

Real Property, Financial Services, & Title Insurance Update: Week Ending May 28, 2021

May 28, 2021

Real Property Update

- **Foreclosure / Return of Original Loan Documents:** Foreclosure plaintiff entitled to return of its original loan documents in absence of final judgment canceling note – [Wilmington Sav. Fund Soc’y FSB v. Morroni](#), No. 2D20-3085 (Fla. 2d DCA May 28, 2021) (reversed and remanded with instructions)

Financial Services Update

- **FDCPA / Standing:** Consumer failed to establish concrete injury in fact to maintain Article III standing for cause of action under FDCPA, and his alleged injury was not traceable to the alleged FDCPA violation – [Preisler v. Eastpoint Recovery Grp., Inc.](#), No. 0:20-cv-62268 (S.D. Fla. May 25, 2021) (granting motion to dismiss and for judgment on the pleadings)
- **FDCPA:** Where debtor claimed that letter was misleading because it did not identify the creditor to whom part of the debt was owed, even though it was plainly stated in the letter, case was due to be dismissed as exactly the kind of “bizarre or idiosyncratic interpretation” outside the scope of the FDCPA – [Sadon v. AR Res., Inc.](#), No. 6:21-cv-00134 (M.D. Fla. May 26, 2021) (dismissing amended complaint with prejudice)
- **TCPA / Vicarious Liability:** Plaintiff failed to sufficiently allege vicarious liability or agency relationship – [Valdes v. Nationwide Real Estate Execs., Inc.](#), No. 8:20-cv-01734 (C.D. Cal. Apr. 22, 2021) (granting motion to dismiss)
- **TCPA / Class Action / Numerosity:** Class would not be certified after defendant was defaulted because plaintiff failed to establish numerosity – [Floyd v. Saratoga Diagnostics, Inc.](#), No. 5:20-cv-01520 (C.D. Cal. May 26, 2021) (denying without prejudice plaintiff’s motion for class certification))

Title Insurance Update

No cases of interest to report.

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