

Real Property, Financial Services, & Title Insurance Update: Week Ending January 21, 2022

January 22, 2022

Real Property Update

- **HAMP / Loan Modification / Cause of Action:** No independent cause of action for lender's failure to provide loan modification agreement under HAMP - [Riano v. Bank of Am., N.A.](#), Nos. 3D20-1260, 3D20-1473 (Fla. 3d DCA Jan. 19, 2022) (affirming judgment in bank's favor)
- **Foreclosure / Affirmative Defenses Precluding Summary Judgment:** Affidavit supporting detailed factual accounts relating to affirmative defenses, including fraud in the inducement, precluded summary final judgment of foreclosure - [McIntosh Fish Camp, LLC. v. Colwell](#), No. 5D21-1050 (Fla. 5th DCA Jan. 21, 2022)

Financial Services Update

- **FDCPA / Standing / Actual Damages:** Prayer for recovery of actual damages, in particular alleged reputational harm in this instance, was sufficient to establish Article III standing when considering a motion to remand - [Kamara v. Medicredit, Inc.](#), No. 1:21-cv-23110 (S.D. Fla. Jan. 20, 2022)
- **TCPA / ATDS:** LiveVox HCI dialer did not qualify as an ATDS - [Meier v. Allied Interstate, LLC](#), No. 20-55286 (9th Cir. Jan. 19, 2022)
- **Telemarketing Act / Preclusion:** Section 6103(d) does not prohibit the CFPB and states from bringing joint actions, where CFPB had not previously initiated an action - [Bureau of Consumer Fin. Prot. v. Consumer Advocacy Ctr., Inc.](#), No. 8:19-cv-01998 (C.D. Cal. Dec. 7, 2021) (denying defendant's motions to dismiss and to strike)
- **FDCPA / Debt Collector:** Guaranty agency for the U.S. Department of Education is not a "debt collector" under the FDCPA - [Manchanda v. Educ. Credit Mgmt. Corp.](#), No. 1:19-cv-05121 (S.D.N.Y. Jan. 14, 2022) (granting summary judgment in defendant's favor)

Title Insurance Update

No cases of interest to report.

Related Practices

[Real Property Litigation](#)

[Consumer Finance](#)

[Title Insurance](#)

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.