

Real Property, Financial Services, & Title Insurance Update: Week Ending May 6, 2022

May 06, 2022

Real Property Update

- **Landlord-Tenant / Section 83.49:** Landlord must strictly comply with notice requirements of section 83.49 before it may retain any portion of tenant's security deposit – [Wootton v. Iron Acquisitions, LLC](#), No. 2D21-2229 (Fla. 2d DCA May 4, 2022)

Financial Services Update

- **FDCPA & FCCPA / Consumer Debt:** To determine whether condominium assessments were consumer debts, court must look to plaintiff's intent with respect to the condo unit at the time of the purchase – [Matos v. Business Law Grp., P.A.](#), No. 6:18-cv-01105 (M.D. Fla. May 5, 2022) (entering judgment for defendants)
- **FDCPA & FCCPA / Consumer Debt:** Plaintiff failed to establish that, at the time of closing, he intended to use condo unit for "personal, family, or household purposes"; instead, evidence established that he intended to use apartment for investment rental property – [Matos v. Business Law Grp., P.A.](#), No. 6:18-cv-01105 (M.D. Fla. May 5, 2022) (entering judgment for defendants)
- **FCCPA / Reinstatement Letter:** Trial court did not err in determining that law firm that sent reinstatement letter requiring payment of attorneys' fees did not violate FCCPA because plain language of mortgage gave the bank the right to seek attorneys' fees from prior foreclosure action as a condition of reinstating loan – [Colombo v. Robertson, Anschutz & Schneid, P.L.](#), No. 4D20-1719 (Fla. 4th DCA May 4, 2022) (affirmed)

- **FDCPA / Counterclaim for Repayment:** The debt and conduct giving rise to plaintiff's FDCPA violation were not part of the same case and controversy because existence of debt was not a prerequisite for the alleged FDCPA violation and thus court lacked subject matter jurisdiction over defendants' breach of contract and unjust enrichment counterclaims – [Krezic v. Advanced Endodontics of Buffalo, PC](#), No. 1:20-cv-01166 (W.D.N.Y. May 2, 2022) (granting dismissal of defendants' counterclaims)
- **FDCPA / Consumer Debt:** Plaintiff's conclusory assertion that purported debt arose from a consumer transaction, rather than a commercial one, was insufficient to support a viable claim under the FDCPA – [Paushok v. Ganbold](#), No. 21-964 (2d Cir. May 5, 2022) (affirming dismissal)

Title Insurance Update

No cases to report

Related Practices

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