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## Escrow Association of Santa Clara Valley

JUNE 2009



### PRESIDENT'S LETTER

We are just about at the half way mark of 2009. For our members who have professional designations, now is a good time to tally up educational points that have been earned so far this year. Our region boasts 24 members holding a professional designation with 9 members having the designation of Certified Escrow Instructor (CEI).

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While this may be the start of the 3 year cycle, putting off earning those cherished educational points could leave you scrambling with the overwhelming task of earning the required points before the end of 2011.

Professional designation holders need to earn 45 continuing educational credits during each 3 year cycle. CEI holders need to conduct 3 hours of (CEA approved) education training during the same 3 year cycle in order to maintain the CEI designation.

The economy has forced some regions to cut costs by eliminating dinner/educational meetings. You can be proud that the focus of the Escrow Association of Santa Clara Valley has been to provide educational opportunities, within the limits of a greatly reduced budget.

Each of our 6 dinner meetings qualifies for two points. The fully attended Nor-Cal Conference would have earned 13 points.

Anyone working in our industry will agree that the vast intricacies of laws, documents, policies and practices, combined with the creative twists and turns of each transaction is challenged by never ending changes. Keeping current on changes to laws, documents, policies and practices by attending educational events, demonstrates a commitment of investing in yourself and our profession.

There are only 3 dinner meetings remaining for 2009.

The next two dinner meetings scheduled for July 21 and September 15 will be a two part mock trial. The trial will be based on escrows that were closed with sloppy practices and 'corner-cutting' of what may have seemed like small details. Unfortunately, with our nation's economy forcing buyers into foreclosure, these seemingly small details have made their way into our court system.

The prosecution, presenting their argument that the buyers were the victim, seeking monetary damages from the title/escrow company, will be during the July 21 meeting. Representing the prosecution will be Linda Bentson, CEI, CEO, CSEO, from Old Republic Title.

The defense, representing their argument that the title/escrow company acted in good faith, will be during the September 15 meeting. Representing the defense will be Joette Joseph, CEI, CEO, CSEO from Old Republic Title. Acting as the jury declaring their verdict, based on these two presentations will be our dinner guests.

I hope to see you there, as we will have some fun hamming it up!

*Anita Rubeck*

Anita Rubeck, 2009 President  
[alrubeck@firstam.com](mailto:alrubeck@firstam.com) ~ [anita.rubeck@yahoo.com](mailto:anita.rubeck@yahoo.com)



# 2009 CALENDAR

## ESCROW ASSOCIATION OF SANTA CLARA VALLEY

- July 14, 2009**                      **Teleconference Board Meeting at 5:30 p.m.**  
**July 21, 2009**                      **General Membership Dinner Meeting at 6:00 p.m.-**  
    **Old Republic Title Company-1900 The Alameda, 2nd Floor, San Jose, CA 95118**  
    **Speaker: Trial, Part I**
- August 7-8, 2009**                      **CEA Board of Directors Meeting**  
    **Renaissance Hotel, Long Beach, CA**
- August 18, 2009**                      **Face to Face Board Meeting at 5:30 p.m.**  
    **Old Republic Title Company – Main Office**
- September 8, 2009**                      **Teleconference Board Meeting at 5:30 p.m.**  
**September 15, 2009**                      **General Membership Dinner Meeting at 6:00 p.m.**  
    **Old Republic Title Company-1900 The Alameda, 2nd Floor, San Jose, CA 95118**  
    **Speaker: Trial, Part II**
- October 20, 2009**                      **Face to Face Board Meeting at 5:30 p.m.**  
    **Old Republic Title Company – Main Office**
- October 22-25, 2009**                      **CEA 54th Annual Educational Conference**  
    **Long Beach, CA**
- November 10, 2009**                      **Teleconference Board Meeting at 5:30 p.m.**  
**November 13-14, 2009**                      **CEA Board of Directors Meeting**  
    **Renaissance Hotel, Long Beach, CA**
- November 17, 2009**                      **Installation of 2010 Officers & Directors Dinner Mtg at 6:00 p.m.**  
    **Old Republic Title Company-1900 The Alameda, 2nd Floor, San Jose, CA 95118**
- November 30, 2009**                      **2010 membership renewals due to CEA Headquarters**
- December, 2009**                      **Joint Meeting with 2009 and 2008 with**  
    **Board of Officers and Directors**  
    **Time and Date – to be determined**
- December 31, 2009**                      **P. D. 502 forms due to CEA Headquarters**

