

FEDERAL STANDARD ABSTRACT

TITLE NEWS

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Title News

New York City Register Announcement

New York City Register Annette Hill has announced that as of September 1st, 2006, documents for recording in any of the four counties -New York, Queens, Bronx and Kings- may be submitted in any of the four counties. Prior to this announcement, recordings in Queens, Bronx and Kings could be recorded in any of those three counties, but not in New York County.

JP Morgan Chase to Acquire Bank of New York Retail Operations

JPMorgan Chase and the Bank of New York announced an agreement by which the former will acquire the retail operations of the latter in exchange for the former's corporate trust operations. This exchange may include BNY's mortgage company and all of its retail branches, which would become Chase branches. The effective date of the exchange has not been announced.

Special FDIC Alert: Counterfeit checks

The FDIC has detected counterfeit checks purporting to be drawn on accounts held by The Bank of Castile, Apple Bank for Savings, and Bank of China. It is recommended that said banking institutions be contacted prior to accepting their

checks. All forgeries purport to be cashier's checks. For details on the differences between the authentic checks and the forgeries visit the FDIC's website at www.fdic.gov/news/specialalert/2006/index.html

Adverse Possession: Walling v. Przybylo

On June 13, 2006 the Court of Appeals decided *Walling v. Przybylo*, where a homeowner sued his neighbor to quiet title over a strip of land, which plaintiff claimed to have acquired by adverse possession. What is remarkable about the case is that it went as far as the highest court in the State of New York only to re-affirm the principles of adverse possession. The court re-stated that a claim for adverse possession consists of five elements: "(1) hostile and under claim of right; (2) actual; (3) open and notorious; (4) exclusive; and (5) continuous for the required period." The court expressly stated that knowledge that one's possession of land is illegitimate does not prevent one's acquisition of title by adverse possession. The case is recommended reading for law students and attorneys starting in the field of real estate law. While the case has yet to be formally published it can be found at www.courts.state.ny.us/ctapps/decisions/jun06/68opn06.pdf.

If you have any questions or comments, contact us at fsa@federalstandardabstract.com

Industry Curiosities

Why do we wait for hours at closings for wires to arrive? Why can't the modern banking system automatically debit and credit accounts?

Consider this typical scenario: The lender's closing department confirms a closing and submits wiring instructions to its wiring room. The wiring room receives the instructions and contacts the closing department to verify the information over the phone. After verification, the wire is "sent". The receiving bank receives the transfer, verifies the instructions and the funds are posted in the corresponding account. How long can that take? Perhaps 20 minutes?

The above scenario ignores what it means "to send a wire". Banks transfer funds by entering book transfers in a common clearing house; i.e. an entity in which both, sender and receiver, hold accounts. The most common clearing house for national wire transfers is Fedwire, a creature of the Federal Reserve. Almost every bank involved in wire transfers holds an account with Fedwire. So when Bank A forwards wiring instructions to Fedwire the instructions state to debit a certain amount from Bank A's account and credit it in Bank B's account to the benefit of Accountholder. Bank B receives notice of the increase in its Fedwire account and it credits Accountholder.

The reason for the lengthy delays is what is known as "daylight overdrafts". If Fedwire receives instructions that will result in an overdraft, Fedwire may reject or fulfill the instructions by extending credit and imposing penalties. The threat of those charges drives wiring rooms to monitor closely their rolling balances. If a wiring room receives instructions that would result in an overdraft, the wiring room will typically withhold the instructions until the bank receives a transfer from another bank, which increases the available balance. It is only then that the instructions are forwarded to Fedwire. The long wait is usually the result of the sender's bank having too little available funds and having to wait for in-coming wires before sending out its own. Because of the high volume of daily wire transfers across the nation, overdrafts are normally healed by the end of the business day, hence the name "daylight overdraft".

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