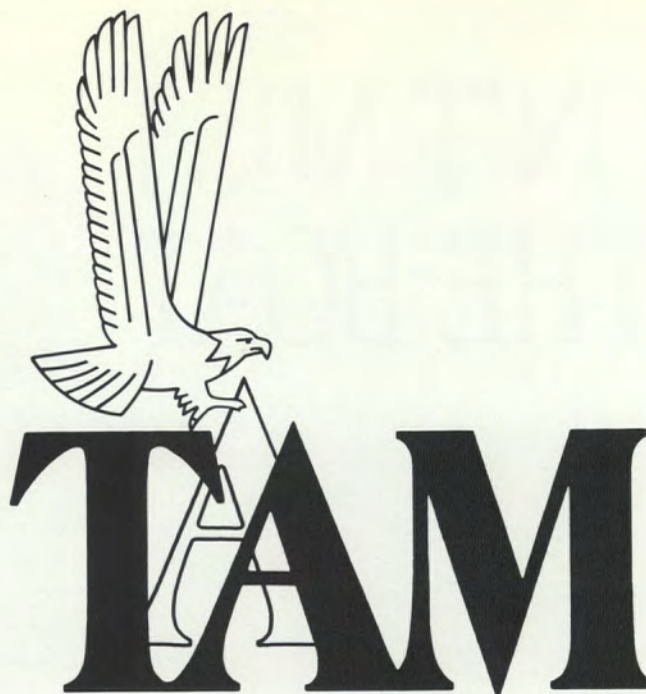


## **Currier Organizes Educational Fund**

In 1940, George E. Currier saw a need to provide a service to the people in Artesia and northern Eddy County. That service was the providing of abstracts of title to the up and coming oil industry and title searches and abstracts to those making mortgage loans and the buyers of real estate.

In 1945, Mr. Currier became ill and his son, Charles E. "Chili" Currier, who had been at the air base in Carlsbad, took his wife, Frances and their son, Mike, to Artesia to help for six months. Forty-three years later he is still in Artesia running Currier Abstract Company! In 1969, he expanded his operation to Carlsbad when he purchased the Guaranty Abstract Company, renamed it Guaranty Title Company, and moved it to its current location at 108 N. Canyon. In 1978, Mike joined Chili and is now the manager of the Carlsbad office. George, Chili, and Mike have all been president of the New Mexico Land Title Association, the only family in the history of the association to do so.

In 1985, in honor of the work his father has done for the title industry, Mike started a fund within the state association known as the "Chili Currier Educational Fund." The current president of the association, Randy Owensby of Hobbs, has chosen as one of his goals to have this fund endowed in order that annual scholarships will be granted to qualified New Mexico students interested in business education. Title insurance underwriters doing business in New Mexico have been asked to donate to this fund. Ticor Title Insurance Company made the first contribution of \$1,000.



