

Real Property, Financial Services, & Title Insurance Update: Week Ending July 9, 2021

July 09, 2021

Real Property Update

- **Foreclosure / Attorneys' Fees:** Defendants not entitled to attorneys' fees where they failed to plead entitlement to them – [Suarez v. Bank of N.Y. Mellon Tr. Co.](#), No. 2D20-1850 (Fla. 2d DCA July 7, 2021)
- **Ejectment / Subject Matter Jurisdiction:** County court lacked subject matter jurisdiction over ejectment action – [Golden Cape of Fla., Inc. v. Perez de Ospina](#), No. 3D21-0332 (Fla. 3d DCA July 7, 2021)
- **Reformation:** Affirming reformation and reforeclosure as omission from legal description was a mutual mistake due to a scrivener's error – [Keys Country Resort, LLC v. 1733 Overseas Highway, LLC](#), No. 3D20-437 (Fla. 3d DCA July 7, 2021)
- **Foreclosure / 1.540 Motion:** Defendant improperly used rule 1.540(b) to re-litigate issues decided adversely to it in a prior rehearing motion – [Athene Annuity & Life Assurance Co. v. Teavana Holdings](#), No. 5D20-1848 (Fla. 5th DCA July 9, 2021)

Financial Services Update

- **FDCPA & FCCPA / Definition of Debtor:** A consumer may claim that no debt exists while simultaneously claiming that he is a debtor who does owe the alleged debt and still meet the definition of a debtor under the FDCPA and FCCPA – [Callum v. NewRez, LLC](#), No. 8:21-cv-00005 (M.D. Fla. Apr. 28, 2021)

- **FCRA / Credit Score Disclosure:** Mortgage company did not willfully violate the FCRA by failing to send a credit score disclosure to wife after using wife's credit score in connection with husband's inquiry into a joint mortgage loan; mortgage company's interpretation of a "consumer" to include only the individual who initiated the loan application was not objectively unreasonable – [Ajomale v. Quicken Loans, Inc.](#), No. 20-12952 (11th Cir. July 6, 2021)
- **FCRA / Remand / Standing:** Remand granted even though the only cause of action at issue was based on an alleged violation of the FCRA because the plaintiff, who originally filed in state court, lacked Article III standing – [Michaeli v. Kentfield Rehab. Hosp. Found.](#), No. 3:21-cv-03035 (N.D. Cal. July 7, 2021) (granting motion to remand)

Title Insurance Update

- No cases to report.

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