

# Real Property, Financial Services, & Title Insurance Update: Week Ending December 25, 2020

December 26, 2020

## Real Property Update

No cases of interest to report.

## Financial Services Update

- **FDCPA / Attorneys' Fees:** Although FCCPA was the only statutory basis for award of attorneys' fees in defendant's favor, plaintiff's FDCPA claims related to the same set of operative facts and were based on related legal theories, justifying a full fee award in defendant's favor for FDCPA claims as well - [Victor v. Petrousky](#), No. 6:19-cv-00788 (M.D. Fla. Nov. 2, 2020) (recommending district court grant in part motion for award of reasonable attorneys' fees and costs)
- **TCPA / Class Certification:** Defaulted status of defendant did not preclude plaintiff from receiving class certification - [Holmes v. DRS Processing LLC](#), No. 3:18-cv-01193 (M.D. Fla. Nov. 3, 2020) (recommending that plaintiff's motion for class certification be granted)

## Title Insurance Update

- **Covered Risks:** Because easement was not plaintiffs' "land" or "title" for purposes of title insurance policy, the covered risks identified by plaintiffs were inapplicable and, in any event, policy exempted from coverage the purported risks, which were created or allowed by plaintiffs - [Horwood v. N. Am. Title Ins. Co.](#), No. 350840 (Mich. App. Dec. 22, 2020) (affirmed)
- **Size of Easement:** Title insurer did not owe a duty to compensate plaintiffs for the reduced size of the easement because the size of the easement was not insured, and plaintiffs still had access to their property - [Horwood v. N. Am. Title Ins. Co.](#), No. 350840 (Mich. App. Dec. 22, 2020) (affirmed)

- **Motion for Remand / Improper Removal:** Title insurer's removal was improper because it occurred before any defendant had been served and the title insurer failed to show that the forum defendant was fraudulently joined - [HSBC Bank USA, Nat'l Ass'n v. Fidelity Nat'l Title Grp., Inc.](#), No. 2:20-cv-01515 (D. Nev. Dec. 22, 2020) (order granting motion for remand)

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