

Investors Title

INNOVATIVE BY INSTINCT

THE NC CONNECTION

North Carolina Resources

CFPB/ALTA Best Practices

invtitle.com/cfpb/nc: CFPB and ALTA Best Practice articles, manuals, solutions, and other resources.

Events & Education

Live: invtitle.com/events/nc

New: [Risk Management Seminars](#)
(6 hrs CLE/CPE including 1 hr Ethics)

[On-Demand Education](#): CLE/CPE credit available through online courses.

Articles & Newsletters

invtitle.com/resources/nc: for a comprehensive directory of past newsletters, select Articles and Newsletters / Article Directory.

Forms

invtitle.com/resources/nc: for a complete list of forms, select the Forms category.

Tools

invtitle.com/resources/nc: for a complete list of frequently-used tools, view the tools box on the right.

iTracs Solution

invtitle.com/itracs: proactively manage your accounts and resolve critical issues such as disbursement errors and account irregularities.

EFLITE

invtitle.com/eflite: prepare and submit forms online.



Upgrading Dad

Nate James, Esq., Title Attorney
njames@invtitle.com

My dad has been practicing law for 38 years. During this time, he has practiced in such disparate areas as criminal, family, and real estate law. Such is the life of a small town general practitioner. The main breadwinner for his practice, however, has always been a stalwart commitment to closing residential real property transactions. He was taught how to search title the traditional way. He goes down to the courthouse and religiously consults the paper indices and the physical book-bound records. Never trusting another to search title, he searches all his titles personally. Only when he is absolutely satisfied with his work will he certify the title.

My dad, supremely competent in the practice of real estate law, is a babe in the woods when it comes to recent technological innovations. His methods work, and work well. So, from his point of view: "Why fix what ain't broke?" While I understand the sentiment, the upcoming regulatory shift is forcing many hands. My dad is no exception.

During the summer of 2013, I was able to help modernize his

"My dad... is a babe in the woods when it comes to recent technological innovations."

information technology equipment. We bought two new workstations for his employees and a laptop for my Dad. We also managed to drop an ancient, expensive business internet contract for a better, faster, and cheaper contract.

(Continued on page 2)

Upgrading Dad	1-4
NC Fun Facts	3
Claims Corner	5
Branch Profile	6
Investors Trust:	6
Currie v. Poteat	

Upgrading Dad cont. from page 1

Furthermore, we updated him to a more modern version of Windows and Microsoft Office. These updates will prove important as this article progresses.

Having done my familial duty for the year, I returned to Campbell Law in Raleigh for my final year of legal studies. I buried myself in books and graduated in May. I subsequently passed the bar administered this past July. Investors Title was generous enough to offer me a position in September 2014.

One of my first tasks was attempting to understand the upcoming CFPB-mandated shift in information security. I proposed the idea that I could use my Dad's office as a guinea pig in order to experience exactly what the change involves for small solo practitioners. That way, we could be better equipped to help small firms and solo practitioners cope with the changes.

The solutions I will discuss are the solutions that I, in my independent judgment, considered to be possible solutions for my Dad's office. This is based upon my experience with his workflow and my own experience with various platforms. I make no guarantee that the solutions will be right for your practice, but I hope my insight will help you as you begin the process of becoming CFPB compliant.

Email Service

One of the primary goals of my modernization effort for my Dad's office was to move him off an older unsecure webmail email solution to a modern encrypted email solution. I evaluated a number of options. Initially, I considered purchasing, setting up, and managing a Microsoft Exchange server; however, the cost was prohibitive. Moreover, an entire exchange server for so few employees was overkill for my dad's practice. This meant we would have to use some sort of cloud-based system. The North Carolina State Bar blessed the use of cloud-based Software as a Service (SaaS) in 2011. 2011 Formal Ethics Opinion 6 highlighted that a lawyer can use the cloud but has a reasonable duty of care to protect client information from unauthorized disclosure.¹

I evaluated two cloud-based offerings: Microsoft 365 and Google Apps for Business. Both work well for a small law firm's needs. Both also provide a wealth of additional cloud-based productivity software that can help collaboration with geographically separated firms. Both services work best if you own your own domain. Please visit the Investors Title website for a few options regarding domains: [ALTA Best Practice Solutions](#).

