

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 opening 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

[Real Property Litigation](#)

[Title Insurance](#)

[Consumer Finance](#)

©2024 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.