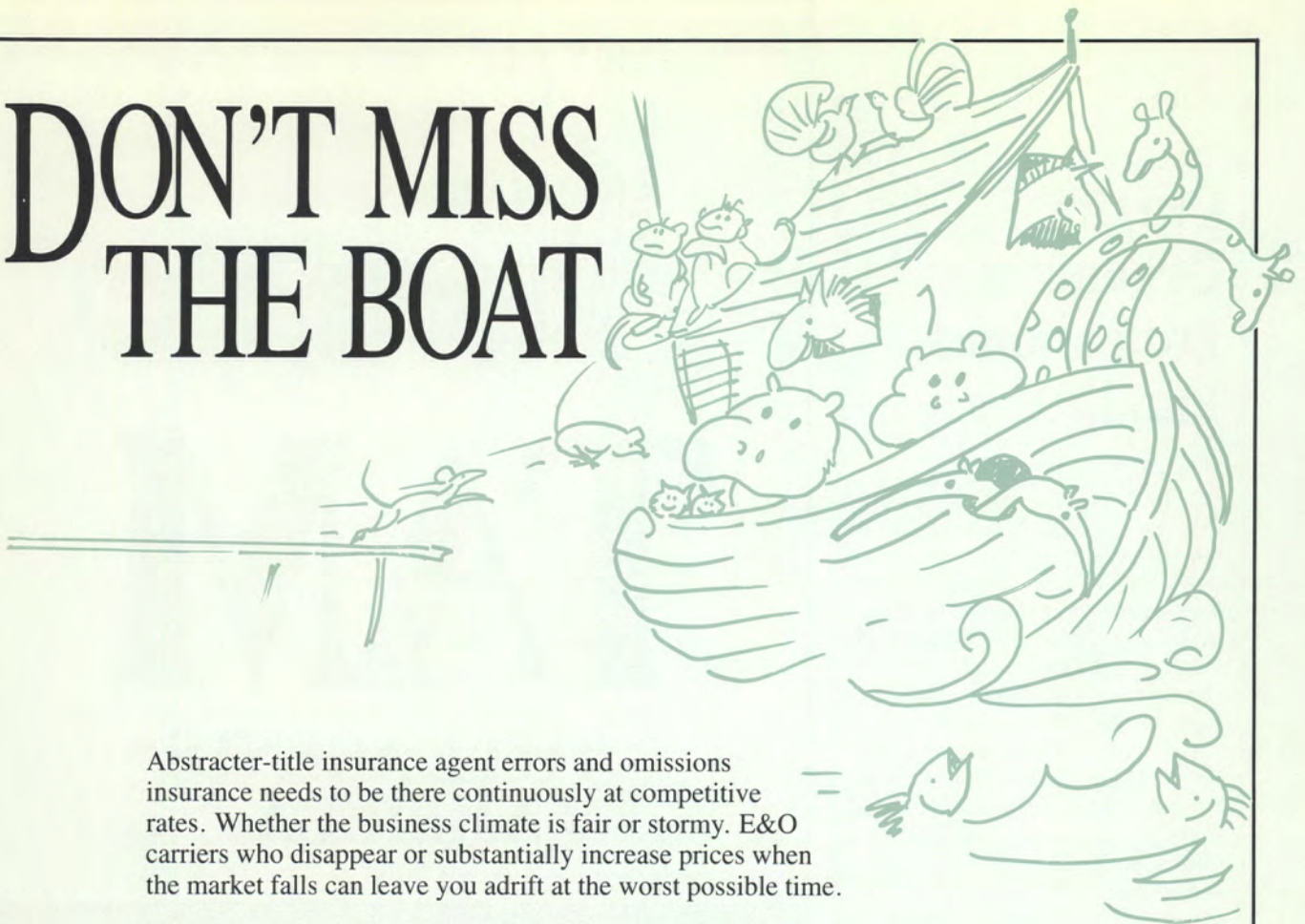
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## SLANDER OF TITLE

*continued from page 9*

documents were stamped at a special "stopped clock" time, for example 8:00 A.M. and recorded on that basis. Safeco under this arrangement were to review all insured documents for compliance with the recording requirements. Documents, other than in connection with contracts of insurance, were to be segregated and stamped "for accommodation only" but not reviewed. On October 17, 1978 Safeco presented the Memorandum of Agreement in a packet along with 10 other documents insured by Safeco to the San Francisco county recorder. The recorder accepted and recorded the memorandum despite the fact it lacked Mr. Seeley's signature.

In the meantime Seeley was negotiating with other parties regarding Blackacre. Finally on June 9, 1981 a firm deal was struck to sell Blackacre to the "Buckholtz Group" for \$900,000, with a closing to take place on November 16, 1981. During the negotiations the parties had ordered a preliminary report which showed the recorded Memorandum of Agreement referring to a 60 year lease. Buckholtz threatened not to close until the matter relative to the Seymour lease was resolved. Litigation resulted which culminated in a consolidation of two actions entitled *Seeley v. Seymour, Safeco, the City and County of San Francisco and Thomas Kearney, Recorder*.

In the case the court cited with approval Section 624 of the Restatement of Torts which provides -

"One who, without a privilege to do so, publishes matter which is untrue and disparaging to another's property in land . . . under such circumstances as would lead a reasonable man to foresee that the conduct of a third person as purchaser or lessee thereof might be determined thereby is liable for pecuniary loss resulting to the other from the impairment of vendability thus caused."

Section 624 has been superceded by Section 623A Restatement of Law of Torts, Second, which provides -

Liability for Publication of Injurious Falsehood—General Principle

One who publishes a false statement harmful to the interests of another is subject to liability for pecuniary loss resulting to the other if

(a) he intends for publication of the statement to result in harm to interests of other having a pecuniary value, or either recognizes or



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should recognize that it is likely to do so, and

- (b) he knows that the statement is false or acts in reckless disregard of its truth or falsity.