Google Apps for Business is a paid service offered by Google to businesses that have their own domains. It is important to note that I am NOT discussing a basic free Gmail account. I am talking about the paid Google



Apps for Business service. The distinction is important because of advertisement scanning that Google performs on its free services.² Google does not scan its paid service in the same manner as its free service. I am familiar with the Google Apps platform as I use it for my personal email communications. I was also exposed to it extensively in law school as Campbell Law uses Google Apps as its primary means of email communication. The Google Apps for Business terms of use also contains a clear confidentiality provision, which is one of the measures 2011 FEO 6 highlighted as important for evaluating a SaaS provider.³ Google will also sign a HIPAA business association agreement, if your law firm stores and transmits client healthcare information.

Microsoft Office 365 is Microsoft's latest offering from the Office family. It is a fully cloud-based office suite with full-featured versions of familiar office products like Word and Excel. Office 365 comes in several pricing tiers. The lowest pricing tier does not include local copies of Office applications that you can use offline; however, the mid-sized pricing tier does include local copies of Office applications.

¹<http://www.ncbar.com/ethics/printopinion.asp?id=855>

²<http://googleforwork.blogspot.com/2014/05/protecting-google-apps-customers-and.html>

³http://www.google.com/apps/intl/en/terms/premier_terms.html (see section 6 and 15 regarding "Confidential Information" and "Customer Data").

(Continued on page 3)

Upgrading Dad cont. from page 2

Microsoft Office 365 features a sleek web-based interface and, because it is Office, any work product produced in Office 365 is compatible with other Office products. Office 365 also features remote file storage as well as webmail.

The Google Apps for Business Platform gives a small firm a wide range of collaborative web-based software solutions for various business needs. There is a Google word processing solution as well as Google Drive that allows for remote backup of files, should you require that capability. Finally, the Google Apps platform gives an admin the ability to remotely manage email accounts. This was an important consideration for me as I cannot always make the drive down to my dad's firm in order to solve technical issues. I can add and remove users remotely. I can also edit user accounts to include email "aliases." For example, his firm has one person who handles most email communication regarding real estate closings. As such, she has an alias that only deals with real estate and

forwards directly to her email.

One of the most important factors for my choosing Google Apps was that it features a capability called Inbound TLS decryption. This capability means emails that meet a certain encryption criteria are automatically decrypted when they are received from outside senders. Echoworx, Investors Title's encryption vendor, meets the criteria for Inbound TLS decryption. As a result, encrypted mails sent from Investors Title are seamlessly delivered to Dad's inbox without the need for him to click a link.

Google Apps email can also be used with a desktop email client like Microsoft Outlook. My Dad's employees are used to working with Outlook so I wanted to make sure that functionality remained very similar between his old platform and the new platform. I was able to achieve that with Microsoft Office 2013 and Google Apps. We were able to download the emails to local machines utilizing Outlook and a secure connection to Google's servers.

There were a few additional technical challenges that I had to solve in order to get all of the aforementioned services to work. They are beyond the scope of this article, but I would be happy to discuss them should you need more information.

Email Encryption

In selecting the email encryption vendor, I conducted significant research and comparisons. I evaluated Zixmail, an encryption solution offered by Zixcorp. I evaluated Sendinc's email encryption product. I also evaluated several solutions from Echoworx. Each of these services works well. Let me tell you why.

My requirements for an encryption solution would be one that was relatively easy for the firm's employees to use. I wanted a solution that would integrate within their already existing Microsoft Outlook software.

