

Real Property, Financial Services, & Title Insurance Update: Week Ending December 25, 2020

December 26, 2020

Real Property Update

No cases of interest to report.

Financial Services Update

- **FDCPA / Attorneys' Fees:** Although FCCPA was the only statutory basis for award of attorneys' fees in defendant's favor, plaintiff's FDCPA claims related to the same set of operative facts and were based on related legal theories, justifying a full fee award in defendant's favor for FDCPA claims as well - [Victor v. Petrousky](#), No. 6:19-cv-00788 (M.D. Fla. Nov. 2, 2020) (recommending district court grant in part motion for award of reasonable attorneys' fees and costs)
- **TCPA / Class Certification:** Defaulted status of defendant did not preclude plaintiff from receiving class certification - [Holmes v. DRS Processing LLC](#), No. 3:18-cv-01193 (M.D. Fla. Nov. 3, 2020) (recommending that plaintiff's motion for class certification be granted)

Title Insurance Update

- **Covered Risks:** Because easement was not plaintiffs' "land" or "title" for purposes of title insurance policy, the covered risks identified by plaintiffs were inapplicable and, in any event, policy exempted from coverage the purported risks, which were created or allowed by plaintiffs - [Horwood v. N. Am. Title Ins. Co.](#), No. 350840 (Mich. App. Dec. 22, 2020) (affirmed)
- **Size of Easement:** Title insurer did not owe a duty to compensate plaintiffs for the reduced size of the easement because the size of the easement was not insured, and plaintiffs still had access to their property - [Horwood v. N. Am. Title Ins. Co.](#), No. 350840 (Mich. App. Dec. 22, 2020) (affirmed)

- **Motion for Remand / Improper Removal:** Title insurer's removal was improper because it occurred before any defendant had been served and the title insurer failed to show that the forum defendant was fraudulently joined - [HSBC Bank USA, Nat'l Ass'n v. Fidelity Nat'l Title Grp., Inc.](#), No. 2:20-cv-01515 (D. Nev. Dec. 22, 2020) (order granting motion for remand)

Related Practices

[Real Property Litigation](#)

[Consumer Finance](#)

[Title Insurance](#)

©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.