

Real Property, Financial Services, & Title Insurance Update: Week Ending May 13, 2022

May 13, 2022

Real Property Update

- **Foreclosure / Clerk's Registry Fees:** Clerk was entitled to registry fees paid in connection with a sale that took place, even though sale was subsequently vacated – [Lee Cnty. Clerk of Court v. Gavidia](#), No. 2D21-35 (Fla. 2d DCA May 13, 2022)
- **Contract / Substantial Compliance:** Jury question existed as to whether seller complied with real estate contract's terms by delivering an updated commitment more than two week before closing and pointing buyer to previously provided copies of documents supporting title exceptions previously delivered in connection with a prior commitment – [Estate of Wolfe v. 224 Via Marila, LLC](#), No. 4D21-1312 (Fla. 4th DCA May 11, 2022) (reversed and remanded)

Financial Services Update

- **FCRA / Arbitration:** Arbitration agreement enforceable by party that assumes a contract – [Bennett v. Sys. & Servs. Techs., Inc.](#), No. 2:21-cv-00770 (M.D. Fla. May 10, 2022) (granting motion to compel arbitration)
- **RESPA / Actual Damages:** Costs incurred by a debtor's counsel and the potential obligation to pay attorneys' fees – without more specific allegations as to same – are insufficient to grant standing to pursue statutory damages for alleged violations under RESPA – [Hogan v. Freedom Mortg. Corp.](#), No. 5:21-cv-00782 (C.D. Cal. Apr. 7, 2022)

- **FDCPA / Standing:** Plaintiff, who asserted FDCPA violations based on dunning letter's inaccurate identification of creditor, failed to state an injury in fact, having only alleged emotional distress tied to the potential for identify theft – [Ergas v. Eastpoint Recovery Grp., Inc.](#), No. 1:20-cv-00333 (W.D.N.Y. May 10, 2022) (granting defendant's summary judgment motion)
- **FDCPA / Conveyance of Information to Third-Party Vendor / Standing:** Plaintiff's allegations that defendant violated FDCPA by using third-party vendor to prepare and mail correspondence conveying information regarding plaintiff's debt did not allege an injury in fact meriting Article III standing – [Devitt v. Portfolio Recovery Assocs., LLC](#), No. 1:21-cv-05657 (E.D.N.Y. May 9, 2022) (remanded)

Title Insurance Update

No cases to report

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