

Real Property, Financial Services, & Title Insurance Update: Week Ending June 10, 2022

June 10, 2022

Real Property Update

- **Deed / Automatic Reverter:** Deed to municipality was a fee simple conveyance with an automatic reverter clause, and section 95.36's limitations period was inapplicable to that deed; instead, section 689.18, which also contains time limitations but which expressly exempts from those limitations conveyances to a governmental entity, applied – [1000 Brickell, Ltd. v. City of Miami](#), No. 3D20-1046 (Fla. 3d DCA June 8, 2022) (denying motion for rehearing, but withdrawing prior opinion, and reversing and remanding)
- **Foreclosure / Motion to Set Aside:** No legal basis existed to set aside foreclosure sale because defendant had been properly served through its registered agent and defaulted when it failed to defend; however, defendant was entitled to notice and an opportunity to be heard regarding lender's claims for unliquidated damages, including attorneys' fees, and was entitled to evidentiary hearing on whether such notice that was sent was proper – [Crimson 27, LLC v. Taylor Made Lending, LLC](#), No. 3D21-2360 (Fla. 3d DCA June 8, 2022) (affirming in part and reversing in part)
- **Foreclosure / Business Records Exception:** Court correctly admitted the payment history under business records exception to hearsay rule; however, circuit court mistakenly calculated accrued interest, flood insurance included in judgment exceeded the amount supported by the payment history, and legal expenses included in judgment was not supported by the evidence – [Cayard v. U.S. Bank Nat'l Ass'n](#), No. 4D21-1326 (Fla. 4th DCA June 8, 2022) (affirmed in part, reversed in part, and remanded)

Financial Services Update

- **FCRA / Notice to CRA / Sufficiency of Pleading:** Plaintiff failed to assert that he notified the CRA of any alleged inaccurate debt or report by a creditor, which would have subsequently triggered the need for an investigation; providing notice to the furnisher, as plaintiff alleged was done, would not suffice – [Ngambo v. Bank of Am., N.A.](#), No. 7:20-cv-02221 (S.D.N.Y. June 8, 2022) (granting motion to dismiss)
- **FDCPA / Standing:** Plaintiff failed to demonstrate standing to pursue her claims; plaintiff’s allegations of emotional distress were insufficient to establish standing, as were plaintiff’s other arguments – [Nojovits v. Ceteris Portfolio Servs., LLC](#), No. 1:22-cv-02833 (E.D.N.Y. June 7, 2022) (dismissing case for lack of subject matter jurisdiction)

Title Insurance Update

No cases of interest to report.

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