

Real Property, Financial Services, & Title Insurance Update: Week Ending November 26, 2021

November 26, 2021

Real Property Update

No cases of interest to report.

Financial Services Update

- TILA & RESPA / Business Purpose: Plaintiff's loan was a business loan based on court's review of the Ninth Circuit's five-factor test to determine whether a loan was obtained primarily for business or personal purposes Gilliam v. Levine, No. 2:18-cv-02580 (C.D. Cal. Nov. 12, 2021) (granting summary judgment in favor of investor in loan)
- FDCPA / Offer to Settle: An offer to settle a debt does not violate section 1692g of the FDCPA where the debtor received a letter with a 30-day settlement offer, a section 1692g notice regarding validation of the debt, and language informing him that the settlement offer did not affect his right to dispute the debt or the notice Graves v. Omnipoint Mgmt. Sols. LLC, No. 7:20-cv-04579 (S.D.N.Y. Nov. 17, 2021)

Title Insurance Update

Coverage / CLTA Form 100 Endorsement: Title policy's endorsement insuring against losses sustained by reason of homeowner association's covenants, conditions, and restrictions (CC&Rs) did not bring insured's claim within scope of coverage where insured's claimed loss of priority was not the result of any provision in CC&Rs but was the direct result of a Nevada statute, which creates a "superpriority" for homeowner association liens – Pennymac Corp. v. Westcor Land Title Ins. Co., No. A-18-781257-C (Nev. Dist. Ct. Oct. 22, 2021) (affirming summary judgment in favor of title insurer)

- Bad Faith: Insured's bad faith claim against the title insurer failed because the title insurer promptly and properly denied coverage for insured's claim Pennymac Corp. v. Westcor Land Title Ins. Co., No. A-18-781257-C (Nev. Dist. Ct. Oct. 22, 2021) (affirming summary judgment in favor of title insurer)
- Coverage / Post-Policy Claims: Title insurer had no duty to provide coverage for insured's post-policy claim because the title policy expressly excluded coverage for such claims Pennymac Corp. v. Westcor Land Title Ins. Co., No. A-18-781257-C (Nev. Dist. Ct. Oct. 22, 2021) (affirming summary judgment in favor of title insurer)
- Timely Notice of Claim: Insured's failure to provide timely notice of adverse litigation resulted in severe prejudice to title insurance company, thereby terminating title insurer's obligations under the title policy Pennymac Corp. v. Westcor Land Title Ins. Co., No. A-18-781257-C (Nev. Dist. Ct. Oct. 22, 2021) (affirming summary judgment in favor of title insurer)
- Statute of Limitations: Insured's claim was barred by the statute of limitations where the insured failed to make its claim within two years of discovering facts essential to its claim Rehabbers Fin., Inc. v. Chicago Title Ins. Co., No. F081045 (Cal. Ct. App. Nov. 19, 2021) (affirming summary judgment in favor of title insurer)
- Statute of Limitations / Tolling: Statute of limitations on insured's claim was not tolled to some
 later date as a result of insurer's alleged delayed rejection of insured's claim where insured had
 already admitted that insurer previously rejected its claim Rehabbers Fin., Inc. v. Chicago Title
 Ins. Co., No. F081045 (Cal. Ct. App. Nov. 19, 2021) (affirming summary judgment in favor of title
 insurer)

Related Practices

Real Property Litigation Consumer Finance Title Insurance

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