

Conestoga Quarterly



2022 Fourth Quarter

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50 years of
providing
exceptional
personal
service for our
independent
agents and
approved
attorneys



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A Message from the President

On behalf of the entire team at Conestoga Title, I would like to extend Season's Greetings! In the spirit of the season, I would like to express my gratitude to Conestoga's agents and approved attorneys. We appreciate your trust in us to serve you and our insureds. Thank you for your continued confidence in our seasoned team of title professionals.

In reflection of 2022, as an industry we have seen the refinance market wither and the sale market become more challenging due to the rise in mortgage interest rates. While many commercial real estate projects have proceeded as planned, others have been put on hold as rising interest rates have impacted project feasibility. Overall volume has decreased as a result. Many of us have experienced numerous real estate cycles in our careers and understand that what we are now experiencing is a natural progression of the current business cycle. It is bittersweet. While revenue is certainly down, the decrease in business activity allows time to catch up on policy backlogs and focus on future business planning. Staff that had been pushed to their limits to meet consumer demand for almost two years is now able to regroup and focus on projects that will improve future office efficiencies.

Conestoga is fortunate to have such an impressive network of agents and approved attorneys. Due to the quality of our agency network, the company's incoming claims have been kept to a minimum and our overall claim expenses have been relatively low. While 2022 premium revenue was below 2021's banner highs, it was at historically respectable levels. As we approach the end of the year, I can report to you that Conestoga Title experienced solid financial results throughout the year.

Conestoga College 2023 is shaping up to be one of the best, if not the best, in company history. We will be offering six continuing education and six continuing legal education credits for attendees. The quality of our speakers is impressive, please refer to the Conestoga College announcement later in this newsletter. Our annual in-person seminar is a tradition that evidences our commitment to providing high caliber continuing educational opportunities for our agents, approved attorneys and guests. In addition to our January seminar, we will be offering nine webinar opportunities in 2023. Look for future announcements regarding all upcoming continuing educational events.

2023 will be a tremendously exciting one for Conestoga Title Insurance Co. as we will be celebrating our 50th year in business! As a company we are proud to have met this significant milestone. For 50 years Conestoga Title has excelled as a leader in the title insurance industry within our geographic footprint. We have upheld high business standards and appointed the finest quality agents and approved attorneys. We have stood behind our obligations to policyholders. We have treated our customers with the dignity and respect that they deserve. We have delivered superior underwriting service and provided operational efficiencies to our clients. We are thankful for the many great relationships that we have established and are appreciative of the loyalty from our clients and employees. We look forward to an even more exciting future.

Thank you for your business and your loyalty to Conestoga Title. From our team to yours, we wish you a joyous holiday season and happy, healthy and prosperous New Year!

John M. Nikolaus, CLTP
President, Conestoga Title Insurance Co.



Join us as we kick off our milestone year with a full day in person only seminar offering 6 credits Title CE & 6.0 CLE hours.

Conestoga College Classroom

Jan. 16, 2023

8:30am –5:00pm

Lancaster, PA

We are thrilled to offer another top quality agenda with well regarded speakers to bring us up to date on issues in today's title insurance industry.

- ◆ **Bushnell Nielsen, Esq.**—Writing Enforceable Policy Exceptions
- ◆ **Anna Marie Sossong, Esq.**—Commercial Real Estate Closings
- ◆ **Edward Hayes, Esq.**—The Life of a Title Claim
- ◆ **Blair Granger, Esq.**—Advanced Issues in Title Insurance
- ◆ **Alexander Langan, J.D., CFBS**—Blockchain & Cryptocurrency
- ◆ **Rick Hecker, Esq.**—Searching & Examination of Title Abstract

[Click Here to Register Online](#)

WHY NOT AN ATTORNEY OPINION LETTER?

Anna Marie Sossong, Esq. Underwriting Counsel

The purchase of a home is a large financial risk, for the new homeowner as well as for the mortgage lender. Title insurance is the best way for both parties to control the risk and to shift some of it away from them and onto a third party – the title insurance company. Title insurance related to the purchase and finance of a property is usually paid for entirely by the purchaser, who provides the lender with lender's title insurance coverage while at the same time, making sure their ownership interest is also covered.

You may become aware that your buyers are being solicited to purchase a purportedly cheaper alternative to lender's title insurance coverage – the Attorney Opinion Letter, which can only be provided by attorneys licensed in the jurisdiction where the property is located. Please encourage your buyers to reject this option and not succumb to the lure of reduced cost. Here's why:

An Attorney Opinion Letter is exactly what it sound like – it is a letter , on attorney letterhead, backed by the attorney malpractice insurance limits (which are not regulated), verifying that the attorney has searched the title, it is free and clear of certain obstructions, and that the lender's intended lien(s) will be in the appropriate position when recorded. This is a much more risky liability shifter than a traditional title insurance policy because:

- The Attorney Opinion Letter is only valid for however long the attorney's malpractice coverage survives, even though the mortgage may be for as long as 30 years.

- Any lender who regularly resells its mortgage debt generally won't accept an Attorney Opinion because the risk to the lender is too great and the purchasing lender may not accept such coverage.

