

Real Property, Financial Services, & Title Insurance Update: Week Ending July 30, 2021

July 30, 2021

Real Property Update

- **Foreclosure / Section 702.036:** Third-party purchaser of property following foreclosure entitled to protection under section 702.036, Florida Statutes – [Vista Fin. Grp., LLC v. Bank of N.Y. Mellon](#), No. 3D20-602 (Fla. 3d DCA July 28, 2021)
- **Deed / Homestead:** Trial court erred in finding deed void based on property being homestead and wife not signing deed without examining a premarital agreement that included a provision that property originally owned by husband never became joint homestead or marital property – [Rangel v. Rangel](#), No. 5D20-2366 (Fla. 5th DCA July 30, 2021)

Financial Services Update

- **FDCPA / Harassing Conduct of Debt Collector:** Defendants liable for violating 15 U.S.C. § 1692d because an average person would feel harassed from defendants' repeated telephone calls against plaintiff's wishes, at times causing plaintiff's phone to ring continuously – [Nazarovech v. Am. Elite Recovery, LLC](#), No. 1:20-cv-00250 (W.D.N.Y. July 23, 2021) (granting summary judgment in plaintiff's favor)
- **FCDPA / Failure to Investigate:** Government generally has no duty under the Fourteenth Amendment to investigate or protect an individual against harm from others except: (1) when taking a person into custody or (2) when the government creates or increases the danger to the plaintiff – [Finnegan v. N.Y. City Police Dep't](#), No. 1:21-cv-05798 (S.D.N.Y. July 26, 2021) (granting dismissal of FDCPA claim)

- **FCRA / Willful Violation:** Defendants' argument that the failure to correct a plaintiff's inaccurate credit information, even after notifications of the inaccuracy, is not a failure to comply with the FCRA was premature at the dismissal stage – [Haynes v. TransUnion, LLC](#), No. 2:19-cv-07157 (E.D.N.Y. July 28, 2021)

Title Insurance Update

- No cases to report.

Related Practices

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