

Real Property, Financial Services, & Title Insurance Update: Week Ending February 12, 2021

February 12, 2021

Real Property Update

- **Foreclosure / Standing:** Trial court erred in entering final judgment in favor of third-party purchaser where third-party purchaser participated in the foreclosure action as if he were a party to the note and mortgage and trial court failed to conduct a de novo trial on remand - [Wells Fargo Bank, N.A. v. Dias](#), No. 2D19-3256 (Fla. 2d DCA Feb. 12, 2021) (reversed and remanded with instructions)

Financial Services Update

- **FCRA & FDCPA / Federal Preemption:** Congress has not imbued the FCRA or FDCPA with the power of complete preemption that confers federal question subject matter jurisdiction - [Torres v. Bay Area Credit Servs.](#), No. 1:20-cv-09342 (S.D.N.Y. Feb. 5, 2021) (remanding pro se complaint for lack of jurisdiction where defendants had removed complaint that alleged violations of state law, arguing complete preemption)
- **FCRA / Standing:** Consumer failed to assert concrete injury sufficient to establish standing where credit report contained a discrepancy between the overall and past due balances - [Cohen v. Experian Info. Sols., Inc.](#), No. 1:20-cv-03678 (E.D.N.Y. Feb. 5, 2021) (granting motions to dismiss and for judgment on the pleadings)

Title Insurance Update

- **Fraudulent Joinder / Snap Removal:** Insured's breach of contract and insurance bad faith claim against title insurer could not be removed from state court to federal court on diversity grounds based on alleged fraudulent joinder of local title agent who closed the transaction, since the viability of claims against local title agents in breach of insurance contract and bad faith claims remains uncertain, and title insurer's snap removal prior to service of process on any parties was improper - [Deutsche Bank Tr. Co. v. Fidelity Nat'l Title Grp., Inc.](#), No. 2:20-cv-02220 (D. Nev. Feb. 10, 2021) (remanding case)

Related Practices

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