Escrow Closing Mechanics

Date: 08/02/13

Not so long ago, the “closing” of a transaction — ranging from a simple one-family house transfer up to a complex commercial purchase — meant that all of the parties and all of their attorneys and advisers, the lenders and their counsel, and the title insurance company or companies would squeeze into a room, exchange happy or sad looks, and trade multiple documents. There were actual checks to be signed and handed over and by the magic of “gap” insurance, we took the risk that the title closer who gathered up all the papers would actually get them to the recording office before much time had expired or the facts changed.

At some point, New York practitioners heard of the development of a “California Style Closing,” where both the funds and documents were deposited with the title company and when the title was cleared, the deposited documents were released, recorded and transmitted and the funds released to the correct parties.

New York practitioners resisted that kind of development for a long period of time. But with the passage of time, the developing complexity of our banking system, and the intervention of the Internet, New York has become California. Now, most closings are conducted through a depository intermediary, usually the title company. This article seeks to examine just what this development has brought us, and what new precautions practitioners should consider.