Disparagement of the property in land or slander of title is similar to an action in defamation, except defaming written statements constitutes libel, while oral defamatory utterings are called slander. In *New York Times Co. vs. Sullivan*, decided by U. S. Supreme Court in 1964 and reported at 376 U.S. 254, the court limited actions for defamation because of the provisions of the First Amendment to U. S. Constitution relative to free speech and free press. Under

**“Today’s recording statutes are designed to protect a bona fide purchaser or encumbrancer for a valuable consideration.”**

Sullivan, a public official or public figure who is defamed in his public capacity must show that the publisher knew that the statement was false or acted with reckless disregard as to its truthfulness. A private, or non-public, individual may recover by merely alleging and proving the publisher acted with knowledge, reckless disregard or negligence as to the truthfulness of the statement or statements.

At common law strict liability was applied to the issue of falsity in defamation cases but not slander of title cases. In *Gertz v. Robert Welch, Inc.* decided by U. S. Supreme Court in 1974 and reported at 418 U.S. 323 the strict liability rules as applied to defamation was held unconstitutional. The court required a showing of negligence in regard to truthfulness. It remains to be determined whether theories in these cases on defamation will be carried over to slander of title situations.

Section 623A of Restatement of Torts, Second, unlike Section 624 of the Restatement of Torts, is silent as to privilege. There are in other actions of Restatement of Torts, Second, absolute privilege, or immunity, as well as conditional and constitutional privileges as to defamation.

Black’s Law Dictionary says in effect that slander of title to real property is a false and malicious statement, oral or written, made in disparagement of a person’s title to such

property. “Malicious” is said to be characterized by, or involving malice; having, or done with, wicked or mischievous intentions or motives; wrongful and done intentionally without just cause or excuse. Black goes on to say that in its broad sense malicious does not necessarily mean ill will or hatred. In a legal sense, any act done willfully and purposely to the prejudice and injury of another, which is unlawful, is, as against that person, “malicious”.

In *Seeley v. Seymour*, 190 Cal. App. 3rd 844 (1987) the court found the elements of the tort of slander of title are (1) publication; (2) absence of justification, (3) falsity and (4) direct pecuniary loss. The court says that the recoverable damages in an action for wrongful disparagement of title includes (1) the expense of legal proceedings necessary to remove the doubt cast by the disparagement, (2) financial loss resulting from the impairment of vendability of the property, and (3) general damages for the time and inconvenience suffered by the plaintiff in removing the doubt cast upon the property.

The court went on to say that damages for emotional distress or for loss of advan-

tageous use of the money which would have been realized from the proceeds of the transaction were not recoverable. The court further said that punitive damages are allowable in slander of title actions where fraud, oppression or malice is shown. *It should be noted that in Seeley there was no requirement that malice be shown to support an award of compensatory damages in a slander of title action; although showing malice was necessary to support punitive damages.*

Where does this leave persons who report matters on record relative to real property such as abstracters, attorneys or title insurers who furnish various types of pre and post closing information such as abstracts, guarantees, attorneys’ opinions, preliminary reports, commitments for title insurance and title insurance policies? The customer, client or insured has normally indicated that they want a trouble-free experience in connection with Blackacre, not a hassle with a claim against their abstractor, attorney or title insurer.

