

# Real Property, Financial Services, & Title Insurance Update: Week Ending May 14, 2021

May 14, 2021

## Real Property Update

- **Foreclosure / Surplus:** The issuance of certificate of disbursements triggers the running of the 60-day period for filing claims to surplus monies following a foreclosure sale, and motion for surplus proceeds was untimely – [Refaie v. Bayview Loan Servicing, LLC](#), No. 2D19-4780 (Fla. 2d DCA May 14, 2021)
- **Easement / Notice:** Genuine issue of material fact remained regarding whether buyer had notice of easement – [Soknoh Partners, LLC v. Audio Visions S., Inc.](#), No. 2D20-324 (Fla. 2d DCA May 12, 2021) (reversed and remanded)
- **Foreclosure / Objection to Sale:** Evidentiary hearing required after timely objection to sale in accordance with Florida Statutes section 45.031 – [Valls v. HSBC Bank USA, N.A.](#), No. 4D20-1984 (Fla. 4th DCA May 12, 2021) (reversed and remanded with directions)

## Financial Services Update

- **TILA / Credit / Financing:** Plaintiff had no standing to bring TILA claim because he had not suffered a concrete and particularized injury — he had not shown that he was at any particularized risk of making an uninformed credit decision – [Walters v. Fast AC, LLC](#), No. 2:19-cv-00070 (M.D. Fla. May 13, 2021)
- **FDCPA / Debt Collection:** Unanswered calls from defendant to plaintiff did not constitute communications pursuant to the FDCPA – [Pearson v. Apria Healthcare Grp., Inc.](#), No. 3:19-cv-02400 (S.D. Cal. May 11, 2021) (granting summary judgment in favor of defendant)

- **TCPA / Fax Advertisements:** Faxes plaintiff received were not “unsolicited advertisements” within the meaning of the TCPA because plaintiff’s listing of its fax number and agreeing to receive information from a franchisor’s affiliates and approved vendors constituted prior express invitation or permission to receive fax advertisements for products of approved suppliers such as defendant – [Gorss Motels, Inc. v. Lands’ End, Inc.](#), No. 20-589 (2d Cir. May 13, 2021)

## Title Insurance Update

No cases of interest to report.

## Related Practices

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