I contacted Echoworx for a price quote using the link that many of you may have used in order to get a quote with Investors Title pricing.

(Continued on page 4)

NC FUN FACTS

So many ships have been lost off Cape Hatteras that the area is known as the "Graveyard of the Atlantic"; more than 1,000 ships have sunk in these waters since records began in 1526. The most famous of these is the *Queen Anne's Revenge* (flagship of the pirate Blackbeard), which went aground in Beaufort Inlet in 1718.



Upgrading Dad cont. from page 3



Echoworx quoted me a VERY competitive price on a web-based encryption solution. The solution features a web-based portal to access all of your encrypted email. The user would use the web portal to send and receive encrypted email. When the user receives a new encrypted email, Echoworx sends the user a notice to your existing email account. The price for this solution is significantly less expensive than some of the other solutions. Furthermore, as an Investors Title customer, the user would receive Investors Title pricing. As such, Echoworx's web-based solution it is a very cost effective solution for meeting CFPB encryption requirements. It would be a good choice for a firm that has a small number of users and does a relatively low volume of real estate closings; however, the low-cost web-based system does not integrate into Outlook.

I also received a quote for the system that Investors Title uses. This system features a branded web portal as well as email client integration. Basically, it puts a button in Outlook that lets you send encrypted email. There is a minimum user count of 25. If your firm has 25 or more employees that require encryption, this solution would be ideal. The cost per user is

lower than any of the other solutions I evaluated. Echoworx features a number of resellers that are able to offer the solution without minimums. The Investors Title pricing, however, would not apply to those resellers.

I then evaluated Sendinc. Sendinc is a product developed by Send Technology Inc. in Texas. The Sendinc Outlook plug-in works well with Outlook and allows users to send encrypted email with a single click. Sendinc is also competitively priced. Sendinc allows users of the program to send a limited number of encrypted emails for free without any charge. There are several paid subscription tiers as well that increase the amount of emails users can send per day.

The final product I evaluated was Zixcorp's Zixmail product. This product integrates with Outlook 2013, which should be attractive to a firm familiar with using Outlook. Zixmail utilizes an add-in for Outlook to place a button on the Outlook toolbar. This add-in allows an employee to simply click a button and send an encrypted email. The encryption program requires the user to enter their password for every encrypted email sent. While password-entry is an extra step, the entry quickly becomes part of normal workflow. Zixcorp does not have a minimum number of users to offer this capability. The cost for a single user is competitively priced, but it is more expensive than the Echoworx web-based solution.

Hopefully, this article is useful

as you prepare for the upcoming deadline. The list of services provided in this article is not exhaustive. There are many vendors that I did not evaluate. You should evaluate each offering and determine what works best for your number of users and your compliance needs. I'd be happy to discuss further, so feel free to give me a call with any questions.

Helpful links:

Google Apps for Business

<https://www.google.com/work/apps/business/>

Microsoft Office 365

<http://products.office.com/en-US/business/compare-office-365-for-business-plans>

Echoworx

<http://www.echoworx.com/>

<http://www.echoworx.com/investortitle/>

Zixmail

<http://www.zixcorp.com/email-encryption/zixmail/>

Sendinc

<https://www.sendinc.com/>

DataMotion

<http://www.datamotion.com/>

Investor's Title CFPB and ALTA Best Practices resources.

<http://www.invtitle.com/cfpb/nc>

Claims Corner: Surveys—They Cost Less Than the Survey Exception



by Kellie Army, Esq., Claims Counsel

The first time my husband and I bought a house, our real estate agent asked if we would be wanting a survey. Having no idea what we were actually doing, we answered “no.” I went on happily decorating every room in my mind, blissfully unaware of the danger that lurked in our answer to that question.

