

Conestoga Title Insurance Co.

WAGONLODE

A Land Title Update

2018 Second Quarter

As we approach the halfway mark of 2018, it is a great time for us to take stock of our business and consider what adjustments we might need to make in the latter half of this year.

In this WagonLode we have reminders on the need to carefully review **Conestoga's Memos and Alerts and to be aware of copyrights when working** with internet images and data. Also included in this issue is an overview of blockchain technology and an article with tips on how to bring more business to your agency or firm.

As we publish this WagonLode, our own Bill Parker is presenting "The Claims Battlefield" at the PLTA Annual Convention in Gettysburg, PA. Planning is underway for a powerful lineup of speakers at the 2019 Conestoga College. Mark your calendar to be in Lancaster, PA on January 21-22, 2019.

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Message from the President

CONESTOGA TITLE
INSURANCE CO.



Financial Stability Rating & Economic Outlook

I am proud to report that Demotech Inc. has awarded Conestoga Title with a 2018 Financial Stability Rating of A' (A Prime), Unsurpassed and a 2018 Commercial Real Estate Recommendation of "Strongly Recommended." Demotech's role is to analyze the ability of an insurer to honor claims during a downturn in general economic conditions and during a downturn in the underwriting cycle. Conestoga Title's positive financial performance and strong balance sheet can only be viewed as encouraging. After coming off a strong year during 2017, Conestoga started 2018 with continued solid financial performance. Our outlook for the remainder of 2018 remains bright. Consumer demand for residential housing remains strong and the commercial real estate market is active. We believe that we are well postured to take advantage of the positive economic conditions during 2018. We have solid business relationships in place with our clients and we continue to explore new opportunities for growth.

Commitment to Excellence

At Conestoga Title Insurance Co., we have a long-standing commitment to excellence. It is this commitment that enables us to produce the positive financial results mentioned above. Our team of seasoned title professionals works collectively to provide exceptional service to our agents, approved attorneys and policyholders. As a result of our commitment, we attract customers who see tremendous value in the service and support that we provide. We stand behind our commitment to provide exceptional service and we stand behind our obligations. Our policyholders need us when it matters most, and we are there for them. We treat our agents, approved attorneys and policyholders with the dignity and respect that they deserve.

Enjoy the Summer!

On a lighter side, summer is my favorite time of year. During the busy real estate season, it is important to "stop and smell the roses." It is healthy to schedule time for friends and family and enjoy the pleasant weather. Some time away from the office can serve to rejuvenate and provide you with an eagerness to work even harder when needed. May you enjoy your summer! Call on us whenever you need us and, as always, thank you for your business!

Thank you!

John M. Nikolaus, CLTP

President, Conestoga Title Insurance Co.

Are You Infringing On Someone's Copyright Protection?

Joseph John Kambic, Esq. VP Claims and Recovery

Back in the 1970's it seemed like everyone I knew had a guitar and was playing music. Although we bought albums, we also recorded music from the radio and from albums. We then played those songs at home and in our cars. We also freely shared those cassettes with others. We never thought about copyright protections until we started writing our own music.

That's when I was first introduced to the phrase "Fair Use." My recollection, of my understanding, of "Fair Use" at that time was that it was legal to record anybody's song for personal listening. "Fair Use" evolved through the Courts; remember Napster and the December 1999 lawsuit filed against it by the record industry?

Why Should Title Agents Care About Copyrights

On your website, in your publications, and in materials used to promote your business, images or clip art are often included to attract attention. If you download (and share or otherwise publish) images from the internet, be aware that those images may be copyrighted. Examples of two of the copyright license holders of on-line images are Getty Images and Aurora Photos. Some protection will be provided if you purchase a license before you use image(s) pulled from the internet. READ THE LICENSE CAREFULLY AND ENTIRELY so that you know how you may and may not use the image(s).

Reviewing Copyright Law

The Copyright Act is found at 17 U.S. Code Section 101 et seq. Today Courts look at the facts **supporting any Defendant's propounded "Fair Use" defense. In doing so, the Courts start at 17 U.S. Code Section 107 and its four prongs: "(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work."**

Since the 1970's, the Fair Use doctrine has evolved, and continues to evolve, in such a manner that if you to rely on it as a defense in Court, I suggest that you retain an attorney or law firm that emphasizes a practice in the area of copyright law. You can possibly avoid a potential lawsuit by purchasing a license for the on-line copyrighted image(s) or material(s) that you intend to use in your business.

