



Title Insurance Litigation

Stahl Cowen's title insurance litigators have more than forty years of combined experience helping national and regional title insurance companies and their insureds protect their investments and resolve a wide variety of disputes involving lien priority and validity, title ownership, equitable and conventional subrogation, easements, property boundaries, mechanic's lien claims, policy coverage, mortgage fraud, and more.

We have helped our title insurance clients analyze policy coverage and defended them against claims of policy breach. We also have addressed claims against title agents and their E&O carriers, and recovered significant funds on unsecured claims in bankruptcy and policy payment recoveries.

In addition to their work for clients, our lawyers are active in the state-wide and national title industry. For example, the head of our practice, Ron Damashek, regularly files amicus curiae briefs on behalf of the Illinois Land Title Association, in addition to representing the Association as a litigant. In addition, Ron and his partner Melissa Lettiere are active in the ABA – TIPS Title Insurance Litigation Committee and in ALTA's Title Counsel Committee.

Examples of recent title insurance matters we've resolved include:

- Defeating an insured's claim to recover legal fees incurred in the litigation of a \$6 million title dispute. The insured alleged that it incurred the fees only because our title insurer client breached its duty to defend and unreasonably delayed the assigning of defense counsel. The Court disagreed, granting our motion to dismiss the complaint and holding that the plaintiff was not entitled to recover pre-litigation fees or litigation expenses incurred before title counsel was assigned.
- Obtaining payment of a \$790,000 unsecured claim on behalf of a national title insurance company in the bankruptcy of Residential Capital. The Liquidating Trustee initially sought to disallow the three unsecured claims of our client, a creditor to a debtor in the bankruptcy case. Through settlement negotiations we convinced the Liquidating Trustee of the validity of our client's claims, leading to a payment that generated cash distributions and marketable



securities from the liquidating trust in the approximate amount of 39% of the allowed unsecured claim. This was an excellent result given the nature of the claims and the facts of the case.

- Defeated sellers' claim that the alleged forgery of their signatures on a deed entitled them to retain property free and clear of the purchaser's mortgage, the proceeds of which paid off the sellers' prior mortgages against the property.
- Confirmed that a mortgage against tenancy by the entirety property that was signed by the borrower's wife could be enforced even though the wife was not personally liable on her husband's loan.
- Advocating for the Illinois Land Title Association as amicus curiae, we have had a state-wide impact – establishing that construction escrowees only have a fiduciary duty to act in accordance with the escrow agreement, limiting insurance defense obligations to claims related to title defects, and confirming the requirements for constructive notice of mortgages under the Illinois Conveyances Act.

Attorneys

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