

# Key banking expert in Scott Rothstein investors' \$67 million award against TD Bank to testify at author's jury trial vs. Bank of America for \$70 million and related U.S. Bank/BofA foreclosure case



*Fallen "socialite" expects more court victories vs. Big Banks within the year*

(PR NewsChannel) / April 26, 2016 / WEST PALM BEACH, Fla.

National banking expert Catherine Ghiglieri has been designated to provide key expert witness testimony in plaintiff Author TJ Fisher's epic \$70 million David vs. Goliath battle against defendant Bank of America Corporation (NYSE:BAC) and the related case involving U.S. Bank National Association, a U.S. Bancorp subsidiary. The face-off between fallen but still feisty ex-socialite Fisher and "Too Big to Fail" Wall Street royalty banks takes place in the 15<sup>th</sup> Judicial District of Florida, just a short walk across the bridge from the storied island of Palm Beach. Ready, set, go!

Dubbed a "flamboyant" Southern writer by the *Daily Business Review*, Fisher says she looks forward to taking the witness stand. Bank of America's former Town of Palm Beach Branch Manager/Vice-President Peter Kafouros is also expected to step into the witness box, according to pre-trial witness lists.

Fisher's banking expert Ghiglieri has provided prior key testimony in a variety of high-profile cases brought against banking institutions. She is a nationally known expert witness on unsound banking practices and procedures, bank policies and regulator processes.



TJ Fisher (center) and friends at St. Edward, Palm Beach, Fla.

Ghiglieri was the plaintiff Coquina Investors' banking expert in their South Florida court case against TD Bank for financial carnage wrecked by ponzi-schemer Scott Rothstein. Banking defense counsel failed in their defense of the bank against claims of wrongdoing, and the federal jury awarded the Coquina plaintiffs **\$67 million**. The decision left the bank on the hook for one of the largest awards in the history of banking litigation.

The outcome of the TD Bank case ranked 37 on the National Law Journal's *Top 100 Verdicts in the Country*. In part due to banking expert Ghiglieri, the bank was unable to dodge ultimate economic accountability and liability for the bad or corrupt decisions made.

Coquina attorney David Mandel said the bank acted with "arrogant and reckless indifference." Banks need to be held accountable "for the devastation they inflict and the damage they cause," Mandel said.

TD Bank finally paid Coquina Investors the \$67 million 2012 verdict. The financial institution **satisfied** the judgment in full in 2015 after a **federal appeals** court refused to overturn or reduce the verdict. The bank also agreed to pay **\$52.5 million** to settle separate U.S. regulatory charges that it failed to report suspicious activity in accounts. Fisher expects history to repeat itself in her case against Bank of America.

Much of Fisher's cautionary tale of woe of what can happen to spouses and business associates when banks strip their safeguards has unfolded in the public eye during years of litigation, however, she insists that it remains a story yet to fully be told. Similar to other cases brought against banks that staved off scrutiny, Fisher's case involves

massive amounts of money.

Florida attorney and money-laundering expert Charles Intriago said of the TD Bank case, “There’s very little jury sympathy for a bank, and right now is a rough time for a bank to be in front of a jury.”

“I expect a jury award similar to the TD Bank jury verdict,” Fisher says. Bank of America’s Miami-based lead counsel lawyer J. Randolph Liebler vowed that the bank would fight any jury award for as long possible before paying, Fisher explained, speaking of her lawsuit against the bank. “He indicated that banks do well at the appellate level when they lose big at the trial court level.” The award against TD Bank proves otherwise. “I’m up for the fight,” Fisher adds, “for however long as it takes. I’m not going away.”

Fisher’s banking industry expert Ghiglieri has already prepared preliminary reports and affidavits, filed into Fisher’s court litigation against the megabanks. Ghiglieri is the former Texas Banking Commissioner—Texas has the nation’s third largest banking system. She has more than 25 years bank regulatory experience, including 18 years with the Comptroller of the Currency. Ghiglieri has provided banking expert witness testimony in federal and state courts throughout the country.

The \$1.2 billion Rothstein banking financial fraud spanned multiple banks. Eighty investors sued Bank of America in South Florida for [\\$389 million](#) plus punitive damages. The investors claimed the bank knew of the fraud but deliberately kept quiet about it. Bank of America settled those multimillion-dollar negligence claims several days before the six-week jury trial was scheduled to begin.