Learn About Other Options

Though not extensive, there are some easily accessible free clip art and images available. Particularly if you have Microsoft Office products, you have access to built in free clip art in the Insert tab of Word, Publisher and Power Point and then a limited but free selection of images and clip art.

Carefully review your office's agreement for the Microsoft product(s) you have purchased and any user guide language regarding the library of images. If you are reading online about copyrights of online images, or viewing the websites Getty Images or Aurora Photos, you may also want to check out <https://openclipart.org/royalty-free-clipart> as well.

THE ABOVE IS NOT LEGAL ADVICE. YOU SHOULD CONSULT AN ATTORNEY, IF YOU ARE AN AGENT. AND, I SUGGEST THAT YOU DO SOME LEGAL RESEARCH ON THIS MATTER IF YOU ARE AN ATTORNEY.

Demystifying Blockchain: (or at least trying to)

Don Delgado, VP Agency Administration

Blockchain has garnered more attention than any other topic in our industry over the last twelve months. Perhaps you have heard it will diminish or eliminate the need for title insurance. So, what is blockchain?

Blockchain is technology that can be used to record and track anything of value. It consists of a decentralized network of millions of computers around the world working **together simultaneously**. Each computer is known as a “node” and each node keeps the same encrypted records of transactions in ledgers that are open to the public. All of the nodes agree on what transactions have occurred and in what order they occurred which creates a chain of data blocks. Each block of data is time stamped and linked to a previous block. All information stored on the blockchain becomes part of a shared, incorruptible database that is continually reconciled, transparent and immutable (irreversible). The data is not stored in any single location and not controlled by any single person. It provides a public, verifiable history of transactions. Parties to any single transaction are able to interact peer to peer without middlemen in order to add a block of data.

People are excited about it because it has the potential to help reduce costs, minimize errors, improve efficiency, eliminate fraud and improve the liquidity of real estate as **an asset**. **In the simplest layman’s terms possible, blockchain real estate transactions would work something like this: ownership to real estate would be “tokenized.” Each piece of real estate would have a unique digital identifier (a “hash”) with complete, detailed information about it (i.e., ownership, physical location, financial and legal history, etc.).** The detailed information would be recorded on a global ledger. All information about a property would be available immediately in a single location allowing all interested parties to verify it. A single digital token would represent ownership of the property. A self-executing smart contract (a computer program that controls the performance of the transaction from start to finish) would validate all of the conditions of the transaction; and transfer virtual currency to the seller which **would trigger the automatic transmittal of the seller’s digital token to the buyer**. The transaction would be immediately recorded in a block and added to the previous block for the property.

That may be over simplifying it a bit, but it gives you the general idea. There are a lot of significant challenges to making blockchain the new way to transfer real estate. Among them, there is a long way to go to make it scalable to the point where it can handle the volume of transactions it needs to handle. Legal and regulatory structures need to be established which will take a very long time with so many different interests to consider. Importing 200+ years of historical data will be incredibly complex and expensive and will not eliminate errors or inconsistencies therein.

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Demystifying Blockchain: (or at least trying to)

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The challenges have not stopped venture capital firms from raising hundreds of millions of dollars to invest in the technology. Some jurisdictions are launching pilot programs to experiment with it. There is no question that blockchain technology can be utilized to contribute to and enhance some aspects of real estate transactions. To say that it will diminish the need for title insurance is to ignore the underlying purpose of it, which is to protect against undiscovered defects and to provide assurance of property rights.

Anyone who thinks blockchain will eliminate the need for title insurance needs to ask the following questions:

- ◆ How will blockchain detect procedural legal errors made in a foreclosure that would make the property unmarketable?
- ◆ How will blockchain determine who has the legal authority to transfer the property if title is vested in a corporation or trustee?
- ◆ How will blockchain know if a deed in the current chain of title was forged?
- ◆ How will blockchain know if there is a right of access to and from the land?
- ◆ How will blockchain know if construction has commenced on **the land thereby creating a right to a mechanic's lien that would take priority over a new mortgage lien?**
- ◆ How will blockchain know if inheritance taxes were paid when a **decedent's property was transferred?**
- ◆ How will blockchain know if a transfer occurred under a falsified, expired or otherwise invalid power of attorney?
- ◆ **And, the list of questions goes on....**

Blockchain technology may someday become a disruptor in how real estate is transferred, but title insurance and many of the services provided by the land title industry will continue to be relevant and valuable far, far into the future.

