



Title Insurance Claims in North Carolina

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Title Insurance Claims In North Carolina

Gregory G. Foster

Fidelity National Title Group
Senior Claims Counsel
Southeast Region
Jacksonville Claims Center





Who am I and why am I here at a CLE hosted by Chicago Title?





Title Insurance Claims in North Carolina

Fidelity National Title Group – Active Title Insurance Underwriters

- Fidelity National Title Insurance Company



- Chicago Title Insurance Company



- Commonwealth Land Title Insurance Company



- Alamo Title Insurance Company



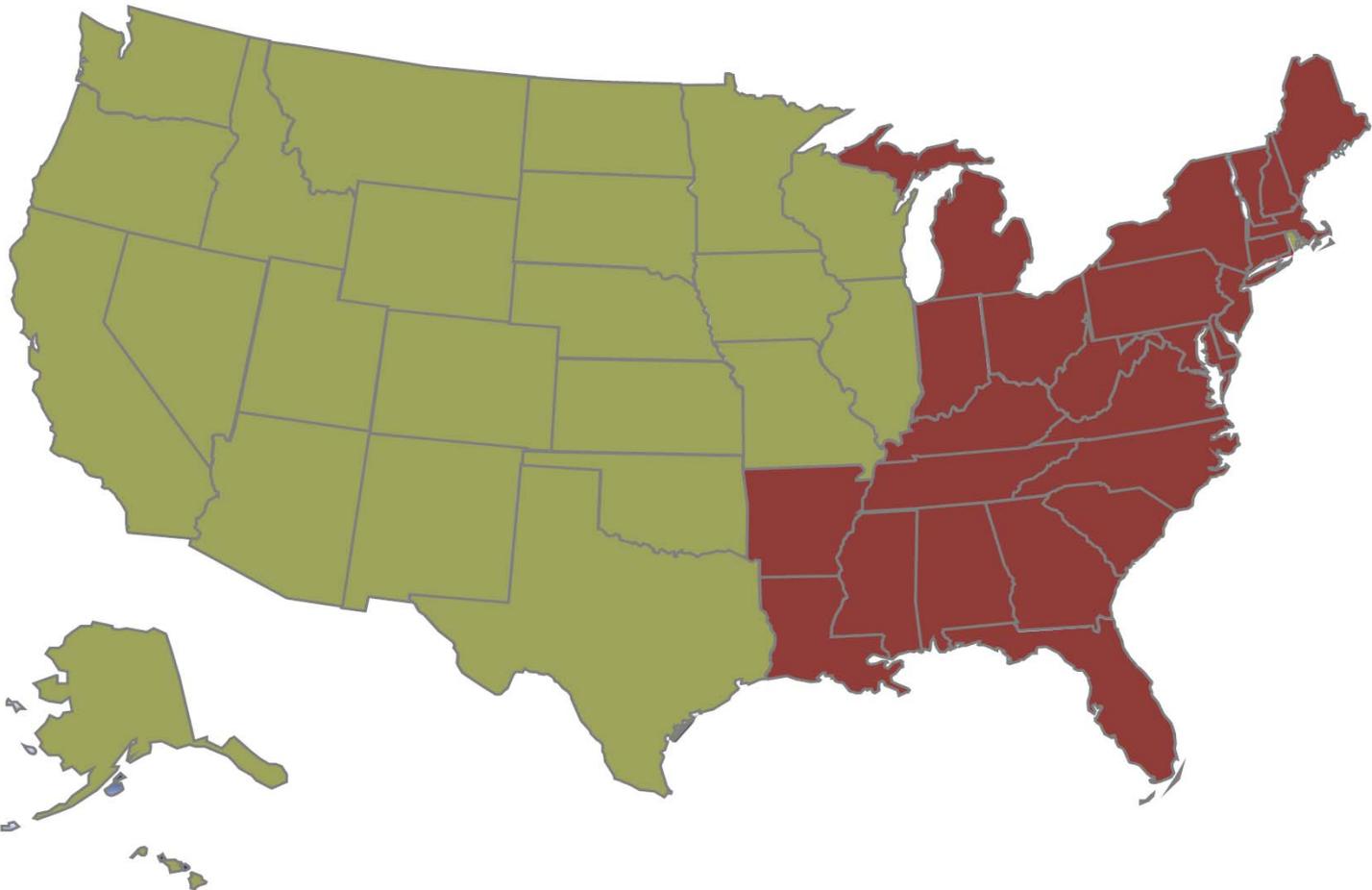
Title Insurance Claims in North Carolina