Miami banking analyst Ken Thomas said he wasn’t surprised the bank settled.

“They have been through so much litigation, and their earnings are coming out now,” he said. “This is a minor thing for them. The last thing a bank wants to do is face a jury. Most everybody dislikes banks, and Bank of America is at the top of the list—too big to fail and too big to like.”

*Rolling Stone Magazine* previously dubbed Bank of America [Too Crooked To Fail](#). A recent article sums up Wall Street’s banks as [Too Big to Nail](#).

Fisher’s banking expert Ghiglieri was also one of the banking expert witnesses in the South Florida case filed against North Carolina-based BB & T, when a group of six National Football League veterans sued the bank for [\\$60 million](#) in losses. The BB&T case cited illegitimate accounts, unauthorized transactions, improper signatures, and unusual and extraordinary withdrawals. The bank [settled](#) the bifurcated case during the trial, before the jury went to deliberation.

“Unfortunately, BB&T [formerly BankAtlantic], ignored plenty of red flags and allowed tens of millions of dollars to be transferred from clients’ accounts without their knowledge or permission,” said the player’s attorney [Andrew Kagan](#). The sad thing is that by allowing this to happen, the bank has caused irreparable harm to the clients and ruined lives in the process.” Fisher says she can relate.

One of jurors on the NFL player’s case against BB & T spoke out after the bank and the players reached a settlement. “I have a bias against the case in general,” he admitted. “The fact that the recession was caused by them ... they have a stigma. I feel the burden of proof is on the banks. It will be hard to think that the bank is the right.”

Similar to Fisher’s claims against Bank of America, football players in the legal action against BT & T said the bank’s actions caused “irreparable harm.” They, like Fisher, had homes foreclosed due to the bank’s transactions.

Fisher’s long-running case against Bank of America also involves an NFL player, ex-Baltimore Ravens defensive end Michael McCrary. Florida litigator Liebler and his law firm Liebler, Gonzalez & Portuondo first represented Bank of America and Branch Manager Peter Kafouros (an original co-defendant in Fisher’s legal action against the bank)

in federal court in 2009. Liebler's representation was with respect to McCrary's lawsuit against the bank for conversion, entwined with Fisher's case. McCrary initially sued Fisher in 2007 then sued the bank in 2008.

Liebler also represents Bank of America and U.S. Bank in Fisher's litigation.

New admissions confirm Bank of America paid \$5.7 million in 2011 to settle former two time Pro-Bowler McCrary's federal lawsuit; settlement was reached after Fisher filed suit against the bank, asking the bank be held liable for a spiral of losses and financial ruin triggered by McCrary's lawsuit against her for \$60 million. Fisher received a Maryland default judgment to the tune of \$33.3 million, stemming from the bank's prohibited financial transactions.

The actual amount of Bank of America's confidential settlement agreement with McCrary and his entity was first made public in recent out-of-state federal court filings, not Fisher's Florida 15<sup>th</sup> Circuit court case against the bank.

Ex-NFLer McCrary still holds a default judgment against Fisher of more than \$25 million, despite pocketing Bank of America's seven-figure settlement. McCrary has received a total of \$8.1 million from his New Orleans project.

The McCrary/Fisher legal odyssey, which began with Bank of America transactions, dragged the native Floridian and Sunshine State resident Fisher through state and federal civil courts in Florida, Louisiana, Maryland, Virginia and the District of Columbia.

Fisher's banking expert Ghiglieri was also McCrary's banking expert in his conversion case against the bank, regarding the fallout and consequences of the bank improperly opening the Crescent City Estates, LLC account.

Fisher's lawsuit against Bank of America encompasses a claim for McCrary's outstanding judgment against her as one segment of damages. Why? The bank's improper opening of the Crescent City account — which Fisher was not a part of and had no control over — enabled McCrary to haul Fisher to court in Maryland and default her in a legal action.

Completing discovery against the bank has been a slow-going uphill battle, Fisher says. Some pertinent documents are still outstanding after five years, but yet the trail of recovered documents paints a picture for the court and jury to see at trial.

Fisher was drawn into a hell ride after the bank accepted for deposit \$11 million in an improper business bank account opened by Fisher's spouse and banker Kafouros. McCrary claimed the limited liability company ("LLC") funds belonged to him. The bank's unclean hands and noncompliance with normal banking rules and protocol placed Fisher directly in the cone of risk to be targeted and sued by McCrary and his LLCs.

