

# ATG® MEMBER NEWS WISCONSIN

September 2006

Vol. 3 No. 1

## WISCONSIN MEMBER APPRECIATION EVENT HELD AT MILLER PARK

We hosted our annual Wisconsin Member Appreciation event July 7, 2006, at Miller Park in Milwaukee (see the September/October issue of *the ATG Concept* on the member section of [www.atgf.com](http://www.atgf.com)). The ATG-sponsored luxury box was filled with Wisconsin members and their guests who enjoyed a baseball game between the Milwaukee Brewers and Chicago Cubs.

Prior to the game, President and CEO, Peter J. Birnbaum, and Managing Attorney for Wisconsin Operations, Thomas G. Cullen, presented a seminar, "Significant Issues Facing Real Estate Lawyers." The speakers discussed recent developments at the Department of Housing and Urban Development, proposed changes to the Real Estate Settlement and Procedures Act, ethical considerations for the dual practice of law, legal issues impacting affiliated business in real estate transactions, and other related legal topics. The presentation also included a status report of Wisconsin operations, plus a discussion on ATG's future growth and development.



ATG Wisconsin office staff members Tom Cullen, Managing Attorney, ATG Wisconsin Operations (left) and Roman Reynolds, ATG Member Sales and Support Representative (center), with John Pipal, ATG member, Dodgeville, Wisconsin.

Overall, it was a wonderful day and everyone had a great time—despite a Cubs victory over our Brew Crew! Thank you to the members and guests who attended. We look forward to next year's event.

## PROCEDURAL UPDATE: INFORMED CONSENT WAIVER

Clients must sign an Informed Consent Waiver when legal and title services are provided to the client in the same real estate transaction. The practice of providing legal and title insurance services to a client in the same real estate transaction is without question permitted under

the Wisconsin Supreme Court rules and ethics opinions. See Wis. Formal Ethics Ops. E-82-11, E-83-14, and E-85-05. However, attorneys should be mindful that when they are providing non-legal services, such as the sale of title insurance, the Wisconsin Supreme Court Rules of Professional Conduct (SCR) are still applicable. In other words, lawyers cannot divorce themselves from their ethical duties because they are providing a non-legal service. This is particularly important with respect to SCR 20:1.8(a) concerning business transactions between clients and their counsel. The rule permits these types of business transactions, but addresses the issue of potential or actual conflicts of interest that may be created from them. The rule requires that before a transaction can take place, a lawyer must disclose the transactional terms and conditions and the client consents to those terms, in writing.

For ATG purposes, the sale of title insurance to a client is a business transaction triggering the consent requirement. As a result, in situations where the ATG member is providing legal representation and is the title insurance agent, ATG members must comply with the disclosure requirements of SCR 20:1.8(a). The rule states that the following disclosures must be made:

1. The title insurance sales price must be fair and reasonable and reasonably understood by the client.
2. The client is advised that he/she may seek independent legal counsel concerning the purchase of title insurance and is given a reasonable opportunity to obtain said counsel.
3. Obtain, in writing, the client's informed consent to the transaction and waiver of any potential or actual conflict of interest.

ATG is currently drafting an Informed Consent Waiver document for Wisconsin members' use. Members must obtain the client's signature and retain the document in the transaction file for all transaction where the member is providing legal services and title insurance services to a client in the same transaction. We anticipate that the Informed Consent Waiver document will be available on our website (with notice sent via broadcast fax) on or before October 1, 2006. If you need additional information on this subject please contact Thomas G. Cullen, Managing Attorney, Wisconsin Operations, 608.827.5228 or [tcullen@atgf.com](mailto:tcullen@atgf.com).

## GREAT CHANGES IN SEARCH PROCEDURES

ATG has changed the search requirements for Wisconsin property. Until now, members were required to request or perform a 60-year search for all subdivided properties without a prior policy. Effective immediately, we have changed that requirement to 20 years. We are hopeful that this will be a benefit to members both in terms of costs and search time. The new requirements are as follows:

- Conduct 20-year searches on subdivided properties.
- Provide a current Warranty Deed.
- Conduct a 30-year search when the property has been held by a single owner for more than 20 years.
- Do not stop the search at the Certified Survey Map (CSM) unless it's past the 20-year limit—CSMs do not contain all the easements on the underlying ground.