- The new buyer's equity interest in the property is not protected at all because Attorney Opinion Letters are only available to the lender.

- Attorney Opinion Letter coverage is limited in amount to the extent of the attorney malpractice coverage and a claim on the policy will require the attorney to cover the malpractice deductible before the insurer will even consider paying out a title claim.

- The buyer will have to cover any deficiency experienced by the lender after a claim is made. There is no additional insurance available to the buyer to cover that possible exposure and there are no mandatory reserves required to be established by the attorney issuing the letter.

- Many of the failures that are regularly covered by title insurance would not be covered by the Attorney Opinion Letter, including undisclosed liens (like Medicare liens, inheritance tax liens), loss due to fraud, and HOA liens for example.

Even those lenders that have expressly indicated that they may accept an Attorney Opinion Letter have imposed a host of requirements and restrictions on their acceptance, including prohibitions against the use of such a letter in a condominium transaction; with a manufactured home; for any property subject to restrictive covenants (townhouses, for example); and, any loan involving a power of attorney. In other instances, the acceptance is dependent on state law provisions, so it will vary from state to state.

So, if your buyer comes to you asking for an Attorney Opinion Letter, make sure they understand the risks they run and the personal protection they'll be losing, all to potentially save a few bucks on one of the most important financial transactions they'll ever make.

New Referral Sources Right at the Settlement Table – Take Advantage!

Jonathan Markel, VP Marketing

As a title agent you should always be on the lookout for new referral partners and new ways to bring in more business. We are all experiencing the current downturn in the market and we have seen the volume of our closings decrease. This is the perfect time for title agents to be actively growing their referral network. Title agents need to be connecting with new Realtor clients and this can be done at networking events, lunches, or even cold calling new prospects. The old phrase “Build it and they will come” certainly does not apply to operating a title agency. You need to be active in your prospecting efforts and adding Realtors to your referral network. One simple yet overlooked tool that a lot of title agents forget to take advantage of is marketing and asking for referrals at the settlement table.

There are always Realtors (the listing agent) and loan officers who are involved in the settlement but who are not responsible for directing the current transaction to the title agent. These are prime targets to go after because they are sitting right in front of you at settlement. Even if you know the person (which makes it that much easier to get referrals from them), you should still make a strong effort to contact the individual and simply ask for a referral.

It all starts with providing a quality settlement experience for all parties involved in the transaction. By conducting a quality settlement, the different parties involved in the transaction will see firsthand the service you offer your clients and will be more likely to send business your way. Make sure you exchange business cards, which gives you the opportunity to follow up with a simple phone call or email. In that email or call, reiterate on why they should use your title agency. Find your competitive advantage and the thing that differentiates you from the title office down the street.



There is no better opportunity to reach a prospect than the one that is right in front of you, in your own office. Take advantage of this opportunity, find some common ground with these individuals, establish that connection from the start, and make sure you follow up with the prospect.

Time to Clean Up that Trial Balance Report

Don Delgado, VP Agency Administration

Take a look at the Trial Balance Report from your last escrow account reconciliation. How many files are listed? Is the answer (A) none or just a few very recent ones; (B) more than a few including ones that closed more than thirty days ago; (C) multiple pages of files ?

- If you answered A – congratulations. You’re doing a great job – keep it up.
- If you answered B – you have some work to do.
- If you answered C – you have a lot of work to do. Do not ignore it any longer. Things have gotten out of control and you need to address the issue.

Title agents handle real estate settlement funds in a fiduciary capacity. That means the funds are handled in trust for the parties to the transaction and the agent is obligated to disburse all funds to rightful owners. Total funds deposited and total funds disbursed for each and every file must equal. Whenever these totals do not match for a particular file, the title agent is responsible for bringing the file into balance by funding the deposit shortage if one exists or by disbursing remaining funds that are not being held under an escrow agreement.

The Trial Balance Report is a key component of the monthly three-way reconciliation. This report identifies files that are out of balance. Every file listed on it should be addressed prior to the end of the current month.



A file with a negative number on the Trial Balance Report means the total funds deposited for the file are less than the total funds disbursed for it – there is a shortage of funds. Such files need to be investigated and rectified prior to end of the current month. Funds should be transferred from the operating account, if necessary. Files with negative balances should not carryover from one month to the next.

A file with a positive number on the Trial Balance Report means the total funds disbursed for the file are less than the total funds deposited for it – there is an excess of funds. Such files need to be investigated. It is very important for you to know the reason for every file listed on the report to avoid errors and omissions and potential liability to you and your



underwriter. The funds could be for recording fees, taxes, utility bills, homeowner's insurance, HOA dues, underwriter premium, agent fees, etc. and if so, need to be disbursed without further delay. If the excess funds are not being held in connection with a written escrow agreement, they should be disbursed to the rightful owner prior to the end of the current month.

