

Real Property, Financial Services, & Title Insurance Update: Week Ending November 29, 2019

December 06, 2019

Real Property Update

- **Contracts:** Escrow agent was bound only by the terms of an escrow agreement to which it was a party and not a purchase agreement to which it was not a party – [Carter Dev. of Mass., LLC v. Howard](#), No. 1D18-3075 (Fla. 1st DCA Nov. 26, 2019) (affirmed)
- **Service of Process:** Section 605.0904(6) is an original service provision; thus, substitute service statute was inapplicable where defendant, a foreign LLC, failed to have a certificate of authority to transact business in Florida and was sued for business transacted in state – [Magnolia Court, LLC v. Moon, LLC](#), No. 3D18-722 (Fla. 3d DCA Nov. 27, 2019) (reversed and remanded)
- **Right of First Refusal:** Trial court did not err in finding that the seller/defendant had fully complied with its notice obligations under the ROFR by providing copies of potential third-party buyer's purchase contract to plaintiff during discovery, and that plaintiff had failed to timely elect to purchase the property pursuant to the ROFR after its receipt of said contract – [Allegro at Boynton Beach, LLC v. Pearson](#), No. 4D18-3387 (Fla. 4th DCA Nov. 27, 2019) (affirmed)

Title Insurance Update

- No cases of interest to report.

Financial Services Update

- **FDCPA / Debt Collector / Sufficiency of Allegation:** Allegation that a law firm provides debt collection services is insufficient to establish that law firm is indeed a debt collector under the FDCPA – [Cohaley v. Lender Legal Servs., LLC](#), No. 8:19-cv-00185 (M.D. Fla. Nov. 25, 2019)

- **FCCPA / 559.72(9)** / Sufficiency of Allegations: Plaintiff failed to identify facts supporting section 559.72(9) claim, nor did he clearly allege that defendants had actual knowledge that debt was not legitimate or that they did not have right to collect debt – [Cohaley v. Lender Legal Servs., LLC](#), No. 8:19-cv-00185 (M.D. Fla. Nov. 25, 2019) (granting dismissal motions with leave to amend)

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