In North Carolina, property buyers like me can, of course, obtain an Owner’s Policy of Title Insurance without having the property that they are buying surveyed. Their policies, however, almost always come with the survey exception. An example of a survey exception: “...this policy does not insure against loss or damage arising from encroachments, overlaps, boundary line disputes, variations or shortages in area or content, roads, streams, ways or easements or claims of easements, riparian rights and title to filled in land, and any other matters which would be disclosed by an accurate survey and inspection of the premises.”

Besides the fact that you now have to be on the lookout for those pesky riparians, there is a lot that is excluded from coverage in the survey exception. For example:

Clara bought a house in a platted subdivision with setbacks and acreage requirements. One day, a “for sale” sign went up on the property next door. A few days later, a Good Samaritan came to Clara’s door and asked her if she

knew that the house for sale was actually built onto her property. Clara did not get a survey when she bought the house, but she got one after that visit and discovered that the visitor’s assertion was accurate – the house next door is, in fact, about ¼ on her land. The owner of the house next door is not interested in tearing it down and the set back and acreage requirements make settlement difficult – and expensive.

Emma inherited a house from her parents. Soon thereafter, she received a visit from the neighbor, who had just obtained a survey of his property and had come to ask her when she intended to rip up the asphalt driveway in front of the house because, as it turns out, the driveway is on the neighbor’s property.

Jack was sitting in his new backyard enjoying the day when he was startled to see a horse passing through. Surprised, he asked the rider why they were riding over his land. According to the rider, there was an easement for riders and their horses to use a path over Jack’s land to the pasture a few acres down. The survey that Jack now obtained clearly showed the horse path passing over his property.

Lindsey bought a large parcel of land upon which she planned to build her dream home. She had plans for forestry and there was a large pond that she saw when she visited the property where she planned to install fish and feed ducks. The pond was what sold Lindsey on the property – and what she was terribly upset to lose when a later survey showed that the

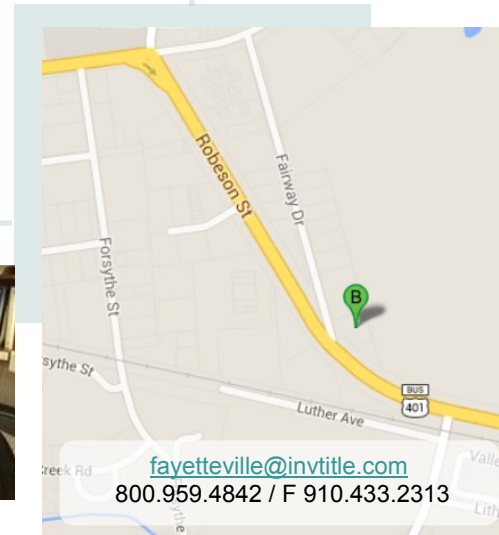
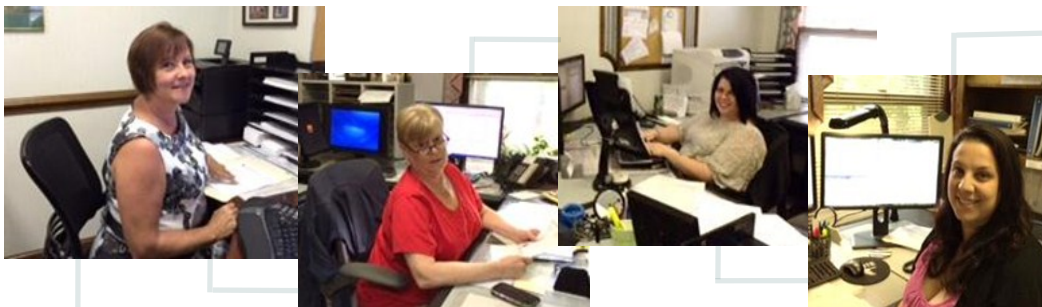
boundary lines upon which she had relied were wrong and the pond belonged to another.