Fidelity National Title Group – Prior Title Insurance Underwriters

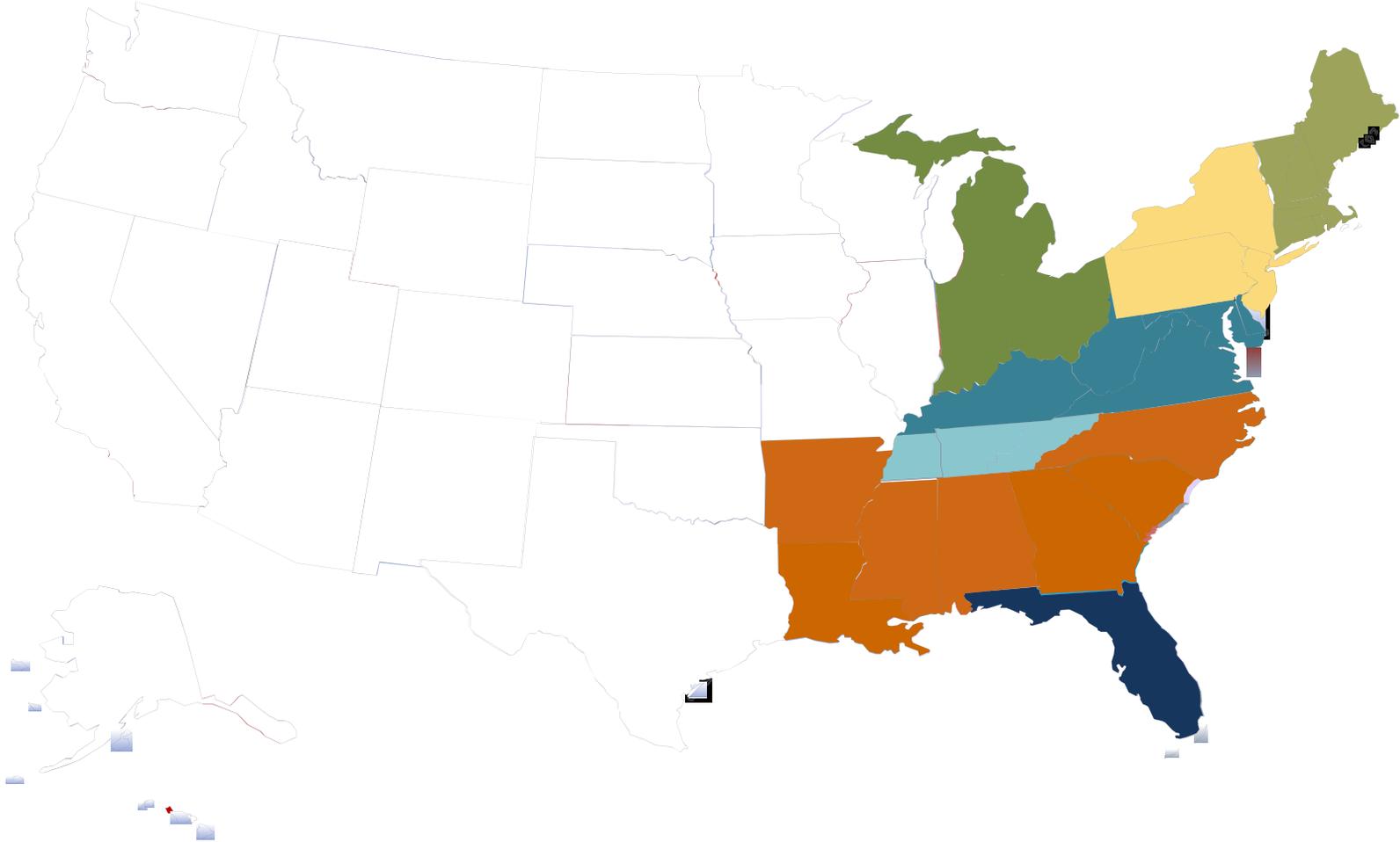
- Lawyers Title Insurance Corporation
- Ticor Title Insurance Company
- Security Union Title Insurance Company
- Continental Title Insurance Company