*continued on page 31*

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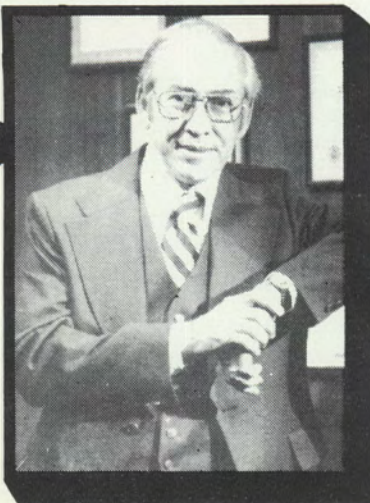
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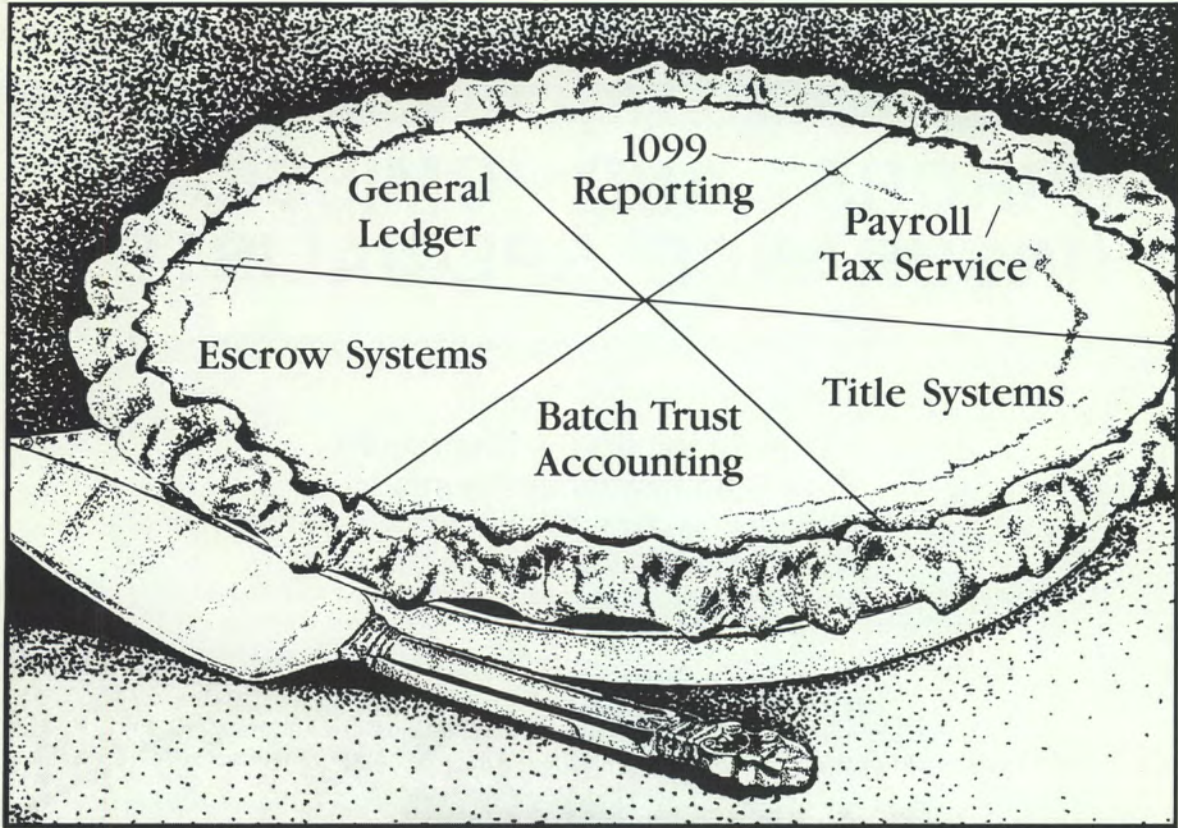


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— John Ruskin (1819-1900)

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**SLANDER OF TITLE**  
*continued from page 28*

What to do? The several states should enact legislation that instruments or documents not eligible for record are not deemed actual knowledge to a purchaser, transferee, mortgagee or other encumbrancer, not a party to the instrument, for a valuable consideration of any interest, legal or equitable, in the property irrespective of matters contained in the instrument or document so improperly recorded.

Are there precedents for such legislation? Yes, two statutes come immediately to mind. The first is an indefinite Reference Statute enacted in Massachusetts in 1959,

Mass. Gen. Laws Ann. Chap. 184, Sec. 25. This statute provides that an indefinite reference in a recorded instrument shall not put any person, not a party to the instrument, on inquiry with respect to such interest, nor otherwise cloud or adversely affect the title of any such person acquiring the real property.

Another statute that accomplishes a similar purpose is California Civil Procedure, Section 409.8, enacted in 1982, which provides that upon withdrawal or expungement of a notice of pendency of action, no person, other than parties to the action, who is a purchaser or encumbrancer for valuable consideration of the property, or any interest therein, shall be deemed to

have actual knowledge of any matter reflected in the pleadings irrespective of such knowledge and irrespective of when or how such knowledge was obtained. (See *Knapp Development & Design v. Pal-Mal Properties, Ltd.*, 195 Cal. App. 3rd 786, 240 C.R. 920 (1987))

With the above recommended legislation the abstractor, attorney or title insurer would report the improperly recorded matter, and note the recording infirmity. With this knowledge, the customer, client or insured, with advice from counsel as deemed advisable, would decide whether to go forward with the transaction. This recommended legislation would reward knowledge rather than put a premium on ignorance.

