

# Real Property, Financial Services, & Title Insurance Update: Week Ending July 23, 2021

July 23, 2021

# Real Property Update

Landlord-Tenant: Findings of fact indicated that alleged tenant provided a landlord-tenant relationship existed and, therefore, final judgment was reversed and case remanded for court to determine whether tenant proved landlord violated section 83.67 and, if so, to determine tenant's alleged damages – Powers v. Whitcraft, No. 4D21-194 (Fla. 4th DCA July 21, 2021) (reversed and remanded with instructions)

# Financial Services Update

- FDCPA / Applicability: Defendant, a student loan agency with a fiduciary duty to the U.S.
   Department of Education, was not subject to the FDCPA <u>Dressler v. Fla. Dep't of Transp.</u>, No. 2:18-cv-00311 (M.D. Fla. July 22, 2021) (granting motion for judgment on the pleadings)
- FDCPA / Validity of Debt: Defendant's contention that plaintiff owed the underlying mortgage debt was not false, and thus defendant did not violate the FDCPA <u>Macris v. Specialized Loan Servicing, LLC</u>, No. 1:17-cv-00361 (W.D.N.Y. July 20, 2021) (granting summary judgment in defendant's favor)
- FDCPA / Debt-Collection Letter: Defendant's debt collection letter could reasonably be
  interpreted as a "false representation" of the amount of plaintiff's debt, and defendant could not
  show that its violation resulted from a bona fide error Rosen v. LJ Ross Assocs., Inc., No. 1:19-cv05516 (E.D.N.Y. July 22, 2021) (granting summary judgment in plaintiff's favor)

### Title Insurance Update

- Snap Removal / Fraudulent Joinder: Insured's claims against title insurer could not be removed from state court to federal court on diversity jurisdiction grounds where title insurer attempted to remove the case before the forum defendant had been served <u>Deutsche Bank Nat'l Tr. Co. v. Fidelity Nat'l Title Grp., Inc.</u>, No. 2:21-cv-00131 (D. Nev. July 20, 2021) (granting motion to remand)
- Snap Removal / Fraudulent Joinder: Insured's claims against title insurer could not be removed from state court to federal court on diversity jurisdiction grounds where title insurer attempted to remove the case before the forum defendant had been served <u>JPMorgan Chase Bank N.A. v. Fidelity Nat'l Title Grp., Inc.</u>, No. 2:20-cv-02188 (D. Nev. July 20, 2021) (granting motion to remand)
- Snap Removal / Fraudulent Joinder: Insured's claims against title insurer could not be removed from state court to federal court on diversity jurisdiction grounds where title insurer attempted to remove the case before the forum defendant had been served Wells Fargo Bank, N.A. v. Fidelity Nat'l Title Grp., Inc., No. 2:20-cv-02156 (D. Nev. July 20, 2021) (granting motion to remand)
- Snap Removal / Fraudulent Joinder: Insured's claims against title insurer could not be removed from state court to federal court on diversity jurisdiction grounds where title insurer attempted to remove the case before the forum defendant had been served <u>DLJ Mortg. Capital, Inc. v. Fidelity Nat'l Title Grp., Inc.</u>, No. 2:20-cv-02251 (D. Nev. July 20, 2021) (granting motion to remand)

### **Related Practices**

Real Property Litigation Consumer Finance Title Insurance

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