If you have any questions regarding these search requirements, please contact Shelley K. Reynolds, 608.827.5228 or sreynolds@atgf.com.

## REMINDERS TO MEMBERS

### ATG® Form Requirements

The following six signed documents must be included with every transaction:

1. ATG Form 3033: Construction Lien and Possession Affidavit.
2. ATG Form 4000: Agency/Escrow Disbursement Agreement.
3. ATG Form 3037: Privacy Policy.
4. ATG Form 3017-A: Disclosure Statement Controlled Business Arrangement.
5. ATG Form 3026: Certification for no Information Reporting (buy/sell transactions only).
6. ATG Form 3043: Informed Consent Form (to come – needed when the ATG member is acting in the capacity of both attorney and title agent for a transaction).

There are three ways to obtain these forms: download them from the Member section of our website, [www.atgf.com](http://www.atgf.com); access them in ATG REsource, or call our Order Department at 217.403.0114. If you have any questions about how to use the forms, contact our Madison office at 608.827.5228.

### Member Information Required on Forms

Include the member's name, address, and telephone number on all commitments and policies. This saves time when clients, lenders, and real estate agents have questions about the commitment or policy. It also gives the lender a contact name and number when a final policy has not been issued. We appreciate your cooperation.

## ATG® HIRES OFFICE COORDINATOR FOR MADISON OFFICE

ATG is pleased to announce Ms. Jill Vande Zande as the full-time Office Coordinator for the ATG Madison office. Jill is a May 2005 honors graduate of Taylor University, Upland, Indiana. She started with ATG in early July and is a bright, energetic individual who has already become a valuable asset to our Madison office. Jill performs front office duties, prepares, and maintains financial reports,



Jill Vande Zande

and correspondence. In addition, she assists in document preparation for real estate closings, provides support to members on ATG REsource® issues, and handles other duties as needed. The next time you call the Madison office, Jill will probably answer the telephone—please take a moment to introduce yourself to our newest employee!

We also welcomed back Sara Geenen as a part-time Law Clerk for the fall. Sara will work with us until the end of the year when she will be graduating from the University of Wisconsin Law School.



Sara Geenen

## WISCONSIN STAFF DIRECTORY

Contact us Monday through Friday from 8:00 a.m. to 5:00 p.m., including over the noon hour, at 800.788.8989. E-mail your underwriting questions to [legal@atgf.com](mailto:legal@atgf.com).

NAME	TITLE/CONTACT INFORMATION
Thomas Cullen	Managing Attorney, Wisconsin Operations <a href="mailto:tcullen@atgf.com">tcullen@atgf.com</a>
Sara Geenen	Law Clerk <a href="mailto:sgeenen@atgf.com">sgeenen@atgf.com</a>
Roman Reynolds	Representative – Member Sales and Support <a href="mailto:romanr@atgf.com">romanr@atgf.com</a>
Shelley Reynolds	Manager – Business Development, Wisconsin <a href="mailto:sreynolds@atgf.com">sreynolds@atgf.com</a>
Jill Vande Zande	Office Administrator <a href="mailto:jvande@atgf.com">jvande@atgf.com</a>

ATG Member News - Wisconsin is a supplement to *the ATG concept*, the monthly publication of Attorneys' Title Guaranty Fund, Inc. ■ P.O. Box 9136 ■ Champaign, IL 61826-9136. ■ Inquiries may be directed to Mary Beth McCarthy, Senior Manager – Corporate Communications, or Thomas Cullen, Managing Attorney, Wisconsin Operations. ■ Back issues may be obtained by calling the Order Department at 800.252.5206, or 217.359.2042, ext. 2114. © 2006 Attorneys' Title Guaranty Fund, Inc. ■ "ATG," "ATG" plus logo, and "the ATG Concept" are marks of Attorneys' Title Guaranty Fund, Inc. and are registered in the U.S. Patent and Trademark Office.



PRINTED ON RECYCLED PAPER.