

Dear Stewart Partners,

As we move into the month of January, the number of infections across Massachusetts and New England is rising and many municipalities have imposed mask mandates again. The Massachusetts Supreme Judicial Court announced all jury trials will be paused through the month of January. The Trial Court, which includes the Land Court, also announced that in-person staffing has been scaled back under a temporary order that became effective on January 3, 2022. Links to both orders are below.

January has also brought with it the usual influx of phishing attempts by bad actors attempting to impersonate title insurance companies, lenders, attorneys, and closing agents. Read below for tips on how to spot threats and avoid becoming a victim.

In this week's update we've also highlighted a recent case which examined the statutes of limitations of beneficiaries to bring suit under the Massachusetts Uniform Trust Code. Also, in case you missed it, we've included information on the recent underwriting bulletin issued by Stewart's Legal Department about Delaware Statutory Trusts. Lastly, we've included information about our upcoming webinars on the new 2021 ALTA policy forms, and links to sign up in case you haven't already.

- *Massachusetts Jury Trials Paused for the Month of January*

The Supreme Judicial Court issued an amendment to the existing order regarding court operations under exigent circumstances created by the COVID-19 pandemic. The amendment modifies the existing order by pausing all jury trials, including criminal and civil matters with a general continuance, until after January 31, 2022. In the order, the court acknowledges that the pause will likely create further backlog. To view the order, follow this link:

<https://www.mass.gov/doc/first-amendment-to-sjc-seventh-updated-order-regarding-court-operations-under-the-exigent-circumstances-created-by-the-covid-19-coronavirus-pandemic/download>

The U.S. District Court for the District of Massachusetts has also suspended jury trials through January 28, 2022. You can read the notice here:

<https://www.mad.uscourts.gov/general/pdf/announce/Public%20Notice%20-%20Jury%20Trial%20Update.pdf>

- *Trial Courts Operations-remote staffing*

The Trial Court has issued an Interim Administrative Order concerning trial court operations, which is effective until further notice. The Order directs that remote court operations will be implemented wherever possible. It further directs all Trial Court managers, including but not limited to Clerks, Clerk-Magistrates, Registers of Probate, and the Recorder of the Land Court, to reduce office staff working in-person to no more than 50% of the total number of staff working at any time. To read the full order, follow this link: <https://www.mass.gov/trial-court-rules/trial-court-emergency-interim-administrative-order-22-1-interim-order-concerning-trial-court-operations>

- *Think before you click that link!*

A number of our agents have been on the receiving end of emails that appear to come from Stewart or another title company or business associate. We've received reports that these emails use logos and other branded information, making the emails, at first glance, look legitimate. The common theme, however, is the email was unexpected or contained a request to open a link. The message might say that the CD needs final approval or other important documents need to be viewed.

As a reminder, if you weren't expecting the particular materials in an email, or the email is out of the ordinary for the sender, don't click the link. If you are simply not sure if this is something that is legitimate, call the sender at a number you have in your records, not the one on the email. Also, hovering over the link can often times show that the URL in the link is different than what is shown.

- *Sacks v. Dissinger, 480 Mass. 780 (2021)*

In *Sacks*, the Court addressed the applicability of the one-year statute of limitation found in the Massachusetts Uniform Trust Code at GL c. 203E § 604. The MUTC sets forth a 1-year statute of limitations for claims for trust contests. In this case, two original trust beneficiaries brought suit after that period, asserting that they were wrongfully removed as beneficiaries based on the conduct of certain relatives. The defendants were originally successful in the lower court, but the decision was appealed. The Supreme Judicial Court on its own initiative transferred the case from the Appeals Court.

The former beneficiaries argued that the 1-year statute of limitations does not apply, as their challenge is not a trust contest, and the statute is limited to such actions; rather their claim is one for unjust enrichment based on tortious conduct, and such actions are subject to a 3-year statute of limitations under GL. c. 260, § 2A. The court agreed. The court held that the challenge was not as to the validity of the trust, rather, the former beneficiaries were seeking relief and compensation as a result of the tortious conduct of another, which conduct lead others to benefit at their expense. To read the full decision, follow this

link: <https://law.justia.com/cases/massachusetts/supreme-court/2021/sjc-13105.html>

- *Special Alert Bulletin – SLS2022001 Delaware Statutory Trusts*

On January 11, 2022, Stewart issued a bulletin related to Delaware Statutory Trusts and their usage as property owning entities in commercial transactions. The bulletin is a reminder that a Delaware Statutory Trust is a separate legal entity but requires that the trust have a trustee. If you are asked to insure a transaction where the owner and/or borrower is a Delaware Statutory Trust, it is important to remember that the title should be in the name of the trustee as trustee for the specific trust and that the mortgage is granted by the trustee, as trustee for the specific trust. To read the full bulletin, please follow this

link: <https://www.virtualunderwriter.com/en/bulletins/2022-1/sls2022001.html>

- Upcoming Education from Your Local Stewart Underwriters

We will be hosting two upcoming webinars on the NEW ALTA 2021 owner and loan policy forms.

- Date: January 19, 2022 at 10 AM
Topic: **2021 Basic Owner's and Homeowner's Policy Forms – What You Need to Know**
Speakers: Christine Provost and Tracie Kester
To register for this webinar, follow this link: <https://stewart.webex.com/stewart/k2/j.php?MTID=t9e9f0cd61c43477c029e567b0009cbd3>
- Date: February 9, 2022 at 10 AM
Topic: **2021 Basic and Expanded Loan Policy Forms – What You Need to Know**
Speakers: Jutta Deeney and Shannon Coleman
To Register for this Webinar, follow this link: <https://stewart.webex.com/stewart/k2/j.php?MTID=tbe0abc309eb773f482d774b752b577fb>

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