

# Real Property and Business Litigation Report – Vol. IX, Issue 3

January 19, 2016

Cases of interest this week include:

**In re Amendments to Florida Rules of Civil Procedure, — So.3d —, 2016 WL 164134 (Fla. 2016).**  
The Florida Supreme Court approves modifications to the rules for filing residential mortgage foreclosure complaints so as to implement the changes required by the adoption of Florida Statute section 702.015, including requiring plaintiffs to state the basis for standing in the foreclosure complaint itself.

**McCalla v. E.C. Kenyon Construction Company, Inc., — So.3d —, 2016 WL 166732 (Fla. 1st DCA 2016).**  
Florida Statute section 726.108 (fraudulent conveyances) permits money damages against both the fraudulent transferor and the fraudulent transferee.

**Cleveland v. Crown Financial, Inc., — So.3d — 2016 WL 167735 (Fla. 1st DCA 2016).**  
A foreclosing lender is limited to obtaining a judgment in the maximum amount set forth in its mortgage and corresponding future advance clause, notwithstanding it loaned monies in excess of the maximum amount in the clause.

**Bonafide Properties, As Trustee Only Under 14329 Village View Dr Land Trust v. Wells Fargo Bank, N.A., — So.3d —, 2016 WL 145809 (Fla. 2d DCA 2016).**  
A purchaser who buys real property during a pending foreclosure in which a lis pendens has been filed is not entitled to intervene. Judge Altenbernd's concurrence states that while "[t]here is nothing inherently wrong with large profits in a market economy," present economic factors require further study to protect the right of redemption of borrowers when such purchasers pendent lite have no economic incentive to reduce the final judgment amount, and accordingly, the redemption dollar amount.

**Deutsche Bank National Trust Company, As Indenture Trustee, For New Century Home Equity Loan Trust 2005-2 v. Quinon, — So.3d —, 2016 WL 166648 (Fla. 2d DCA 2016).**  
A party alleging failure of a condition precedent must identify the condition precedent and also how the opposing party failed to satisfy its requirements.

**Ridge Grove Condominium Association, Inc. v. Misserville, — So.3d —, 2016 WL 166651 (Fla. 2d DCA 2016).**  
Florida Statutes section 718.111 (12)(c) allows a condominium association to adopt rules, including the requirement for an appointment, when providing members the right to copy association records.

**Moriber v. Dreiling, — So.3d —, 2016 WL 145968 (Fla. 3d DCA 2016).**

A party may not rely upon statements made during the litigation and made by litigation adversaries to establish new fraud claims against the adversaries.

**Save Calusa Trust v. St. Andrews Holdings, Ltd., — So.3d —, 2016 WL 145997 (Fla. 3d DCA 2016).**

A restrictive covenant imposed by government as part of development order is not subject to and cannot be extinguished by the Marketable Record Title Act.

**Related people**

Manuel Farach