Title Companies: Marketing To Grow YOUR Business

Julie Turner, Regional Agency Representative

1. Demonstrate Transparency in your Business

Transparency is a valuable asset because it shows everyone that you stand behind your work. The work ethic that you clearly demonstrate and are able to back up with quality results is often one of the best marketing tools in your toolbox. Consider getting testimonial statements from some of your customers and highlight their comments on your website.

2. Provide an Immediate Response

If you don't respond to an email or you allow a call to go to voicemail, you are risking business. Always pick up the phone, respond immediately to a message, or send an email reply as soon as you have time to do so. Schedule time into your day so that no one slips through the cracks.

3. Pricing is a Marketing Strategy

You can set yourself apart with the prices of the services you provide. Be sure to know what your competitors are selling as well. Maybe you can offer discounts to cash buyers or make sure that there are no additional fees for third-party services. The better the price you can offer, the more likely you are to get a bigger share of the services.

4. Give People Tools

Many people want to have an estimate of how much it will cost to utilize your services and having online tools can make it easy to work with your business. Have a chart with terms and definitions, or descriptions of services to help those that are not familiar with our business.

5. What Payments Do You Receive?

There are a number of payment methods that are available today that some households may require to be adequately serviced. Many people today utilize digital bank accounts, such as PayPal, for many of their banking needs. Checks, credit/debit cards, cash – **they're all payment options that if you accept, you have a chance to stand out.**

6. Use Couriers

Real estate agents and home buyers or sellers can't always drop everything to stop by the office to drop off earnest money, documents, or other materials. If you have a courier service under contract, then you have yet another service that will help to set you apart from the other title agencies in your community.

Memorandums and Alerts

Mitchell J. Thoreson, Esq. Underwriting Counsel

Conestoga Title Insurance: Supporting your Business

Periodically, a department within Conestoga (ex. Underwriting Team or Agency Department) will issue a Memorandum or Alert to our Conestoga Agents. The Memos pertain to underwriting standards that are occurring across the industry, the purpose of which are two-fold: 1) to notify Agents of what Conestoga expects so that both the Agent and Conestoga are diligent in their underwriting and review, and 2) to act as a guideline for matters that arise before, during and after closing. The Alerts notify agents of various things to be aware of as part of their daily due diligence.

What You Need to Know about Memorandums:

Upon appointment, every Conestoga Agent is provided with copies of all Memos which are applicable to their state of practice and in effect up to their date of appointment. Not all Memos are applicable to all Agents; therefore Conestoga will supply you with, and notify of, you of only your state specific Memos. Please note that some Memos are indeed applicable to ALL Agents. The relevant Agents to which a Memo applies will be noted in the "TO:" section at the top of the Memo. It is the Agent's responsibility to review the Memos, understand their directives, and make sure that all applicable staff does the same.

- Every Memo issued after an Agent's appointment is emailed directly to each applicable Agent contact for whom we have an email address. Please let us know if a different contact person should be provided with the Memos, please let us know so that we can update our records.
- When issued, the Memos become effective immediately and apply to those Conestoga Agents as defined therein. All Memos remain effective and continue to apply to Agents and their staff until later rescinded or modified. That means there are many Memos on file which still apply to your daily work, and which may be 3, 5, even 10 years old or older!
- Take a few a minutes to refresh your memory on the various Conestoga Memos which apply to you and your staff as an Agent. Read the Memos that you have in your Agent materials and emails. Print out any emailed Memos that are not already in your materials.

What You Need to Know about Alerts:

- Alerts are important notifications for Agents to be aware of relating to specific issues of concern: For example, Alerts may notify Agents not to close transactions dealing with certain persons or properties. Alerts may also be sent regarding types of fraud occurring in our industry.
- Alerts should be shared with all appropriate staff in your offices. Alerts will be emailed directly to each contact that the Agent supplies to Conestoga. Feel free to contact us to update your email addresses and personnel as needed.