<b>2009 Officers and Board Members</b>			
<b>President</b>	<b>Anita Rubeck</b>	<a href="mailto:Anita.rubeck@yahoo.com">Anita.rubeck@yahoo.com</a>	<b>(510) 709-5318</b>
<b>Vice President</b>	<b>Lena Signor</b>	<a href="mailto:lena@norcalescrow.com">lena@norcalescrow.com</a>	<b>(408) 267-2200</b>
<b>Secretary</b>	<b>Linda R. Murphy</b>	<a href="mailto:Linda.al@comcast.net">Linda.al@comcast.net</a>	<b>(408) 203-0820</b>
<b>Treasurer</b>	<b>Joette Joseph</b>	<a href="mailto:jjoseph@ortc.com">jjoseph@ortc.com</a>	<b>(408) 354-9128</b>
<b>Past President</b>	<b>Colleen Gallagher</b>	<a href="mailto:colleen.gallagher@fnf.com">colleen.gallagher@fnf.com</a>	<b>(408) 371-8040</b>
<b>Director</b>	<b>Joseph Difù</b>	<a href="mailto:joe@1031xsi.com">joe@1031xsi.com</a>	<b>(408) 377-6700</b>
<b>Director</b>	<b>Jackye Chai</b>	<a href="mailto:jchai@ortc.com">jchai@ortc.com</a>	<b>(408) 296-4500x 325</b>
<b>Director</b>	<b>Philippe Doren</b>	<a href="mailto:pdoren@hotmail.com">pdoren@hotmail.com</a>	<b>(408) 464-2158</b>



# Escrow Association of Santa Clara Valley

## *JULY'S DINNER MEETING*

**Where:** Old Republic Title at 1900 The Alameda, 2<sup>nd</sup> Flr. Conf. Room, SJ

**When:** Tuesday July 21<sup>st</sup>, at 6:00

***THE SUBJECT FOR THIS DINNER MEETING WILL BE  
TRIAL, PART I***

**\$15.00 for Members and \$20.00 for Non-members**

***Please note: RSVP's must be emailed to [pdoren@hotmail.com](mailto:pdoren@hotmail.com)  
OR faxed to (408) 295-2891 no later than 3pm the FRIDAY BEFORE the meeting!***

Company Name: \_\_\_\_\_ Phone \_\_\_\_\_

Company Contact: \_\_\_\_\_

Name of guests	Member Y/N	Designation
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

Chicago Title-Kathryn Kelly: (650) 326-7538	First American(San Jose)Lauren Willis: <a href="mailto:lwillis@firstam.com">lwillis@firstam.com</a>
Cornerstone Title: <a href="mailto:ssayers@cornerstonetitleco.com">ssayers@cornerstonetitleco.com</a>	First American(Monterey) Lal Sutton: <a href="mailto:lsutton@firstam.com">lsutton@firstam.com</a>
Fidelity National Title-Jason Herrera: <a href="mailto:jhererra@fnf.com">jhererra@fnf.com</a>	North American-Pam Jackson: <a href="mailto:pjackson@nat.com">pjackson@nat.com</a>
Stewart Title-Vickie Stermer: <a href="mailto:vstermer@stewart.com">vstermer@stewart.com</a>	Old Republic Title-Linda Bentson: <a href="mailto:lbentson@ortc.com">lbentson@ortc.com</a>

**NEW** If your company is not listed or if you are the contact person for your company, please email reservations to [pdoren@hotmail.com](mailto:pdoren@hotmail.com) or fax (408) 295-2891

"PD holders will receive 2 to 2 ½ credits for this dinner meeting & future general membership meetings."



## **WHERE IS THE RECORDING CONFIRMATION?**

It all started out with what seemed like a simple refinance.

Prior to close of escrow, the fundamentals of obtaining a current and valid demand for payoff of the existing deed of trust was obtained, the owner supplied all but one of their credit card statements for payment in the escrow, the escrow papers and loan documents were signed without hesitation, the new lender funded the loan and escrow closed.

