

Real Property & Financial Services Update: Week Ending August 16, 2019

August 16, 2019

Real Property Update

- **Construction / Statute of Repose:** the installation of an attic ladder is an improvement to real property; thus, the ten-year statute of repose of section 95.11(3)(c) applies - [Harrell v. The Ryland Group](#), No. 1D18-3728 (Fla. 1st DCA Aug. 13, 2019) (affirmed)
- **Standing / Land Use:** the transfer of property ownership to a third party did not divest the former owner of standing to maintain an action, where the former owner retained sufficient interest in the controversy affected by the outcome of the litigation - [Pirate's Treasure, Inc. v. City of Dunedin, Florida](#), No. 2D18-2774 (Fla. 2nd DCA Aug. 16, 2019) (reversed and remanded)

Financial Services Update

- **TCPA / Revocation of Consent:** a consumer may not unilaterally revoke his prior consent to receive calls from a loan servicer using an auto-dialer or pre-recorded message where the consumer previously provided the consent as part of a settlement agreement which placed restrictions on future revocation of consent - [Lucoff v. Navient Solutions, LLC](#), No. 18-CIV-60743-RAR (S.D. Fla. Aug. 7, 2019).

- **FDUTPA / Deceptive Conduct Relating to Fee Retention / Nationwide Class Action:** the Southern District of Florida denied, in part, an airline's motion to dismiss a FDUTPA claim brought by a consumer who alleged that the airline accepted what she described as an illegal kickback because the airline retained a portion of the fee a third-party charged for trip insurance without disclosing it to the consumer. However, the court granted the airline's motion to dismiss the consumer's nationwide class allegations premised on FDUTPA because the law applies only to actions that occur within the state of Florida - [Dolan v. Jetblue Airways Corp.](#), No. 18-62193-Civ-Scola (S.D. Fla. May 28, 2019).

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