



Bank of America loses Motion to Dismiss; Palm Beach author's case moves forward

Lawsuit involves a \$70 million claim against the financial Institution

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On Friday banking behemoth Bank of America (BoFA) (NYSE:BAC) failed to convince 15th Judicial Circuit Court of Florida to dismiss author TJ Fisher's multimillion dollar lawsuit against the financial giant and its former Palm Beach branch vice president Peter Kafouros. Six months after Fisher first filed a \$70-million legal action against the financial institution, Judge Thomas H. Barkdull, III denied the bank's Motion to Dismiss.

Across the bridge from the Town of Palm Beach's sandbar island of swaying palm trees and cloistered mansions, Fisher's court papers indicate a forthcoming colorful clash and showdown between "David and Goliath."

Palm Beach and French Quarter resident Fisher prevailed in round one when her attorney, sole practitioner Timothy W. Schulz, Esq., successfully moved the Negligence Claim case forward.

"The importance of the Court's ruling is that the Judge determined the Amended Complaint states a legal cause of action against Bank of America for negligence, negligent training and supervision, and for breaching its duty to disclose critical information to its customers, all claims the bank sought to dismiss," Schulz said.

Occasionally referred to as a "socialite," pink Cadillac-driving Fisher's dramatic tale and unusual legal odyssey includes some colorful elements: New Orleans, ex-Baltimore Ravens defensive end Michael McCrary, Hurricane Katrina and Louisiana's third tallest building, the Plaza Tower.

Fisher's suit seeks to establish how improper BoFA transactions, tied to the Plaza Tower, extends to the culpability of entangling her into a firestorm of civil litigation first filed in 2007. A McCrary-spawned civil Complaint launched a flurry of legal actions naming Fisher as a "co-conspirator" in a dispute over an insurance settlement that dragged her through 13 separate federal and state courts in Florida, Louisiana, Maryland and the District of Columbia. The case remains ongoing.

Fisher's spouse and his former partner led the New Orleans real estate development deal that involved McCrary and jointly owned LLCs; when the partnership soured, Fisher was held legally liable for her spouse's fallout and consequences. Fisher received a 2008 Baltimore, Maryland \$33.3-million default judgment levied against her, later overturned on appeal, however court documents reflect another seven-figure default decree in favor of McCrary soon looms against Fisher, pending from a recent judicial opinion to uphold default judgments.

"Banks and bankers don't necessarily mean to cause harm, but they can cause a lot of harm," Fisher said, referring to banking transactions, which she claims triggered her ultimate financial freefall. Fisher believes that her lawsuit will have long-term ramifications on overhauling banking industry standards. She says her saga



TJ Fisher and her dog, Madame Calliope de Bourbon

embodies the definitive cautionary tale of how spouses, children, parents, shareholders or LLC members can become unwittingly mired in scorched-earth litigation, due to banking procedure oversight and errors, and lack of proper due diligence.

In delivering BofA news they hoped not to hear — and overriding BofA arguments that Florida’s “Economic Loss Rule” shields financial institutions from responsibility and accountability for losses resulting from negligence — Judge Barkdull denied the bank the opportunity to stop the case and block the author/producer’s next step of discovery.

In losing their Motion to Dismiss the case, Fisher’s claim against BofA remains entrenched in state not federal court jurisdiction. In a separate court action proceeding in the same Palm Beach County courthouse, the “eccentric” and flamboyant author remains ensnared a related foreclosure saga with BofA controlling two mortgages on her Palm Beach home. Like one in every four Florida homeowners, Fisher is battling her home going to the auction block.

Following in the footsteps of ex-New Orleans neighbor Nic Cage, Fisher lost her Bourbon Street French Quarter house to foreclosure auction in late September, all tied into the intricacy of being locked into the domino-effect spiral of losses that BofA actions and irregularities plunged Fisher into, according to Fisher. Over the course of McCrary’s ruinous litigation against Fisher, Fisher has been divested of virtually every asset and personal belonging.

“But I still have my three dogs, cat and two parakeets,” quips Fisher, “and they’re priceless.”

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, Esq. 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.

DOWNLOAD: [Denial of Motion to Dismiss](#)

For more information on TJ Fisher, please visit:

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

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