

# Real Property, Financial Services, & Title Insurance Update: Week Ending May 15, 2020

May 15, 2020

## Real Property Update

- **Attorneys' Fees / Construction Lien:** Applying the plain and unambiguous language of Florida Statutes section 713.29, the court found that junior interest holders are not entitled to attorneys' fees as a prevailing party in a lien enforcement action - [Decks N Such Marine, Inc., v. Daake](#), No. 1D18-1396 (Fla. 1st DCA May 15, 2020) (reversed)

## Financial Services Update

- **FDPCA:** Debt collector's letter attempting to collect a medical debt covered under Florida's Workers' Compensation Law violates the FDPCA as a matter of law, and the violation is not the result of a bona fide error if the debt collector does not have procedures in place designed to determine whether an account is subject to workers' compensation before initiating collection activity - [Kottler v. Gulf Coast Collection Bureau, Inc.](#), No. 0:19-cv-61190 (S.D. Fla. May 13, 2020) (granting plaintiff's summary judgment motion)
- **TCPA:** Plaintiff does not state a TCPA claim against an e-commerce company that provides a platform that online retailers use to send text messages to consumers if the plaintiff does not allege that the e-commerce company was directly involved in the procurement of consumers' phone numbers, stored those numbers, transferred the numbers to texting apps, or approved the messages to be sent to those numbers - [Sheski v. Shopify \(USA\) Inc.](#), No. 4:19-cv-06858 (N.D. Cal. May 13, 2020) (granting motion to dismiss)

## Title Insurance Update

No cases of interest to report.

# Related Practices

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