All too often, when conducting audits, we see trial balance reports with numerous files - sometimes pages and pages. In most cases the agent is not paying attention to the report. They are ignoring their fiduciary responsibilities. I strongly suggest that you designate someone in your office to be in charge of the Trial Balance Report each month. They should be responsible for investigating every file on it and for letting management know the reason why each file is out of balance. Management should then take the measures necessary to fund any shortages and to fulfill fiduciary responsibilities to disburse excess funds to rightful owners. If you answered C to the question posed at the beginning of this article you need to take this matter seriously and you need to rectify the deficiency in your operation.

If you have any questions, please contact a Conestoga Title auditor.

Tools to Prevent Wire Fraud

Rick Hecker, Esq., Senior Underwriting Counsel

As most of our readers may be aware, Conestoga requires its Agents and Approved Attorneys to adopt written wire transfer procedures, as part of their part of compliance with ALTA's Best Practices. (A full copy of our written requirements can be obtained by emailing our [Underwriting dept.](#)) The requirements serve to highlight Conestoga's commitment to fight the ongoing threat of wire fraud in our industry. In light of that commitment and in response to questions received by our Agents and Approved Attorneys on ways to protect their customers, it seemed prudent to take a moment and compile a list of resources that may help individuals prevent and address wire fraud.

In compiling this list, the first website that deserves mention is stopwirefraud.org. This website was put together by The Coalition to Stop Real Estate Wire Fraud and has steps to help consumers fight wire fraud before and after it happens. It also has some educational videos that help raise awareness concerning various schemes in the industry. This website is a good landing site for various kinds of information geared toward the consumer.

Speaking of resources geared towards consumers, ALTA has produced an [excellent two minute video](#) that can be used to educate consumers on the issue and is available on YouTube at this address:

If, instead, you are seeking a checklist for employees to follow when sending an out-bound wire, look no further than the [ALTA Outgoing Wire Preparation Checklist](#) – I personally use this checklist for transactions that Conestoga is called on to handle the escrow funds. It is an excellent tool to document the steps taken prior to and after sending a wire.

Thorough education of all management and staff and by putting preventative measures in place, hopefully your agency will never fall victim of wire fraud. However, you should have plan in place in the unfortunate circumstances that wire fraud occurs. Your quick action will be of the utmost importance. If you have not looked at [ALTA's Rapid Response Plan for Wire Fraud Incidents](#), then you should check it out at: This response plan is an incredible step-by-step guide on what actions to take if you or your agency become the victim of a wire fraud scheme. I highly recommend having a printed copy of this plan in an accessible location. If you haven't read through-it, do! If it is ever needed, minutes count and knowing how you will respond is key.

Finally, as a shameless plug, read the Conestoga Quarterly Articles. Conestoga has been publishing resources on common wire fraud schemes, best practices, and articles with tips to prevent wire fraud for a couple years, if you would like to read some of those issues [check them out on our website](#). We also have Conestoga Title ALTA brochures we can customize for your agency and you can then print them or use as PDFs to share with current or prospective clients.

AMERICAN LAND TITLE ASSOCIATION & Conestoga Title Insurance Co.

PROTECT YOUR MONEY WHEN BUYING A HOME FROM WIRE FRAUD SCHEMES

Every day, hackers try to steal your money by emailing fake wire instructions. Criminals will use a similar email address and steal a logo and other info to make it look like the email came from your real estate agent or title company. You can protect yourself and your money by following these steps:

BE VIGILANT

- **Call, don't email:** Confirm your wiring instructions by phone using a known number before transferring funds. Don't use phone numbers or links from an email.
- **Be suspicious:** It's uncommon for title companies to change wiring instructions and payment info by email.

PROTECT YOUR MONEY

- **Confirm everything:** Ask your bank to confirm the name on the account before sending a wire.
- **Verify immediately:** Within four to eight hours, call the title company or real estate agent to confirm they received your money.

WHAT TO DO IF YOU'VE BEEN TARGETED

- **Immediately call your bank** and ask them to issue a recall notice for your wire.
- **Report the crime to www.IC3.gov**
- **Call your regional FBI office and police**
- **Detecting that you sent money to the wrong account within 24 hours is the best chance of recovering your money.**

For more information about the home closing process, please visit: [HOMECLOSING101.ORG](http://homeclosing101.org)

This is for informational purposes only and should not be considered legal advice.

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www.conestogatile.com

Conestoga Title Employees Annual Christmas Luncheon



The entire staff of Conestoga Title recently came together for the annual employee Christmas luncheon in Lancaster, PA.

**Wishing you and your family a
Joyous Holiday Season and Happy New Year**

Welcome to **Sprytte Blimline, Agency Auditor** (pictured at left.) Sprytte comes to Conestoga with several years of title agency bookkeeping experience and is looking forward to working with our agents.

Lisa Fischer, pictured at right, moves into a new role with Conestoga. In addition to being our **Delmarva Agency Representative**, Lisa is our **Agency Training Coordinator** and is able to help you with training new and current staff on office procedures and software integrations. With her title agent license in PA, DE, MD & VA, Lisa offers over 30 years of experience in the field and is an active member of the MLTA and VLTA and serves as the Chair of the South Central Chapter of the PA Land Title Association.



Conestoga Title Insurance Co. Personnel Contact Information

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