Following Bank of America's improper 2006 account opening and transactions, Fisher has weathered a bottomless financial abyss and personal devastation of nearly a decade. Press and court filings reflect grueling scorched earth litigation. Along the way, Fisher even had her furniture and personal possessions seized and carted from her home, down to her handbags and wallet.

Fisher says of her life bygone, what she misses most of family keepsake "treasures" and fine things torn from her are her late mother's beloved watch and hurricane lamps. She says the lamps, not expensive, are irreplaceable.

The real estate development deal struck between Fisher's husband and business associates and investors on a 45-story New Orleans building that went sour after Hurricane Katrina is what snared her into litigation. A merciless battle erupted over insurance proceeds deposited into an unauthorized Crescent City Estates Bank of America business account opened in Palm Beach for a Louisiana LLC.

Defendant Bank of America's South Florida attorney Liebler explained in federal court (in 2009) the McCrary interests' lawsuit against the bank:

"The issue relates to checks that were deposited in a Bank of America account. They are alleging conversion,"

Liebler said. "There were accounts at Bank of America. Checks were deposited in."

The McCrary interests said the bank's actions were, under state law, a conversion action. "They [McCrary's interests] are alleging that the bank converted those checks," Liebler added. The behemoth bank put the McCrary claim to rest five years ago with the \$5.7 million lawsuit settlement.

Fallout from the bank's actions has been great, according to dozens of boxes of more than a hundred thousand court documents collected in Fisher's case.

Fisher says no monetary award could replace what she has lost and endured during a near decade of debilitating and insurmountable court battles.

The uniquely horrific set of circumstances that Bank of America set into motion inflicted relentless economic ruin, pain and suffering, degradation and humiliation not everyone could withstand, according to Fisher. She lives to tell the tale with dignity and grace. Through it all, Fisher has retained her wide smile and trademark sense of humor. Laughter can conceal a heavy heart, she says.

Fisher remains upbeat and confident a jury of fact-finders will speak loudly in this case, via understanding the facts at hand and the verdict they return.

"My adversary [the bank] cannot subdue the truth in this matter," Fisher said. "The bank's miscalculation in thinking they could lay me in the dust will be my victory. People say justice rides a slow horse," Fisher adds. "I've learned patience."

Fisher's banking expert Ghiglieri co-authored [The Ultimate Guide for Bank Directors](#). The book provides bank directors a roadmap for navigating challenges facing the financial institutions today.

Ghiglieri is an expert in the workings of the banking system. The former bank regulator specializes in the areas of bank regulatory practices, banking practices and procedures, banking industry standards, directors and officers duties and responsibilities, fraud detection procedures, check kiting, predatory lending, commercial and real estate lending practices, deposit account fraud and ponzi schemes.

According to studies, banking and regulatory framework underscore a banker's fiduciary responsibilities as well as "red flags."

Ghiglieri has made numerous appearances before the U.S. Congress providing testimony on subjects such as financial modernization. In addition to providing expert analysis and testimony in the categories of banks and banking, Ghiglieri is also an expert in commercial and real estate finance/financing, fraud, money laundering, real estate finance/lending/loans/mortgage and white-collar crimes.

The entwined nexus between Bank of America's alleged misdeeds and a home mortgage the bank allegedly assigned to a Big Bank brethren U.S. Bank entity in 2007, 2008 and 2010 (contradictory dates) now ensnares mortgage servicer Nationstar Mortgage Holdings.

Separate trials may ensue for Fisher's main case against Bank America and other foreclosure cases, each with a different judge, or one consolidated court proceeding may move forward. Fisher's Bank of America mortgage is now named "U.S. Bank National Association, as Trustee for the Certificate Holders of Banc of America Funding Corporation Mortgage Pass-Through Certificates, Series 2007-8."



New revelations and discoveries in the case may result in Fisher amending her case against the bank(s). Fisher's attorney has informed the court an entirely new cause of action may be filed. Bank of America is already facing a court award of attorney's fees to Fisher in a separate but interacted [foreclosure](#) action dismissed in 2014.

