

Real Property, Financial Services, & Title Insurance Update: Week Ending April 23, 2021

April 23, 2021

Real Property Update

- **Condo / Attorneys' Fees:** Condominium association that lost on counterclaim against developer was prevailing party on significant issues in litigation by prevailing on developer's claims and was entitled to attorneys' fees under declaration – [Carrollwood Cove at Emerald Greens Condo. Ass'n, Inc. v. Carrollwood Cove, LLC](#), No. 2D20-697 (Fla. 2d DCA Apr. 23, 2021) (reversed and remanded)
- **Satisfaction of Mortgage:** Obligation to execute a satisfaction of mortgage does not occur until the mortgage is fully paid, and the statute imposes an obligation to send or cause to be sent a recorded satisfaction after receipt of full payment – [Richeson v. South's Custom Constr., Inc.](#), Nos. 5D20-1496, 5D20-2399 (Fla. 5th DCA Apr. 23, 2021) (reversed and remanded)

Financial Services Update

- **FDCPA / FCCPA / Standing:** Debt collector's transmittal of consumer's debt information to third-party vendor gives rise to a concrete injury under Article III based on statutory violation, and gives rise to a violation of 15 U.S.C. § 1692c(b) by transmitting consumers' personal information to third party in connection with collection of debt – [Hunstein v. Preferred Collection & Mgmt. Servs., Inc.](#), No. 19-14434 (11th Cir. Apr. 21, 2021) (reversing district court's dismissal and remanding for further proceedings)
- **TCPA / Pleading Use of ATDS:** Consumer plausibly alleged that text messages were sent from ATDS because of near-instantaneous response to "stop" message and the use of an 844 number not registered to any individual – [Matthews v. Mid City Cannabis Club, Inc.](#), No. 2:20-cv-07841 (C.D. Cal. Mar. 2, 2021) (denying motion to dismiss)

- **FDCPA:** Debt collector did not violate FDCPA by continuing to report debt on credit reports after consumer claimed identity theft, where debt was reported as disputed and debt collector did not use deceptive means – [Blackmon v. Ad Astra Recovery Servs., Inc.](#), No. 3:20-cv-00800 (S.D. Cal. Apr. 20, 2021) (granting summary judgment for defendant and dismissing case with prejudice)
- **FCRA:** CRA's exclusive reliance on ACDV process to investigate claim of identity theft was reasonable under the circumstances where there was no evidence that CRA should have had knowledge that furnisher was unreliable and plaintiff did not provide additional information requested – [Huffman v. Experian Info. Sols., Inc.](#), No. 4:19-cv-07408 (N.D. Cal. Apr. 14, 2021) (granting defendant's motion for summary judgment)
- **TCPA:** Consumer's consent to receive faxes was sufficient to encompass consent to receive fax advertisements – [Kaye v. Merck & Co., Inc.](#), No. 20-1097 (2d Cir. Apr. 22, 2021) (affirming summary judgment for defendants)

Title Insurance Update

No cases of interest to report.

Related Practices

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