FNTG Claim Centers



JAX Claim Center



Southeast Team

Jennifer Gaytan, Managing Counsel

Terence Morris
Greg Foster
Robert Graham

B.J. Gabriel
Jason Hill

Tim Clarke
Cynthia Baines

Kelly Pritchard
Daniel Osborne
Elizabeth Moses
Patrick Bennett
Ellen Fisher

Stephen Graber
Lauren Cheatham
Matt Kassel
Shannon Levin
Susanne Schimmenti

Christine Amaro
Stacy Thompson
Ellen McNamara
Kate Biltz
Marsha Isham





Claims Background



What is a title claim? When should a claim be submitted?

- Is there an obligation to indemnify or defend under a policy, or is there another reason you think the underwriter should act?
- Is there reason to believe the Insured has or will suffer a loss?
- If a lawsuit has been filedforward immediately.
 - Claims Counsel needs time to investigate and evaluate.
- Generally, claims do not “go away” by avoidance.
 - Send them in!



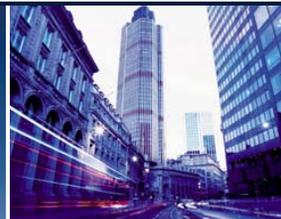
What should be submitted with the claim

- An explanation of the claim specifically detailing the issues and setting out the **complete** facts. The more **accurate** information provided with the claim, the more efficiently, easily, and perhaps quickly, the claim can be resolved.
- Include documents: **Policy**, Evidence of **Standing**, Pleadings, Any other relevant materials such as Commitment, CPL, HUD, title search, survey, appraisal, etc.
- Do **not** opine on coverage
 - do you have any suggestions for curing the defect?



What does the Claims Administrator do?

- Claims administrator evaluates the claim
- What is the goal of evaluation?
 - To accurately make a **coverage determination**
- Claims administrator decides first whether (s)he has all of the information needed to evaluate the claim. If not, the information is requested from claimant or otherwise obtained.
- Formulates a claim to cure the covered issues





Types of Claims in NC



Number of Claims in NC

- ▶ Excluding clearance items, how many *North Carolina* claims were submitted to the claims center between 2013 and 2014?
 - ▶ A. <100
 - ▶ B. 100 – 500
 - ▶ C. 500 – 1000
 - ▶ D. > 1000



Number of Claims in NC

- ▶ Excluding clearance items, how many *North Carolina* claims were submitted to the claims center between 2013 and 2014?

ANSWER : over 1000 !!!

- ▶ 2013: 826 claims
- ▶ 2014: 610 claims
- ▶ TOTAL: 1436 over two year
- ▶ Roughly 2.87 claims per day



Number of Claims in NC

- ▶ How much did FNTG pay out in NC claims in 2013 and 2014?

ANSWER : Over \$14.2 Million

- 2013: Approximately \$8,250,000
- 2014: Approximately \$6,000,000



Number of Claims in NC

▶ What would \$14.2 Million look like in cash?

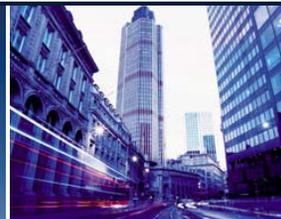
➤ In \$1 bills: 5,083 feet tall!



Number of Claims in NC

▶ What is the world's tallest building?

- Berj Khalifa at 2,722 feet
- Sears Tower / Willis Tower is only 1,354 feet (plus 400 foot antenna)



Types of Claims in NC

- ▶ What's the most common type of title claim in North Carolina?

Mechanic's Liens / Constructions ?