The lender's instructions stated the amount due for each of the credit card holders. The amount shown for payment due to the one creditor that the owner had not supplied escrow with a statement was \$80.00.

Based on a promise from the owner that the one last credit card statement would arrive shortly, escrow closed. With escrow holding the \$80.00 for the credit card, the audit calculated a \$100.00 refund due the owner.

While escrow continued to remind the owner of the need of the last credit card statement, escrow held the combined \$180.00.

Several months later, after much badgering from escrow, the owner provided the credit card statement. Escrow remitted the \$80.00 payment to the credit card company and forwarded the \$100.00 refund together with the HUD statement to the owner.

Shortly after receiving HUD and cashing the \$100.00 refund check, the owner requested from escrow, a copy of the deed of trust certified with the recording information.

Much to the dismay of the escrow officer, the recording information was not in the escrow file. A title search of the property did not find recording information either.

The escrow file did have a copy of the deed of trust. Escrow contacted the owner, several times, requesting a new signature on the deed of trust.

One day rolled into several months later, when the escrow officer received a call from the lender. The lender explained that the owner was no longer making the mortgage payment and the lender was attempting to initiate a foreclosure. In processing the foreclosure the lender had been unable to locate the original deed of trust or the recording information. The escrow officer told the lender about the many unsuccessful attempts to obtain a signature on a duplicate copy of the deed of trust.

The escrow officer then received a letter from the Department of Insurance (DOI) requesting a response to the complaints filed by the owner. The owner's complaints included various accusations focusing around escrow negligence for the un-recorded deed of trust. The owner's complaint continued with a claim that the terms of the loan were not the originally agreed upon terms and felt forced into signing the documents. The owner declared that based on these issues, the mortgage payments would be held pending resolution.

## **WHERE IS THE RECORDING CONFIRMATION? Continued....**

Escrow drafted a letter of response to the DOI stating that the owner had made no mention of any issues concerning the terms of the loan. Escrow had contact with the owner before and after close of escrow. By way of evidence of the conversation logs concerning the belated receipt of the last \$80.00 credit card statement, enabling escrow to remit the \$80.00 payment to the creditor. Further evidence of contact with the owner was the copy of the cover letter to the owner which provided the closing statement with a \$100.00 refund check. Since the \$100.00 check had been cashed, that verified the owner received the closing statement.

A copy of the many letters to the owner requesting a signature on the deed of trust, were provided to the DOI. These letters were an indication of escrow's attempt to enable the recording of the deed of trust.

Letters to the DOI suggested that the owner was simply using the un-recorded deed of trust as a leverage tool against the lender, and hinder the foreclosure.

Countless letters and phone calls between the owner, the lender, the DOI and the escrow company, over the course of nearly two years, amassed many hours of work, and created a very thick claim file.

Clearly the DOI took an advocate position in favor of the owner. One letter from the DOI demanded that the escrow, title and recording fees be returned to the borrower.

The DOI argued that since the deed of trust never recorded:

- 1) There was no recording fee
- 2) There was no title insurance; hence no title fee should have been collected
- 3) Escrow did not perform the duty of releasing or obtaining recording confirmation prior to distribution of the funds and the closing statement

The lender continued their suit against the owner under the terms of the note. The lender sued for recovery of the unpaid balance, their legal fees and all the interest which continued to accumulate on the remaining loan balance.

The court ruled in favor of the lender.

There are a wide variety of details in processing an escrow transaction, which include checks-and-balances to ensure a file has been perfected for closing. One of those details is the double checking, during the audit of the file prior to recording, that the recording was released. Another detail is the verification of receipt of the recording confirmation prior to the release of funds from an escrow. The formulation of these good practices will help the escrow process to a complete closing.

~Anita Rubeck, CEI, CSEO  
Forensic Escrow Services

## Friends Don't ask Friends to Borrow a Notary Journal

Lately I've been receiving lots of questions concerning notary practices. The questions seem to circle around the same old issues a Notary Public has faced for many years. Out of curiosity, I "googled" the history of the Notary Public and found similar stories.

