

Maryland's highest court has confirmed a tort duty of care for title companies that search title, prepare abstracts to be relied upon by others, and issue title insurance commitments for insurance companies.

On January 29, 2013, the Maryland Court of Appeals decided *100 Investment v. Columbia Town Center Title*, No. 19, Sept. Term, 2012, 2013 WL 322663, ___ A.3d ___ (2013), holding that your title company can now be sued for negligent title searching, and for preparation of an incorrect or incomplete title commitment.

Before this decision, your title company was only really exposed to claims for breach of contract. Trial courts routinely dismissed claims for negligence because the common law did not impose this extra duty.

The Court has now held that since title companies provide "services that have historically been performed by attorneys," the title companies should be held to the same professional standards as if a licensed attorney had provided the service.

The Court also held that a title insurance company is not automatically responsible for the negligence of the title company issuing its policies. The insurance company's own liability to its customer is limited by language in the title policy to claims under the insurance contract, only.

This will change how claims arising from bad title searches, and incorrect title commitments are prosecuted, defended and settled. The settlement companies that compile abstracts and prepare commitments (and their errors & omissions carriers) now have increased exposure to claims and lawsuits. The title insurance companies, however, remain shielded by the limitations in their policies.