An ounce of prevention is worth a pound of cure! We appreciate how busy you are in your offices and strive to share with you information that may protect us all. Conestoga advises each agent to print and save each Memo and Alert in a central location in your office and periodically review them to keep current on all directives. We suggest adding both the Memos and Alerts to the underwriting binder as you receive them.

If you need assistance with locating Memos or Alerts, or would like copies of any or all of the Conestoga Memos or Alerts pertinent to your practice, please contact Don Delgado in our Agency Department at ddelgado@conestogatile.com. If you have any questions or concerns, our Underwriting Team is always available via UWRequests@conestogatile.com.

President Signs Bill Approving Dodd-Frank Rollback

Eric Borgia, Esq. Underwriting Counsel

On Thursday, May 24, 2018, President Trump signed into law the biggest rollback of bank rules since the implosion of the financial services industry a decade ago. The bill received bipartisan support, and is intended to ease the overly-burdensome and costly lending rules on all but the largest banks.

Smaller lending institutions will no longer be required to undergo the “stress tests” implemented by Dodd-Frank to determine if they are able to withstand a downturn in the economy. This leaves only ten of the largest banks that continue to be subject to stricter **government oversight for being “too big to fail.”**

Proponents claim that smaller institutions were never the intended targets of Dodd-Frank regulations, but suffered collateral damage as a result of their implementation. Proponents say the reforms will spur the economy by freeing up credit to many Americans who rely on smaller banks for business loans as well as personal loans.

Although the bill received bipartisan support, the majority of democrats opposed the bill. During a debate on the House floor prior to passage, Representative Nancy Pelosi stated, **“The bill would take us back to the days when unchecked recklessness on Wall Street ignited an historic financial meltdown.”** Opponents on the other side claim that the measures do not go far enough, and they vow to keep fighting until Dodd-Frank is repealed in its entirety.

What does the Dodd-Frank rollback mean to you, the title agent?

It depends on whether the reforms succeed in making it easier for most banks to lend money. Success would mean more money being lent to consumers, resulting in an increase in real estate closings. Success would also mean more money being lent for construction projects by small-scale homebuilders. Obviously such activities would lead to an increase in revenue for title agents.

On the other hand, if the reforms do not succeed in freeing up credit, they may have little **effect on the title insurance industry; and if the reforms lead to the return of “unchecked recklessness on Wall Street,”** they may have the opposite effect as intended. Only time will tell.

Meet Julie Turner, Conestoga's Newest Member of the Staff

Julie Turner has already been hard at work since April in Virginia and Maryland as an additional member of Conestoga's marketing team. Julie's new role as Conestoga's Regional Agency Representative will include the expansion of Conestoga's network of agents in Maryland and Virginia, as well as to provide ongoing service and support to our current agents in Maryland and Virginia. Julie brings six years of industry experience and is also a licensed Virginia realtor. Living just outside Washington DC for the past eight years, she is up to date with the local title market in the district and greater metro area.



Julie and her husband John are proud parents of their three year old daughter Jolie. Somehow, Julie manages to find time to be a part time dance instructor to young children and participate in a number of community services activities. Check out her LinkedIn profile or contact her directly at 717-344-0581.

Spring Seminar Wrap Up



April and May saw Conestoga Title Insurance hosting over 100 agents and attorneys at two seminar events. April in Fairfax, Virginia and May in Ellicott City, Maryland brought staff and outside speakers to each location and featured five approved continuing education credits for attendees.

Conestoga has hosted state specific seminars in Virginia and Maryland on an annual basis for several years and it has been great to connect with our agents in those areas and discuss local opportunities with future agents and attorneys.

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Upcoming Seminar Events

Next on the calendar will be our Ohio Seminar to be held October 18th in the Ohio Union at The Ohio University in Columbus, OH. Last year we had a full room with over 75 attendees for this full day seminar and in 2018 we are planning another engaging agenda and to seek continuing education credit approval.

Information will be posted soon on our website. If you have questions, please contact Colleen Sheerin at csheerin@conestogatile.com.

Conestoga College will be held in Lancaster, PA on January 21-22, 2019