

Financial Services Update: Week Ending April 12, 2019

April 13, 2019

Financial Services Update

- **TCPA:** plaintiff's putative TCPA class action arose from post-agreement conduct that did not fall within scope of contract's arbitration agreement - [Getz v. DirecTV, LLC](#), 359 F. Supp. 3d 1222 (S.D. Fla. Feb. 20, 2019) (denying motion to dismiss / compel arbitration)
- **RESPA:** homeowner failed to prove violations of RESPA based on allegedly improper force-placed insurance because she failed to prove she had an escrow account to trigger the statute's protections - [Iaffaldano v. Sun West Mortg. Co.](#), No. 18-11098 (11th Cir. Apr. 9, 2019) (affirming judgment in favor of lender)
- **FDCPA:** consumer sufficiently alleged that letter attempting to collect time-barred debt was "false, deceptive or misleading" under § 1692e, but attempting to collect time-barred debt is not *per se* "unfair or unconscionable" under § 1692f - [Holzman v. Malcolm S. Gerard & Assocs., Inc.](#), No. 16-16511 (11th Cir. Apr. 5, 2019) (affirming in part and reversing in part dismissal for failure to state a claim)
- **FDUTPA:** appellant was not entitled to appellate attorneys' fees under FDUTPA because under contingency fee arrangement, benefit of award of fees would inure purely to her attorneys - [Alhassid v. Nation Star Mortg., LLC](#), No. 18-11985 (11th Cir. Apr. 8, 2019) (affirming district court's denial of appellate attorneys' fees)

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