

Real Property, Financial Services, & Title Insurance Update: Week Ending December 3, 2021

December 03, 2021

Real Property Update

- **Lease / Claim of Lien:** Trial court erred in its interpretation of section 713.10, Florida Statutes (2013), by granting summary judgment in favor of the lessor/owner, where the exception to lien liability for property owners who record a lease that prohibits such liability does not apply where the lessor/owner of the property is expressly named and is a signatory to the construction contract – [K.D. Constr. of Fla., Inc. v. MDM Retail, Ltd.](#), No. 3D20-1759 (Fla. 3d DCA Dec. 1, 2021) (reversed and remanded)

Financial Services Update

- **FDCPA / Mail Vendor Theory of Liability / Standing:** Lack of any concrete harm divested plaintiffs of Article III standing – [Cicccone v. Cavalry Portfolio Servs., LLC](#), No. 2:21-cv-02428 (E.D.N.Y. Nov. 29, 2021)

Title Insurance Update

- **Snap Removal:** Title insurer's "snap" removal of state court action filed by insured was proper despite presence of forum defendant, where removal effected before any defendant was "properly joined and served" – [U.S. Bank, N.A. v. Fidelity Nat'l Title Grp., Inc.](#), No. 2:21-cv-00339 (D. Nev. Nov. 29, 2021) (denying motion for remand)

- **Title Agent / Escrow Funds:** Motion for leave to amend to add claims against title company, which refused to release escrow funds following mediated settlement of escrow dispute between transaction parties in which title company was invited to participate but declined unless plaintiff dismissed complaint against title company with prejudice, should have been granted where, although title company was named in original complaint merely as holder of escrow funds, proposed new claims arose after original complaint and were based on title company's actions in refusing to release escrow funds after the transaction parties' settlement – [Sirtos v. Metro. Title of Ind., LLC](#), No. 21A-PL-892 (Ind. App. Ct. Nov. 30, 2021) (reversing and remanding)

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.