

# Real Property, Financial Services, & Title Insurance Update: Week Ending January 21, 2022

January 22, 2022

## Real Property Update

- **HAMP / Loan Modification / Cause of Action:** No independent cause of action for lender's failure to provide loan modification agreement under HAMP - [Riano v. Bank of Am., N.A.](#), Nos. 3D20-1260, 3D20-1473 (Fla. 3d DCA Jan. 19, 2022) (affirming judgment in bank's favor)
- **Foreclosure / Affirmative Defenses Precluding Summary Judgment:** Affidavit supporting detailed factual accounts relating to affirmative defenses, including fraud in the inducement, precluded summary final judgment of foreclosure - [McIntosh Fish Camp, LLC. v. Colwell](#), No. 5D21-1050 (Fla. 5th DCA Jan. 21, 2022)

## Financial Services Update

- **FDCPA / Standing / Actual Damages:** Prayer for recovery of actual damages, in particular alleged reputational harm in this instance, was sufficient to establish Article III standing when considering a motion to remand - [Kamara v. Medicredit, Inc.](#), No. 1:21-cv-23110 (S.D. Fla. Jan. 20, 2022)
- **TCPA / ATDS:** LiveVox HCI dialer did not qualify as an ATDS - [Meier v. Allied Interstate, LLC](#), No. 20-55286 (9th Cir. Jan. 19, 2022)
- **Telemarketing Act / Preclusion:** Section 6103(d) does not prohibit the CFPB and states from bringing joint actions, where CFPB had not previously initiated an action - [Bureau of Consumer Fin. Prot. v. Consumer Advocacy Ctr., Inc.](#), No. 8:19-cv-01998 (C.D. Cal. Dec. 7, 2021) (denying defendant's motions to dismiss and to strike)

- **FDCPA / Debt Collector:** Guaranty agency for the U.S. Department of Education is not a "debt collector" under the FDCPA - [Manchanda v. Educ. Credit Mgmt. Corp.](#), No. 1:19-cv-05121 (S.D.N.Y. Jan. 14, 2022) (granting summary judgment in defendant's favor)

## Title Insurance Update

No cases of interest to report.

## Related Practices

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