

# Ruling: Bank of America still on hook for negligence claim filed against bank, Palm Beach banker

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A Florida judge ruled that Bank of America (NYSE:BAC) is solely responsible for and bound by the ramifications of its employee actions or inactions, with no culpability to the BofA employee himself.

Friday's ruling stems from lawsuit filed by Palm Beach author TJ Fisher that contends that fallout from irregular BofA practices and transactions led to legal judgments against her in the State of Maryland, resulting in a \$50 million loss.

The ruling follows another by Judge Thomas H. Barkdull, III's against BofA — denying the bank's Motion to Dismiss Fisher's case.

Though the most recent ruling releases co-defendant Peter Kafouros, BofA Vice President Peter Kafouros, personally, it makes the bank accountable and possible financially responsible for the employee's actions.

"Judge Barkdull's ruling confirmed that Bank of America could be liable for any negligent conduct by its employee while acting within the scope of his employment for the bank," said Fisher's lead counsel and West Palm Beach-based litigator, Timothy W. Schulz, Esq. Schulz is also a former Atlantic City police officer and crime scene forensic expert.

Fisher's unlikely but dramatic legal saga spans from Palm Beach to New Orleans, the two colorful towns that flamboyant Fisher has longtime called "home."

Fisher has resided in the ocean block of the Town of Palm Beach for 15 years, with a part-time French Quarter residence for a decade. Fisher says the two diametrically opposed locales of South Florida and southeastern Louisiana are each rich in scandal and socialites, masquerade and moguls, secrets and rumors, fistfights and feuds, headdress and black-tie, cocktails and diamonds, big money and conspiracy and intrigue.

The native Floridian "Palm Beacher" and "French Quarterite" has moved seamlessly between the two hurricane-prone worlds, at ease in either locale.

Fisher's story begins with her spouse and his former partner who spearheaded the New Orleans real estate development deal that involved ex-NFL Ravens Michael McCrary and their jointly owned LLCs, with respect to Louisiana's third tallest building, the Plaza Tower. The soured partnership of the three men led to high-profile bad blood and infighting over post-Hurricane Katrina insurance proceeds control, with McCrary successfully filing Baltimore, Maryland "home court" litigation. Fisher was later snared into the out-of-state litigation and defaulted.

Fisher is adamant that BofA banking activities were the impetus and lynchpin of her being targeted in the crosshairs of McCrary's venomous civil litigation, first launched in 2007. Fisher contends she was never McCrary's partner. In fact she met him once. Since McCrary sued her — and obtained a Baltimore \$33.3 million default judgment against her in 2008, later overturned upon appeal — Fisher's Florida and New Orleans properties and projects have been mired in a nosedive spiral of ruin, foreclosures and bankruptcies, and her life in tatters. Through the nightmarish soap opera, Fisher's friends say she has maintained her dignity and character.



In Fisher's suit against BofA, she blames her financial collapse on seven-figure default judgments in favor of McCrary.

Related legal action involving BofA:

Less than two hours after Judge Barkdull released banker Kafouros from Fisher's Florida litigation against BofA, in a different courtroom a thousand miles away, Maryland Judge W. Michel Pierson issued a repeat default judgment against Fisher in the original 2007 McCrary/Fisher civil-court litigation, an ongoing court action which will now go on appeal, a case which Fisher asserts BofA cemented her into.

Fisher says she's the poster girl for cautionary tales and the old adage "that which does not kill us makes us stronger."

In the McCrary case filed against Fisher, after McCrary and his attorneys dragged her through a legal odyssey of 13 separate civil courts in three states and D.C., with proceedings being bounced back to Baltimore, Judge Pierson recent ruling imposed a preliminary second default judgment against Fisher for \$13 million, capped with a \$5 million interest penalty.

At Maryland's Judge Pierson McCrary/Fisher Friday court hearing, which Fisher did not attend, as she was present at Florida's Judge Barkdull BofA hearing, her attorney Richard Winelander presented a last-minute court document evidence to Judge Pierson revealing McCrary's apparent concealment of another opinion and BofA settlement, from a separate but parallel Maryland federal court proceeding whereas McCrary sued BofA through the Crescent City Estates entity. With respect to McCrary's suit against BofA, whereas he made a duplicate monetary claim against BofA, seeking the same monies he sought in the lawsuit against Fisher, however this time under-seal settlement documents undisclosed by McCrary calculated his disputed claim of damages/losses in the Plaza Tower case to actually be worth \$4.5 million.

In earlier McCrary/Fisher litigation that resulted in Fisher's original default — when McCrary first sued Fisher for \$60 million with respect to his possible \$4.5 million loss on the Plaza Tower project post-Hurricane Katrina insurance payment — McCrary also concealed from courts the after-storm return of his initial \$3.5 investment and a tidy \$2.4 million profit, all within a few months of his New Orleans-venture speculation and Katrina laying waste to New Orleans. Fisher says she expects to weave an eyebrow-raising tale out of the long-running saga "The Plaza Tower Matrix," for screen adaptation.

During the McCrary/Fisher litigation, the Baltimore press has profiled McCrary's smorgasbord of prescription narcotic pharmaceuticals usage and spousal allegations of domestic abuse, firearm brandishing and supposed failed stints at rehab. Like Fisher, McCrary has been snared in his own foreclosure tales of woe. He has also been subject to wage garnishment.

"I don't know what the end to this litigation will be," Fisher said, "but McCrary's litigation has eaten and gobbled up everyone's lives and financial resources, destroyed everything in its wake. I now better understand why philosophers and religions condemn and warn against the path of revenge and greed. It's a lot like Dante's Inferno."

With respect to Fisher's BofA litigation, which encompasses a claim against BofA for any McCrary default judgment against Fisher, noted international legal counsel for the entertainment industry, Russell Smith, Esq. and Frank Dehn, Esq. (New York, London, Los Angeles, India) of SmithDehn LLP and their legal assistance firm SDD Global Solutions, will assist Schulz in case preparation, as will Fisher's longtime attorneys in the McCrary litigation, Richard Winelander of Baltimore and Al M. Thompson, Jr., Esq. of New Orleans.

Fisher is a member of the Writers Guild of America (WGA), Directors Guild of America (DGA), Producers Guild of America (PGA), Dramatists Guild of America (DG), Authors Guild (AG), National Academy of Television Arts and Sciences (ATAS), Screen Actors Guild (SAG), Actors' Equity Association (AEA), and other professional guilds and organizations.

For more information on TJ Fisher, please visit:

<http://www.tjfisher.com/>

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