Types of Claims in NC

2013:

- 213 – Title search errors
- 198 – Settlement Procedure Errors
- 116 – Post-Closing and Recording Errors
- 83 – Survey Issues
- 55 – Missing Interest
- 36 – Access Issues
- ...
- ...
- 5 – Mechanics Liens



Types of Claims in NC

2014:

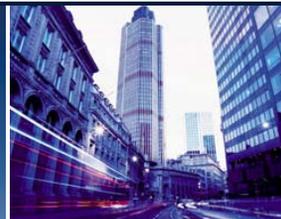
- 190 – Title search errors
- 101 – Settlement Procedure Errors
- 109 – Post-Closing and Recording Errors
- 72 – Survey Issues
- 37 – Missing Interest
- 29 – Access Issues
- ...
- ...
- 6 – Mechanics Liens



Types of Claims in NC

- ▶ What types of title claims do we pay out the most money on, in North Carolina?

| | 2013 | 2014 |
|-----------------------------------|---------|---------|
| Title Search Errors | \$2.1M | \$1.7M |
| Settlement Procedure Errors | \$940K | \$1.15M |
| Post-Closing and Recording Errors | \$1.3M | \$600K |
| Fraud and Forgery | \$600K | \$1.25M |
| Mechanic's Liens | \$1.46M | \$45K |



Title Search Error Examples

▶ The “Old Standard”

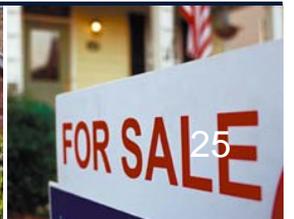
- Bob the Borrower refinances his house located in Beaufort.
- The approved attorney, Amy, misses Bob’s line of credit HELOC. Loan policy is issued to Bob’s new lender without exception.
- Bob decides to spend all of his money on Carolina Panther’s season tickets and follows them around the country like a rock groupie.
- Bob defaults on both loans, and the prior HELOC attempts to foreclose over the insured deed of trust.
- Ouch!



Settlement Procedure Examples

▶ The “HELOC of Horror”

- Bob the Borrower refinances his house located in Asheville.
- The approved attorney, Amy, sees Bob’s line of credit HELOC.
- The closing agent, Carl, makes sure the HELOC is paid off at closing, but fails to send a close-out/ “kill letter” to the HELOC lender.
- Bob, to his great surprise, gets a call from his HELOC lender 6 months later and reminds him that he has a HELOC with a zero balance.
- Bob finally gets that bass boat he’s been wanting.
- Bob defaults on both loans after his wife leaves him and takes the boat.
- The prior HELOC attempts to foreclose over the insured deed of trust.
- Ouch!

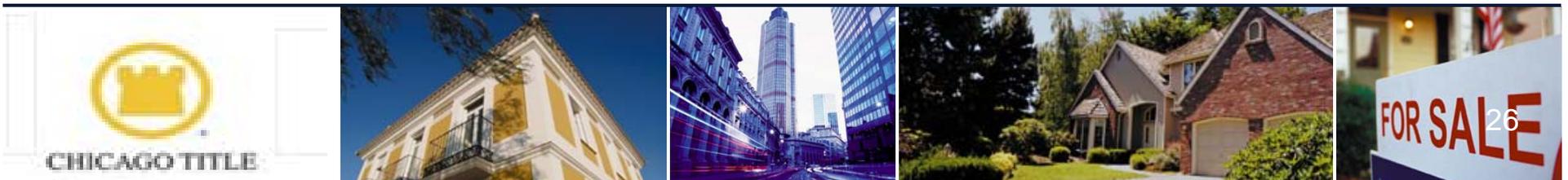


Settlement Procedure Examples

▶ The “Boathouse”

- Bob’s house and boathouse are in Wilmington and have separate legal descriptions.
- Bob refinances a first deed of trust on his home which encumbers the house and boathouse. The closing agent, Carl, accidentally leaves off the legal description for the boathouse.
- Bob falls on hard times (betting on the Tar Heels) and realizes the boathouse is unencumbered. He sells the boathouse to the adjacent landowner.
- Ouch!

