



Real Property Case Law Update

Recent Opinions of Interest to
Real Property Litigators and Practitioners

Week Ending October 26, 2012

By the Carlton Fields Real Property Litigation Practice Group

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- **Landlord-Tenant: tenant not entitled to directed verdict for landlord's failure to offer copy of written lease into evidence where tenant admitted validity of lease in answer; tenant served in foreclosure action against landlord was not constructively evicted and thus not entitled to withhold rent** – [Plakhov v. Serova](#), No. 4D11-3280 (Fla. 4th DCA Oct. 24, 2012) (affirming damages to landlord for unpaid rent)

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- **Tortious Interference: HUD was able to sustain a claim for tortious interference against a homeowner's association because a business relationship existed where HUD had entered into a contract for the sale of property with a third party** – [U.S. v. Bridgewater Community Association, Inc.](#), Case No. 8:12-cv-1087-T-30TGW (M.D. Fla. Oct. 16, 2012) (denying defendant's motion to dismiss)

III. TITLE INSURANCE CASES - CHRIS SMART

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- **Class Action:** where agency agreement give control over and access to independent title agent's closing files insurer has "possession, custody, or control" over documents held by its agents for purposes of issuing a litigation hold to agents as to such documents – [Haskins v. First American Title Ins. Co.](#), Case No. 10-5044 (D.N.J. Oct. 18, 2012)
- **Continuation of Coverage:** once insured transfers title to property without warranty of title, insurer has no duty to defend insured, even against claims of implied warranties of title – [Washington Temple Church of God in Christ, Inc. v. Global Properties and Associates, Inc.](#), Case No. 29690-05 (N.Y. App. Oct. 18, 2012) (granting motion for summary judgment)

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