

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

November 13, 2019

Real Property Update

- None of interest.

Financial Services Update

- **FDCPA & FCCPA / Debt Collection Activity / Monthly Mortgage Statements:** Monthly mortgage statements required by TILA and sent to plaintiff did not amount to “debt collection” because they did not include strong demands for payment. Further, payoff statements sent at plaintiff’s request were not debt collection activity; rather, they are normal incidents of loan servicing – Czaban v. Bayview Loan Servicing, LLC, No. 3:19-cv-00591, 2019 WL 5690633 (N.D. Fla. Nov. 1, 2019) (granting defendant’s motion to dismiss)
- **FDCPA & FCCPA / Debt Collection Activity / Payoff Amounts:** Payoff statements sent at plaintiff’s request were not debt collection activity but rather were normal incidents of loan servicing – Czaban v. Bayview Loan Servicing, LLC, No. 3:19-cv-00591, 2019 WL 5690633 (N.D. Fla. Nov. 1, 2019) (granting defendant’s motion to dismiss)
- **FDCPA / Debt Collection Activity / Pay-Off Demand:** Payoff demand, which stated that the defendants were attempting to collect a debt, provided an itemization of amounts due, provided a way to seek updated figures and payoff loan, and provided that foreclosure proceedings would not be delayed while awaiting payment in full, sufficient to constitute debt collection activities for purposes of stating a claim under the FDCPA – Godoy v. Robertson, Anschutz & Schneid, P.L., No. 8:19-cv-00435 (M.D. Fla. Nov. 5, 2019) (denying motion to dismiss)

- **FDCPA & FCCPA / Sufficiency of Allegations:** Plaintiffs provided descriptions and amounts for the charges that violated the FDCPA and FCCPA sufficient to withstand dismissal – [Godoy v. Robertson, Anschutz & Schneid, P.L.](#), No. 8:19-cv-00435 (M.D. Fla. Nov. 5, 2019) (denying motion to dismiss)
- **TCPA / Multidistrict Litigation / Intervention:** Applicant, who sought intervention in multidistrict litigation involving alleged TCPA violations against defendants, failed to meet requirements necessary to intervene as a matter of right, nor was permissive intervention proper – [In re Midland Credit Mgmt., Inc., Tel. Consumer Prot. Act Litig.](#), No. 3:11-md-02286 (S.D. Cal. Nov. 1, 2019) (denying motion to intervene)

Title Insurance Update

- **Duty to Defend:** Title insurance underwriter had no duty to defend claim arising from alleged encroachment of elevated conveyor bridges on insured property where title insurance policy contained broad exceptions from coverage for any damages arising by reason of such conveyor bridges – [Pandora Distribution, LLC v. Ottawa OH, LLC](#), No. 3:12-cv-02858 (N.D. Ohio Nov. 5, 2019) (denying motions for reconsideration)

Related Practices

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