

# Real Property, Financial Services, & Title Insurance Update: Week Ending December 3, 2021

December 03, 2021

## Real Property Update

- **Lease / Claim of Lien:** Trial court erred in its interpretation of section 713.10, Florida Statutes (2013), by granting summary judgment in favor of the lessor/owner, where the exception to lien liability for property owners who record a lease that prohibits such liability does not apply where the lessor/owner of the property is expressly named and is a signatory to the construction contract – [K.D. Constr. of Fla., Inc. v. MDM Retail, Ltd.](#), No. 3D20-1759 (Fla. 3d DCA Dec. 1, 2021) (reversed and remanded)

## Financial Services Update

- **FDCPA / Mail Vendor Theory of Liability / Standing:** Lack of any concrete harm divested plaintiffs of Article III standing – [Cicccone v. Cavalry Portfolio Servs., LLC](#), No. 2:21-cv-02428 (E.D.N.Y. Nov. 29, 2021)

## Title Insurance Update

- **Snap Removal:** Title insurer’s “snap” removal of state court action filed by insured was proper despite presence of forum defendant, where removal effected before any defendant was “properly joined and served” – [U.S. Bank, N.A. v. Fidelity Nat’l Title Grp., Inc.](#), No. 2:21-cv-00339 (D. Nev. Nov. 29, 2021) (denying motion for remand)

- **Title Agent / Escrow Funds:** Motion for leave to amend to add claims against title company, which refused to release escrow funds following mediated settlement of escrow dispute between transaction parties in which title company was invited to participate but declined unless plaintiff dismissed complaint against title company with prejudice, should have been granted where, although title company was named in original complaint merely as holder of escrow funds, proposed new claims arose after original complaint and were based on title company's actions in refusing to release escrow funds after the transaction parties' settlement – [Sirtos v. Metro. Title of Ind., LLC](#), No. 21A-PL-892 (Ind. App. Ct. Nov. 30, 2021) (reversing and remanding)

## Related Practices

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