Today we are grateful to the ancient Egyptian Scribes who recorded the many important details of Egyptian life. It was a prestigious and powerful occupation. Often Scribes would sit near the throne as they recorded daily events, gaining personal favor with the Pharaoh.

Later, Rome used other names for the Scribe, such as *scribae*, *tabellius* and the more familiar sounding *notarius*.

Scribes, started as transcribers and grew in their duties to prominent leaders in public and private official affairs and witnessing signatures on documents.

The ancient Romans held the Notary in fairly high esteem too. Many were regular officials that were a part of the Senata and court system, and their duties were acted out within the judicial system. Others would make a public record of proceedings, transcribe official documents and supply the magistrates and other official officers of the courts with judgments, certificates and documents.

Certainly not the oldest profession on earth, many will argue that Notaries are the oldest continuously operating branch of the law, or legal profession that is still in existence.

Across the globe the position of the Notary is often a government official, or lawyer.

In California there is not a requirement that the Notary Public be a lawyer. A Notary must be a US citizen, pass a test, obtain a bond, take an oath, and perform other requirements which instill a certain amount of honor and prestige.

Today a Notary must take care to mind the notary laws, and never allow a compromise, not even for the sake of a friendship.

In an escrow office, it is not unusual for co-workers to become the best of friends. Sometimes an escrow officer will ask a trusted friend and co-worker for a favor.

In one case, an escrow officer had arranged for a \$50,000.00 loan with a client who often made private loans. The escrow officer told the lender the loan was for the daughter.

Since this was a family affair, the lender did not see the need for title insurance.

The escrow officer drafted the Note and Deed of Trust.

The escrow officer was not a notary. The escrow officer told the co-worker and friend, who was a notary that the daughter was way too busy working and could not come to the office during regular business hours. The escrow officer asked to borrow the notary journal for obtaining the daughter's signature in the journal for notarizing the Deed of Trust.

The co-worker trusted her co-worker/friend and gave the notary journal to the escrow officer.

The document was notarized and the Deed of Trust was recorded.

The private lender gave the \$50,000.00 check to the escrow officer for delivery to the daughter.

Unfortunately, the escrow officer forged the signature of the daughter, and cashed the check.

The escrow officer intended to payoff a gambling debt and then make the monthly payments on the loan until paid off.

## **Friends Don't ask Friends to Borrow a Notary Journal Continued...**

Double-unfortunately, the escrow officer decided to gamble with the \$50,000.00, in the hopes of increasing the funds.

Triple-unfortunately, the gamble did not pay off, lost the \$50,000.00 and was unable to payoff the gambling debt.

Soon the escrow officer became delinquent on the monthly payments on the \$50,000.00 loan. The escrow officer kept assuring the lender that the payments would be made shortly.

After a while the private lender decided it was time to visit the property, and knocked on the door. The daughter answered the door. It was at this point the daughter first learned of the \$50,000.00 lien against her property. The lender explained that the loan documents were drafted at the escrow office where her parent was employed.

The daughter contacted the main office of the escrow company and gave notice of the forgery on the Deed of Trust recorded against her property.

An investigation was launched and the escrow officer and notary admitted to all the events described in the police report that had been filed by the daughter.

The employment of the notary and the escrow officer were terminated.

The daughter pursued criminal and civil action against the escrow officer and the notary.

Finally-unfortunately, the escrow officer was found dead in a hotel room, under suspicious circumstances.

All Notary laws are important, but there are a few I have copied and paste inside the front cover of my journal for easy reference. Those laws are:

The journal shall be kept in a locked and secured area, under the direct and exclusive control of the notary.

A notary public who knowingly and willfully with the intent to defraud performs any notarial act in relation to a deed of trust on real property consisting of a single-family residence containing not more than four dwelling units, with knowledge that the deed of trust contains any false statements or is forged, in whole or in part, is guilty of a felony.

Any person who solicits, coerces, or in any manner influences a notary public to perform an improper notarial act knowing that act to be an improper act, including any act required of a notary public under Section 8206, shall be guilty of a misdemeanor.

