

# Real Property and Business Litigation Report

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**De Gazelle Group, Inc. v. Tamaz Trading Establishment, --- F.3d ----, 2016 WL 1238239 (11th Cir. 2016).**

Service of process by Federal Express is not good service unless service in this manner is first authorized by the court.

**F.E.B. Corp. v. United States of America, -- F.3d ----, 2016 WL 1179951 (11th Cir. 2016).**

The Quiet Title Act ("QTA"), 28 U.S.C. § 2409a, waives sovereign immunity and permits a private claimant to assert quiet title actions against the United States. However, the QTA is subject to a 12 year statute of limitations and further subject to numerous exceptions that limit its applicability.

**Newman v. Ocwen Loan Servicing, LLC, --- So.3d ----, 2016 WL 1235548 (Fla. 2d DCA 2016).**

Remittitur, instead of reversal, may be appropriate remedy for collateral damage amounts in a foreclosure judgment that are unsupported by evidence.

**National Auto Service Centers, Inc. v. F/R 550, LLC, --- So.3d ----, 2016 WL 1235622 (Fla. 2d DCA 2016).**


A cause of action under the Florida Uniform Fraudulent Transfer Act (FUFTA), § 726.105 *et seq.*, accrues upon discovery of the facts underlying the fraudulent transfer. Furthermore, FUFTA is statute of repose and thus its time limitations cannot be extended based on alleged acts constituting an equitable estoppel.

**Catalina West Homeowners Ass'n, Inc. v. Federal Nat. Mortg. Ass'n, --- So.3d ----, 2016 WL 1235728 (Fla. 3d DCA 2016).**

The "safe harbor" provisions of Florida Statute section 720.3085 do not permit a community association to charge a foreclosing lender for interest and attorney's fees.

**Ortiz v. PNC Bank, N.A., --- So.3d ----, 2016 WL 1239760 (Fla. 4th DCA 2016).**

The attachment of a copy of the note to a complaint does not conclusively and necessarily prove that the lender had actual possession of the note at the time the complaint was filed, but establishes a rebuttable presumption sufficient to defeat a motion for involuntary dismissal if the lender who filed



suit and lender at trial are the same and there are no additional evidentiary issues surrounding the note.

**Cassell v. Green Planet Servicing, LLC, --- So.3d ----, 2016 WL 1261119 (Fla. 5th DCA 2016).**

A witness cannot testify to another business's records unless the testifying witness can demonstrate familiarity with how the other business's records were created.