

Real Property, Financial Services, & Title Insurance Update: Week Ending May 7, 2021

May 07, 2021

Real Property Update

- **Foreclosure Judgment / Void:** Trial court erred in determining lender's delay in seeking to vacate judgment was unreasonable – [Wells Fargo Bank, N.A. v. Tan](#), No. 4D20-613 (Fla. 4th DCA May 5, 2021) (affirmed and remanded with instructions)
- **Foreclosure Judgment / Section 702.036:** Florida Statutes section 702.036 precluded the court from granting relief that adversely affected quality and character of title – [Wells Fargo Bank, N.A. v. Tan](#), No. 4D20-613 (Fla. 4th DCA May 5, 2021) (affirmed and remanded with instructions)

Financial Services Update

- **FDCPA / Debt:** Definition of “debt” for purposes of FDCPA requires a consumer transaction; tortious activity will not suffice – [Campbell v. Douglas Knights & Assocs., Inc.](#), No. 3:21-cv-01667 (N.D. Cal. May 3, 2021)
- **TILA / Available Remedies:** TILA does not allow for rescission and damages where property at issue is not purchased “primarily for personal, family, or household purposes” – [Gilliam v. Levine](#), No. 2:18-cv-02580 (C.D. Cal. Apr. 27, 2021)
- **FDCPA / Debt:** Child support payments are not “debts” for purposes of the FDCPA – [Williams v. Aerna, Inc.](#), No. 1:21-cv-00321 (E.D. Cal. May 4, 2021)

- **FDUTPA / Statute of Limitations:** Claims under FDUPTA generally begin to accrue upon purchase because the discovery rule does not apply to FDUPTA claims – [Pelayo v. Hyundai Motor Am., Inc.](#), No. 8:20-cv-01503 (C.D. Cal. May 5, 2021)

Title Insurance Update

No cases of interest to report.

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