

Real Property, Financial Services, & Title Insurance Update: Week Ending October 2, 2020

October 02, 2020

Real Property Update

- **Equitable Lien:** section 95.11(5)(b)'s one-year statute of limitation does not apply to a purchaser's funds (in excess of 10% of the purchase price), which were used to develop the condominium, as the purchaser provided funds-not "labor, services or materials" - [Gabriji, LLC v. Hollywood East, LLC](#), No. 4D19-3495 (Fla. 4th DCA September 30, 2020) (reversing dismissal and remanding for further proceedings).

Financial Services Update

- **FDCPA / Standing / Convenience Fees:** plaintiff could not establish standing for an FDCPA claim because he was not a party to the agreement creating the debt at the time he paid the convenience fees - [Bowen-Hay v. Ocwen Loan Servicing, LLC](#), No.: 8-20-cv-170-T-36CEH (M.D. Fla. Sept. 25, 2020) (dismissing complaint without prejudice)
- **FDCPA / Assignment of Debt:** triable issues of fact as to whether a reasonable person in plaintiff's position would believe that the assignee considered the debt to be in default or acted as if it were in default when it was assigned - [Denicolo v. The Hertz Corp.](#), No. 19-cv-00210-YGR (N.D. Cal. Sept. 30, 2020) (denying defendant summary judgment)
- **FDCPA / Debt Collection Letters:** second debt collection letter, which merely extended time period for debtor to dispute the debt beyond the initially noticed validation period, neither overshadowed or contradicted the validation period noticed in the first letter, nor was it inherently false or misleading - [Kurzdorfer v. Constar Fin'l Services, LLC](#), No. 19-cv-6430L (W.D.N.Y. Sept. 28, 2020) (dismissing complaint with prejudice)

Title Insurance Update

- **Statutory Bad Faith / Arbitration:** statutory bad faith claim arising from post-breach conduct against title insurer was not arbitrable despite otherwise enforceable arbitration provision in title insurance policy where binding precedent established that original jurisdiction for such claims is vested only in trial courts - [KEB Hana Bank USA, Nat'l Ass'n v. Fidelity Nat'l Title Ins. Co.](#), No. 207 EDA 2020 (Pa. Super. Sept. 29, 2020) (order denying title insurer's motion to compel arbitration affirmed)

Related Practices

[Real Property Litigation](#)

[Consumer Finance](#)

[Title Insurance](#)

©2025 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.