As with many penalties provided by the notary laws, they are not exclusive remedies and do not affect any other relief or remedy provided by law

~Anita Rubeck, CSEO, CEI  
Forensic Escrow Services

## EASCV BUDGET FOR 2009--APRIL

Category	Apr-09	2009 Disbursed	Annual Budget 2009	Remaining Balance	2008 Disbursed	Annual Budget 2008
<b>Expense</b>						
Marketing/Web Site	\$69.95	\$279.80	\$850.00	\$570.20	\$1,078.31	\$1,800.00
AEA Conference			\$0.00	\$0.00	\$3,020.58	\$1,800.00
Bank Charges			\$30.00	\$30.00	\$26.43	\$30.00
CEA Directors	\$291.12	\$452.92	\$3,200.00	\$2,164.84	\$4,324.22	\$5,000.00
Dinner Meeting Cost	\$82.41	\$369.38	\$750.00	\$380.62	\$4,550.00	\$7,000.00
Donations				\$0.00	\$500.00	\$500.00
Personal Donations					\$416.00	
Fundraising Expense			\$500.00	\$500.00		\$500.00
Holiday Turkeys				\$0.00	\$250.00	\$250.00
Installation Cost/Wine						
Membership Expense			\$60.00	\$60.00	\$61.84	\$300.00
Newsletter	\$65.00	\$260.00	\$780.00	\$520.00	\$780.00	\$780.00
Historian				\$0.00		\$250.00
PD/Education costs			\$250.00	\$250.00	\$445.75	\$1,000.00
PO Box fee		\$14.00	\$125.00	\$111.00	\$94.00	\$125.00
President's Fund			\$0.00	\$0.00		\$0.00
President's Plaque			\$35.00	\$35.00	\$32.48	\$20.00
Raffle Prizes		\$101.97	\$600.00	\$498.03	\$739.51	\$900.00
CEA raffle			\$150.00	\$150.00	\$150.00	\$400.00
Scholarships			\$0.00	\$0.00		\$0.00
Speaker Costs/Gifts		\$25.00	\$100.00	\$75.00	\$1,250.00	\$2,000.00
Storage Rent			\$500.00	\$500.00	\$456.00	\$500.00
Tax Obligation			\$10.00	\$10.00	\$10.00	\$10.00
Tax Preparation			\$500.00	\$500.00	\$489.00	\$500.00
Escrow Trivia			\$0.00	\$0.00		
Expense/All Other			\$0.00	\$0.00		\$50.00
Board Meeting Expense			\$250.00	\$250.00	\$670.09	\$750.00
<b>Total</b>	<b>\$508.48</b>	<b>\$1,503.07</b>	<b>\$8,690.00</b>	<b>\$6,604.69</b>	<b>\$19,344.21</b>	<b>\$24,465.00</b>
<b>Income</b>		<b>2009 Received</b>	<b>2009 Budget</b>		<b>2008 Received</b>	<b>2008 Budget</b>
Earned Interest	\$0.18	\$0.55		\$0.55	\$4.93	\$20.00
Returned Check Charges			\$0.00	\$0.00		\$0.00
Dinner Meetings		\$1,164.00	\$2,000.00	\$836.00	\$4,405.01	\$10,000.00
Fundraising			\$0.00	\$0.00	\$0.00	\$400.00
Membership	\$775.00	\$775.00	\$700.00	-\$75.00	\$1,250.00	\$1,500.00
Miscellaneous			\$0.00	\$0.00	\$0.00	\$0.00
NorCal			\$500.00	\$500.00	\$881.68	\$2,500.00
PD/Education				\$0.00	\$695.00	\$2,000.00
Raffle	\$248.00	\$262.00	\$1,200.00	\$93.00	\$928.00	\$2,045.00
Investment CD Withdrawal			\$4,290.00	\$4,290.00	\$6,000.00	\$6,000.00
Personal Donations					\$416.00	
<b>Total</b>	<b>\$1,023.18</b>	<b>\$2,201.55</b>	<b>\$8,690.00</b>	<b>\$6,489.55</b>	<b>\$14,580.62</b>	<b>\$24,465.00</b>



## Escrow Association of Santa Clara Valley Minutes of the June Board Meeting

Dated: June 16, 2009

Called to Order: 5:49 p.m. By President, Anita Rubeck

At: Old Republic Title Company

1900 The Alameda, 2<sup>nd</sup> Floor, San Jose, CA 95118

Attendance: Anita Rubeck, Lena Signor, Linda R. Murphy, Jackye Chai and Philippe C. Doren.

