

# Real Property, Financial Services, & Title Insurance Update: Week Ending November 26, 2021

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## Real Property Update

No cases of interest to report.

## Financial Services Update

- **TILA & RESPA / Business Purpose:** Plaintiff's loan was a business loan based on court's review of the Ninth Circuit's five-factor test to determine whether a loan was obtained primarily for business or personal purposes – [Gilliam v. Levine](#), No. 2:18-cv-02580 (C.D. Cal. Nov. 12, 2021) (granting summary judgment in favor of investor in loan)
- **FDCPA / Offer to Settle:** An offer to settle a debt does not violate section 1692g of the FDCPA where the debtor received a letter with a 30-day settlement offer, a section 1692g notice regarding validation of the debt, and language informing him that the settlement offer did not affect his right to dispute the debt or the notice – [Graves v. Omnipoint Mgmt. Sols. LLC](#), No. 7:20-cv-04579 (S.D.N.Y. Nov. 17, 2021)

## Title Insurance Update

- **Coverage / CLTA Form 100 Endorsement:** Title policy's endorsement insuring against losses sustained by reason of homeowner association's covenants, conditions, and restrictions (CC&Rs) did not bring insured's claim within scope of coverage where insured's claimed loss of priority was not the result of any provision in CC&Rs but was the direct result of a Nevada statute, which creates a "superpriority" for homeowner association liens – [Pennymac Corp. v. Westcor Land Title Ins. Co.](#), No. A-18-781257-C (Nev. Dist. Ct. Oct. 22, 2021) (affirming summary judgment in favor of title insurer)

- **Bad Faith:** Insured's bad faith claim against the title insurer failed because the title insurer promptly and properly denied coverage for insured's claim – *Pennymac Corp. v. Westcor Land Title Ins. Co.*, No. A-18-781257-C (Nev. Dist. Ct. Oct. 22, 2021) (affirming summary judgment in favor of title insurer)
- **Coverage / Post-Policy Claims:** Title insurer had no duty to provide coverage for insured's post-policy claim because the title policy expressly excluded coverage for such claims – *Pennymac Corp. v. Westcor Land Title Ins. Co.*, No. A-18-781257-C (Nev. Dist. Ct. Oct. 22, 2021) (affirming summary judgment in favor of title insurer)
- **Timely Notice of Claim:** Insured's failure to provide timely notice of adverse litigation resulted in severe prejudice to title insurance company, thereby terminating title insurer's obligations under the title policy – *Pennymac Corp. v. Westcor Land Title Ins. Co.*, No. A-18-781257-C (Nev. Dist. Ct. Oct. 22, 2021) (affirming summary judgment in favor of title insurer)
- **Statute of Limitations:** Insured's claim was barred by the statute of limitations where the insured failed to make its claim within two years of discovering facts essential to its claim – [Rehabbers Fin., Inc. v. Chicago Title Ins. Co.](#), No. F081045 (Cal. Ct. App. Nov. 19, 2021) (affirming summary judgment in favor of title insurer)
- **Statute of Limitations / Tolling:** Statute of limitations on insured's claim was not tolled to some later date as a result of insurer's alleged delayed rejection of insured's claim where insured had already admitted that insurer previously rejected its claim – [Rehabbers Fin., Inc. v. Chicago Title Ins. Co.](#), No. F081045 (Cal. Ct. App. Nov. 19, 2021) (affirming summary judgment in favor of title insurer)

## Related Practices

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