

# Real Property, Financial Services, & Title Insurance Update: Week Ending March 8, 2019

March 09, 2019

## Real Property Update

- **Lis Pendens:** trial court erred by not discharging lis pendens concerning real property because defendant did not grant an interest in the property, and plaintiff's claims did not allege requisite fair nexus - [Delta Aggregate, LLC v Hermès Hialeah Warehouse, LLC](#), No. 4D18-2252 (Fla 4th DCA Mar. 6, 2019)
- **Damages:** trial court erred by awarding damages based upon party's opinion of value because the opining party failed to present substantial competent evidence to support valuation - [Lally Orange Buick v Sandhu](#), No. 5D17-3363 (Fla 5th DCA Mar. 8, 2019) (reversed with instructions)

## Financial Services Update

- **TCPA / FDCPA / FCCPA:** class was not ascertainable where it would require account-by-account review of and/or public records searches for thousands of loans, and plaintiffs failed to establish predominance where liability turned upon highly individualized facts - [Rivera v. Servis One, Inc.](#), No. 3:17-cv-722-J-39JGT (M.D. Fla. Mar. 4, 2019) (denying motion for class certification)
- **FDCPA / TCPA:** plaintiff failed to sufficiently allege that defendant was a debt collector where it serviced plaintiff's account before plaintiff owed the debt in question and failed to state a claim under the FDCPA; plaintiff could not unilaterally revoke his prior express consent to receive telephone calls and failed to state a claim under the TCPA - [Ford v. Bluestem Brands, Inc.](#), No. 18 cv 2695 (VB) (S.D.N.Y. Mar. 4, 2019) (granting motion to dismiss)

## Title Insurance Update

- ***Rooker Feldman Doctrine***: does not prevent a bankruptcy court from reviewing a state court judgment that violates a debtor's discharge injunction - [In re Patterson](#), No. 18-10443 (Bankr. M.D. La. Feb. 12, 2019) (denying insurer's claim as derivative of debt discharged in prior bankruptcy)
- **Deed in Lieu of Foreclosure**: does not give rise to a new, post-discharge obligation in bankruptcy when creditor foreclosed mortgage on property, debtor's personal liability for debt was discharged, insurer was later required to satisfy undiscovered claim against property, and debtor executed a deed in lieu of foreclosure in favor of assignee of mortgage - [In re Patterson](#), No. 18-10443 (Bankr. M.D. La. Feb. 12, 2019)

## Related Practices

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