Fisher recently learned that Bank of America was the secret owner and holder of recorded mortgages on her home in 2011, and made back-and-forth agreements with itself unfavorable to Fisher, at a time when U.S. Bank avowed to the court that *it* held the mortgage.

The State of Florida Office of the Attorney General Legal Affairs previously investigated one of the bank's law firms who prepared many of the documents in Fisher's case for deception and unlawfulness. The Law Offices of [Marshall C. Watson](#) were alleged to have filed false, robo-signed and forged foreclosure documents into the court. Watson paid a \$2 million fine and surrendered his legal license.

U.S. Bank itself, acting as a trustee for a pool of home loans, slapped Bank of America with its own [lawsuit](#) seeking to recover \$178 million in losses over alleged misrepresentations in mortgage loans. U.S. Bank made a demand for Bank of America to buy back bad mortgages. Equally, both banks were also co-defendants in a case against them regarding securities that suffered tens of billions of dollars of losses tied to the global financial crisis. The banking duo agreed to pay \$69 million to settle one such lawsuit over their role as trustees.

Fisher seeks her homestead as a part of her overall damages.

The bank has been trying to foreclose on Fisher before her case against the financial institution reaches jury trial; Fisher's 2014 jury trial against Bank of America was continued at the ninth hour and is not yet back on the court docket.

Fisher lost her Bourbon Street French Quarter house to foreclosure in 2011 and now battles to keep her Palm Beach home of nearly 20 years. Bank of America actions of 2006 and subsequent McCrary litigation left her mired in a legal nightmare and foreclosure saga that includes colorful elements and characters.

During the past seven years of banking litigation, nearly a decade of court proceedings overall, banks have tried without success to wrestle away Fisher's ocean block Palm Beach homestead of twenty years. Gone from Fisher's remaining beach-block home are the polished glamour trappings and magazine-worthy art and home décor style she was once lionized for. Everything has been stripped away in brutal, war-like court proceedings. Fisher's walled and gated and palm tree lined compound, now in a state of disrepair, was once valued at \$4.5 million.

When Fisher lost her historic three-story New Orleans home (formerly assessed at \$3.5 million) to foreclosure, she also lost her '59 pink Cadillac, antique jewelry and everything else, too. Fisher remains. She walks tall and straight. "Everything happens for a reason, there are no coincidences," she explains, pointing to the big picture.

The American multinational banking and financial service corporation of Bank of America is the nation's second largest bank holding company by assets, and U.S. Bank is the seventh largest bank in the United States. Each bank is represented by a consortium of lawyers —outside prestigious law firms and fully staffed in-house legal departments. Fisher, like most wronged victims who battle to have their day in court, has insufficient financial resources to fund armies of lawyers. However, she does have one fearless Giant Killer on her side, a sole practitioner attorney.

"The enemy has a lot of devices," Fisher says about Big Banks, "but it will not work. My case will find compassion and favor in the sight of the fact-finders, the jury who will be responsible for judging this case."

Conventional wisdom holds that those with the most money and the highest priced lawyers win in court. Fisher argues, no, not this time around. She vows to win at jury trial, keep going and not stop until Big Banking writes a big check for all she's endured. She has the wind at her back, she says, and expects the favor of a Book of Job ending to her long and debilitating saga. She describes her ordeal as a "long season in purgatory."

The West Palm Beach courthouse where the trial against Bank of America will be held has long been the site of numerous high-profile high-stakes court trials involving wealth, celebrity and scandal, the noble and ignoble.

The art of delay is a favorite Big Bank deep-pocket technique in litigation at the trial court level and the appellate system, where banks fight an economic war of attrition to wear down plaintiffs, out spend plaintiffs and wait for plaintiffs to give up or die. Banks spend \$51 million a day in legal defense; few litigants get their day in court, much less collect an award.

Resilient, Fisher says, “I’m in my ninth year of litigation for what Bank of America and their banker did in 2006. They should realize by now, I do not go quietly into the night.”

Across the yacht-trafficked waterway from the courthouse lies the headline-grabbing sandbar known as the “Town of Palm Beach.” The bubble-like isle of insulated wealth, exclusive clubs, ritzy charity balls, tall manicured hedges and bejeweled socialites is where a chummy banking relationship that skirted the rulebook developed between Bank of America’s vice president and Fisher’s husband. The fact the bank asked few questions and didn’t demand LLC documentation was Fisher’s undoing.