Absent: Joette Joseph, Joseph Difu, and Colleen Gallagher.

Guest: None.

1. Approval of Minutes: A motion to approve May 13th, 2009 minutes was made by Lena Signor; seconded by Jackye Chai. Motion carried or as amended.
2. Treasurer's Report: A motion to approve May 2009 Report was made by Lena Signor; seconded by Philippe C. Doren. Motion carried or as amended.
  - a. Bills to submit:
    - \$115.00 to JC Vasquez for May newsletter & website.
    - \$ 19.95 to Daniel Eisenman for May web hosting.
    - \$157.22 to Anita Rubeck for:
      - \$99.00 for 3 raffle prizes
      - \$58.22 for May dinner meeting food.
  - b. Funds to deposit:
    - \$ 70.00 additional May raffle income deposited to Bank of America on June 9, 2009.
3. Membership – Linda Murphy
  - a. Amount of total members: 32.
    - 29 individual active, 2 individual associate and 1 individual inactive members.
  - b. We need to follow up with CEA Headquarters regarding membership status of the following members: Lucinda, Jackie Silva, Pam Mannia, Pam Jackson, Mary Lazo and Colleen Gallagher.
4. Professional Designation: Lena Signor.
  - a. No report at this time.
5. Site – Philippe C. Doren
  - a. Duly noted to have a vegetarian dish at the dinner meetings.
  - b. Subject: Mock Trial – Part I on July 21<sup>st</sup>, 2009.
  - c. Theme for the food will be pasta, salad, and dessert.
6. Fundraiser Committee – Entire Board
  - a. Bay Area 2010 Entertainment books have been ordered but not present at this board meeting. Report was tabled for next board meeting.
7. Historian/Photos – Joe Difu.
  - a. No report.
8. Raffle Report – Colleen Gallagher
  - a. We should continue to sell the raffle tickets as:
    - 1 raffle ticket for \$5.00 and 3 raffle tickets for \$15.00

- b. Board appointed Jackye Chai to assist with raffle sales for the balance of the year. We really need to boost raffle sales.
  - c. Philipe Doren volunteered to serve the wine for July.
9. Speaker Gift – Jackie Chai
- a. No speaker gifts are required as our CEI professional designation holders will participate in various roles of the Mock Trials for July and September dinner meetings as well as earn PD credits. Their help is extremely important and greatly appreciated. Reminder: Send “Thank You” cards to each participant.
10. Old Business
- a. We have 10 CEI PD holders in our membership and Anita will contact them for their assistance with the Mock Trials.
11. New Business
- a. Anita spoke to Nancy Tarr with First American Title Company – Escrow Operations for Western region at the NorCal Conference. Nancy asked that we forward a copy of the reservation form for the next dinner meeting. Anita will follow up with her.
  - b. We need a nomination chairperson and committee for the slate of officers/directors for 2010. Typically, the committee meets and gathers the prospective officers and directors in late June and early July. Submits a performa ballot to the board at the July board meeting. A ballot is created by the committee and mailed to the active members only by August 1<sup>st</sup> with a deadline of Sept. 1<sup>st</sup>. The board is notified of the results at the Sept. board meeting. CEA Headquarters is also notified of the results. The installation of the 2010 officers and directors is performed at the November dinner meeting.
  - c. Judi Souza reported to Anita that she did attend the AEA Conference in Reno, NV this year and Judi agreed to submit a report for our July newsletter.
  - d. Next board meeting will be on July 14<sup>th</sup>, 2009 via teleconference.

Adjourned at 6:40 p.m.

Respectfully submitted

Linda R. Murphy, CEO

*Certified Escrow Officer*

Secretary for the Escrow Association of Santa Clara Valley

CHECK OUT OUR WEBSITE AT [HTTP://WWW.EASCV.ORG](http://www.eascv.org)

FIND INFORMATION ON PAST NEWSLETTERS, PICTURES, INFORMATION ON CEA AND MUCH MORE.

QUESTIONS OR COMMENTS? PLEASE CONTACT THE BOARD AT [INFO@EASCV.ORG](mailto:info@eascv.org)