While the names have been changed, these are based upon actual claims, real situations where buyers could have been protected from heartbreak and financial loss had they obtained a survey prior to their closing. Clara, as it turns out, did not have a survey exception, which is why I know EXACTLY how much time and money that neighbor’s house has cost. The other claimants in the above examples, and many just like them, did have survey exceptions and their claims were denied. When I call property owners to explain the reason that their claim is being denied, they almost always say that they had no idea of the possible implications of not getting a survey.

My husband and I have bought two houses since I started at Investors Title. Instead of curtains and accent tables, when we look at a house, my head is now filled with visions of fences and patios being dug up and sheds knocked down under the watchful stare of angry neighbors. And I get a survey. Tell your clients. Tell your friends. A survey completed before a closing can save time, money, and distress down the road.

Investors Title Branch Profile

Get to Know Your Local Office



Team members (left to right): Pia Maier, Linda Stevens, Sharon Lee, and Rachel Lowe

The Fayetteville Branch opened in July, 1976, and its team members are Pia Maier, office manager, and Linda Stevens and Sharon Lee, underwriters. Rachel Lowe, regional underwriter, is also located in the Fayetteville Branch. Jackie Thomas is the marketing manager for the Fayetteville Branch area (not picture above).

Investors Trust: Currie v. Poteat

In a case that largely symbolizes a “race to the courthouse,” the North Carolina Court of Appeals has ruled that a law firm’s deed for payment of its services was a superior claim to a plaintiff’s in litigation that was filed only a day after the firm acquired its interest. The case developed after Cleon Currie was named Executor of Della Brown’s estate.

Believing that Brown owned no property, Currie closed the estate in July 2002. But

eight months later, Currie discovered that Brown had transferred \$92,000 to Isaac Poteat, most of which he and his wife used to buy a home. Currie maintained that the \$92,000 conveyance was made at a time when Brown lacked mental capacity, leading him to file suit against the Poteats, without re-opening the estate. At a pre-trial conference on September 7, 2004, the Poteats lawyer firm suggested that

Currie lacked standing because his duties had been discharged when the estate was closed. Thereafter, with the approval of Currie’s attorney, the trial court voluntarily dismissed the case in open court. Only one day later—on September 8, 2004—the law firm that represented the Poteats filed a deed of trust to secure a \$40,000 promissory note for their services. Approximately three weeks later, Currie filed a petition to reopen the estate and then filed suit a second time against the Poteats. The second suit resulted in a judgment against them for \$75,000 for conversion and constructive fraud. When Currie learned that the house had been used to secure the promissory note, he attempted to set aside the conveyance, arguing that the firm took the deed (*lis pendens*—with notice of current litigation). The trial court concluded that the law firm’s claim was superior to Currie’s, and the appellate court affirmed. The Court of Appeals said it was “constrained” to reach that outcome, but that the law was clear: there was “no litigation pending that affected title to the home” [emphasis in the original] when the firm acquired the deed—only notice of an *intention* to bring a claim. And since, the appellate court wrote, “an intention to bring litigation is of no legal effect in real estate transactions,” the Court of Appeals said it was required to “affirm the order of the trial court.”

--Currie v. Poteat, No. COA13-814, N.C. Ct. App. 4/1/14

This article is provided for informational purposes only and does not constitute legal advice.

www.invtrust.com



[Sign Up for Investors Trust Company's Weekly Market Update](#)

What is an RSS Feed?

An RSS feed is a method to receive notifications of changes to the content of a webpage or blog. Set the subscription through your web browser and be notified of changes to content as they occur. You may choose to receive notifications through the web browser or an email service. You may also unsubscribe at any time.