Palm Beach is an internationally unique community; an alternate universe that attracts the barons of the business world, the wolves of Wall Street, movie stars, artists and billionaires, so it’s no small wonder that the town has its fair share of scandals and unusual occurrences over the decades.



TJ Fisher (center) and friends at her Palm Beach, Fla. home

Standard Oil founder Industrial Henry Flagler founded Palm Beach in the late 1800s, on the heels of pioneer settlers. The winter resort destination for the rich flourished. Always a cocktail-of-contradictions town — populated with colorful characters arriving and departing, from E.R. Bradley to Meyer Lansky, ambassadors to aerobics instructors, Captains of Industry and power brokers — the 1920s oceanfront Kennedy Estate went on to become JFK’s “Winter White House.”

America’s richest society and playground of the wealthy has spanned a long legacy of swashbucklers and bluebloods, mobsters and moguls, social lions and crashed hi-fliers, tiara-ed mavens and desperate housewives.

“The road kill,” says longtime island resident artist Helmut Koller, “is part of life. Even though we always say we live in paradise, it’s not always paradise. Bad things do happen.”

Koller was speaking of his photo-book chronicle of the picturesque town, however, Koller’s quote could have a variety of sardonic meanings, Fisher says, like what lies beneath.

Over the decades, the underbelly and skeletons of Palm Beach have been on display, alternately celebrated and decried in the media’s glare. A variety of nonfiction books have attempted to capture the essence of the illusive island: [Madness Under the Royal Palms: Love and Death Behind the Gates of Palm Beach](#), [The Season: Inside America’s Richest Society](#), [Palm Beach Scandals — the First 100 Years](#), [Wicked Palm Beach: Lifestyles of the Rich and Heinous](#), [Palm Beach Babylon: The Sinful History of America’s Super-Rich Paradise](#).

The late [Pat Booth](#)’s bestseller novel [Palm Beach](#) “is still fondly and unfondly remembered by the town’s Old Guard. The Big 80s work was presumed to be a thinly veiled “undressed” *roman a clef* scandal of the day, the Roxanne Pulitzer saga.

Palm Beach and its financial institutions both prefer that their secrets be kept, well, secret.

An old adage is that all the world's wealth passes through the narrow barrier island of Palm Beach, land of Donald Trump's Mar-a-Lago Club where Big Sugar and Big Oil magnates and other international A-listers dine and dance in a 20,000-square-foot Louis XIV ballroom.

Thirty-year Town of Palm Beach resident Fisher is an atypical Palm Beacher, in every sense of the word. She has never worn Lilly Pulitzer. She once lived and worked in Haiti before having a second home in the French Quarter of New Orleans and remains a champion of the underdog, social justice and human rights issues. A committed churchgoer, when it comes to Fisher's approach to life and outreach to others, pastors to rabbis speak well of Fisher's "good heart."

Wealth gravitates to wealth, and the Town of Palm Beach is ranked as one of the nation's top zip codes. But there's a tremendous wealth gap, a homeless population and an impoverished community just across the bridge from the tony enclave island of opulence. The wealth disparity is even more so in other parts of the county like [Belle Glade](#), with some of the worst unemployment and poverty in America. Some areas rival a Third World county or the Great Depression. Fisher has met and befriended a number of suffering people from all walks of life over the years at the courthouse steps, as fate would have it. The state's middle class also took a heavy hit when Florida led the nation in [foreclosures](#). Florida had [25%](#) of the nation's foreclosures.

Fisher says she looks forward to a day when litigation ends and she regains the financial strength and wherewithal to underwrite major charitable giving and philanthropic funding, beginning with her church and numerous outreach programs.

Fisher's case against Bank of America slowly reveals its secrets. Her friends look at her stalwart ability to soldier on with a healthy share of bewilderment and admiration.

Rags-to-riches-to-rags stories *can* and *do* have a happy ending, and a return of things lost, Fisher says, with one turn of the wheel of fortune. She expects a favorable jury verdict. Soon.

Author Fisher's [The Pearly Gates of Purgatory Promenade Series](#) remains a work-in-progress, not yet released for publication. The novel series is set in Palm Beach and New Orleans.

Inquiring minds want to know.

The made-for-TV drama continues to unfold.

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: [TJ Fisher.com](#) and [TJ Fisher.net](#).

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