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## CALENDAR OF MEETINGS

### 1989

**January 9** ALTA Board of Governors, Desert Springs Resort, Palm Springs, California

**April 5-7** ALTA Mid-Year Convention, The Mayflower-A Stouffer Hotel, Washington, D.C.

**April 30-May 2** ALTA Eastern Regional Title Insurance Executives Meeting, Marriott's Griffin Gate Resort, Lexington, Kentucky

**June 7** ALTA Board of Governors, The Broadmoor, Colorado Springs, Colorado

**June 8-9** ALTA Western Regional Title Insurance Executives, The Broadmoor, Colorado Springs, Colorado

**October 15-18** ALTA Annual Convention, Hyatt Regency Embarcadero Center, San Francisco, California

### 1990

**January 15** ALTA Board of Governors, The Ritz-Carlton Hotel, Naples, Florida

**April 4-6** ALTA Mid-Year Convention, Hotel Inter-Continental, New Orleans, Louisiana

**April 29-May 1** ALTA Eastern Regional Title Insurance Executives Meeting, The Greenbrier, White Sulphur Springs, West Virginia

**June 6** ALTA Board of Governors, The Broadmoor, Colorado Springs, Colorado

**June 7-8** ALTA Western Regional Title Insurance Executives, The Broadmoor, Colorado Springs, Colorado

**September 30-October 3** ALTA Annual Convention, Hyatt Regency, Chicago, Illinois

### 1991

**January 14** ALTA Board of Governors, Quail Lodge, Carmel, California

**April 10-12** ALTA Mid-Year Convention, San Diego Marriott Hotel and Marina, San Diego, California

**September 25-28** ALTA Annual Convention, The Westin Copley Place, Boston, Massachusetts

### 1992

**March 25-27** ALTA Mid-Year Convention, The Mayflower Hotel, Washington, DC

**October 14-17** ALTA Annual Convention, Hyatt Regency and Maui Marriott, Maui, Hawaii

### 1993

**March 24-26** ALTA Mid-Year Convention, The Westin Peachtree Plaza, Atlanta, Georgia



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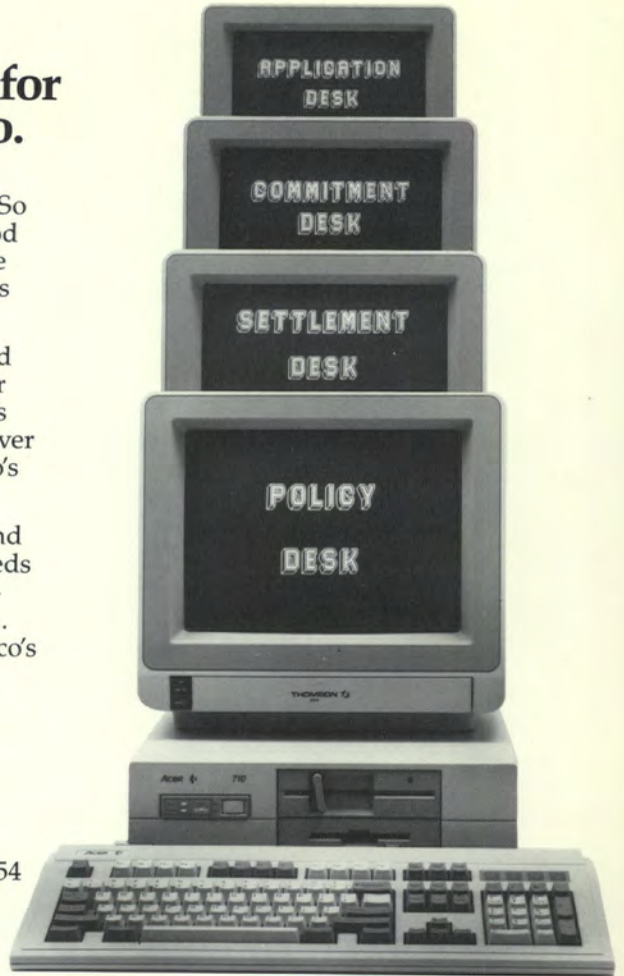
Delaware Association of Realtors  
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American Land Title Association  
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