*In other states this would be a parking spot instead of a boathouse



Post-Closing/Recording Examples

▶ The “Oh So Close”

- Bob owns a house in Durham.
- Bob refinances his first position deed of trust and closing agent, Carl, records the deed of trust in Durham County.
- Bob has several federal tax liens recorded against him and has to file for bankruptcy.
- Lender files a proof of claim in Bob’s Chapter 7 Bankruptcy, but Trustee objects. Bob’s house was actually in the portion of Durham that extends into Wake County.
- Bob’s lender is treated like an unsecured creditor.
- Ouch!



Fraud/Forgery Examples

▶ The “Lying Spouse”

- Bob and Brittany jointly own an mansion in Asheville.
- Bob takes out loan to finance his “pet projects”.
- Bob signs a deed of trust on behalf of Brittany using a forged power of attorney.
- Bob dies penniless, with nothing but the mansion, after squandering his fortune on his “pet projects”.
- When Bob’s lender tries to foreclose on the mansion, Brittany objects.
- Ouch!



Fraud/Forgery Examples





Real Life Examples



Real Life Examples of Claims

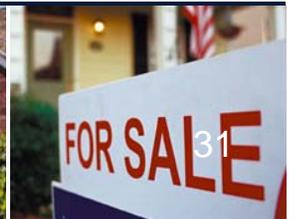
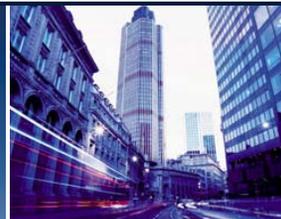
▶ The Restraining Order

- Insured sells house to daughter, immediately before dying. Insured's Will gives everything to Daughter.
- Daughter allegedly assaults neighbors on either side of her.
- Neighbors both take out restraining orders prohibiting Daughter from coming within 1000 feet of either neighbors' home.
- Daughter cannot utilize her driveway without coming within 1000 feet of neighbors and violating the restraining order. Only other way to reach Daughter's home is by driving through her rough-terrain field, which adjoins another county road.

Is this a valid claim?

-Is the Daughter an "insured"

-Does she have insurable access?



Real Life Examples of Claims

▶ The Bear Cave Development

- Bear Cave, LLC owns 500 acres of undeveloped land.
- Bear Cave, LLC obtains loans from two different members of the LLC to finance the development of the Bear Cave Country Club, which are secured by DOTs. Bear Cave, LLC also obtains a loan from a bank.
- Bear Cave, LLC refinances the bank loan and the bank is issued a policy without exception for the DOTs to the LLC's members.
- The 500 acres are re-platted into dozens of individual plots and sold off to different home owners. Policies are issued to all of the new owners and their lenders, which policies relied upon the prior lender's policy, which didn't except the DOTs from the LLC's members.
- Years later, the heirs of the members of the LLC try to enforce their DOTs against all of the individual home owners.



Real Life Examples of Claims

▶ The Transfer to the LLC

- Individuals own multiple lots encumbered by a DOT.
- Individuals refinance the loan secured by the DOT and execute a new DOT.
- After executing the new DOT, but before the DOT is recorded, Individuals record a deed transferring the property to their LLC.
- Lender cannot foreclose because deed to LLC was recorded ahead of the Insured DOT.



Real Life Examples of Claims

▶ The Broke Spouse

- Husband and wife's doppelganger obtain a loan secured by a DOT against H&W's residence.
- Husband doesn't tell his wife he's been out of work for a decade, and is maintaining an office space and assistant, just for appearance purposes.
- Husband dies and lender tries to foreclose. Wife objects, claiming she never signed a mortgage on the home, which she thought was owned free and clear.
- Closing agent and notary had a copy of wife's drivers license.
- Handwriting expert confirms wife's signature is forged.
- Husband's assistant has a striking resemblance to wife.
- Search of dead Husband's office reveals multiple pages of someone practicing Wife's handwriting.



Questions?

Gregory G. Foster

904-854-8674

Gregory.Foster@fnf.com