COMMERCIAL TITLE INSURANCE CUSTOMERS RELY ON **INVESTORS TITLE INSURANCE COMPANY** FOR AN **UNMATCHED COMBINATION OF SERVICE & PROTECTION**

...personalized service delivered by a NASDAQ-traded title insurance company with superior financial stability and commercial expertise

SERVICE

Before and During Closing

Commercial customers have direct access to knowledgeable, solution-driven title attorneys and underwriters who are experienced in commercial transactions. With a focus on meeting the unique needs of each client, our commercial services include:

- national transactional expertise including multi-state and multi-site coordination
- comprehensive coverage offerings
- tracking of title searches through close management of approved providers which ensures quality work and timely delivery
- customized escrow services
- competitive services and rates with a focus on managing closing costs
- personalized attention through a central point of contact

When There is a Claim

Commercial customers work directly with experienced and responsive claims professionals. When resolving claims, customers have access to local representatives as well as senior management. Our claims professionals are dedicated to fulfilling our claims handling philosophy, which is centered on using practical solutions to resolve claims quickly and fairly. Additionally, the Company prudently maintains the financial resources to meet our claims obligations.

PROTECTION

Better Protection by Spreading the Risk

Risk retention is governed by state law. On any single policy, Investors Title Insurance Company (ITIC), coupled with its sister company, National Investors Title Insurance Company (NITIC), maintains a combined self-imposed risk retention limit of only \$7.5 million, less than 30% of the statutorily-allowed limit. Our conservative reinsurance philosophy reflects our commitment to policyholder protection by limiting the exposure on any single transaction. We provide a combination of primary coverage from ITIC, secondary coverage from NITIC, and tertiary coverage from our reinsurance partner, a national, well-capitalized title insurance underwriter. This way our customers benefit from the protection of multiple companies, all for the cost of one premium. In addition, our reinsurance approach provides insureds direct access to all insurers in the event of a claim.

Investors Title Company – an Industry Leader

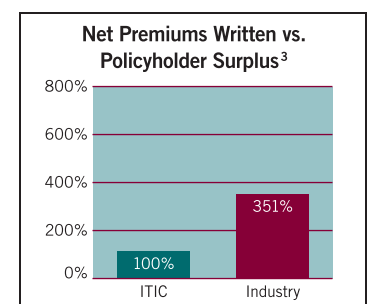
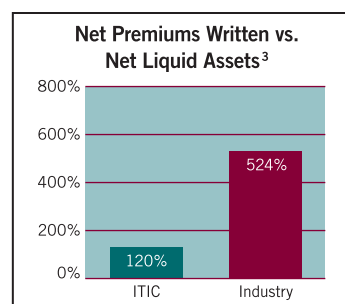
Known for being conservatively managed and operated, Investors Title Company, parent of ITIC, is publicly traded on the NASDAQ exchange under the ticker symbol ITIC. We have a 40+ year track record of strong growth and consistent profitability, and our consolidated balance sheet carries no debt or material intangible assets. Currently Investors Title Company is the fifth largest family of title insurance companies based on policyholder surplus.¹

Superior Financial Strength

We are proud to be rated by Demotech, Inc. and Kroll Bond Rating Agency, Inc., the most recognized rating firms in the title insurance industry. Our superior ratings reflect the strength of our financial resources and the depth of our general and commercial title insurance expertise.

- **Financial Stability Rating® (FSR) of A' (A Double-Prime), Unsurpassed, from Demotech, Inc.**¹ This is the highest FSR available. Only eight companies in the industry have this FSR.
- **Commercial Real Estate Recommendation – Highly Recommended, from Demotech, Inc.** This is the highest level of recommendation for commercial real estate transactions offered by Demotech.¹
- Investors Title consistently earns industry-leading financial ratings from **Kroll Bond Rating Agency, Inc.**²

A key characteristic of conservatively managed and financially stable insurance companies is low financial leverage. The charts below illustrate that Investors Title Insurance Company uses significantly less leverage than the industry as a whole.



¹ Demotech Performance of Title Insurance Companies, 2012 Edition. For more information regarding Demotech please visit demotech.com.

² For more information regarding Kroll Bond Rating Agency, Inc. please visit krollbondratings.com.

³ Based on data as of December 31, 2011.