

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,
Complainant,

v.

BRUCE JACOBS,
Respondent.

Supreme Court Case
No. SC20-1602

Florida Bar File
No. 2019-70,188 (11H)
No. 2019-70,358 (11H)
No. 2020-70,056 (11H)

**MOTION TO WITHDRAW OR FOR EXTENSION TO RESPOND TO
ONSLAUGHT OF FLORIDA BAR PROCEEDINGS SINCE APRIL 2022**

DAVID WINKER, ESQ. and the law firm of DAVID J. WINKER, P.A., pursuant to Florida Rule of Judicial Administration 2.505, hereby move this Court for entry of an Order allowing movants to withdraw as counsel of record for Respondent BRUCE JACOBS, ESQ., or for an extension to respond to the onslaught of Florida Bar Proceedings since April 2022, and states:

1. DAVID J. WINKER, P.A. represents Respondent BRUCE JACOBS in these proceeding, as well as in the seven new bar matters that have arisen since April 2022.

2. All of the proceedings involve Mr. Jacobs reporting evidence of continued unethical and fraudulent misconduct in foreclosures by Bank of America, JP Morgan Chase, and other mortgage servicers which violates

RECEIVED, 06/17/2022 02:13:20 PM, Clerk, Supreme Court

the \$25 Billion National Mortgage Settlement resolving charges of prior systemic frauds on the court in foreclosure.

3. Mr. Jacobs had previously been represented by attorneys Ben Kuehne and Roy Wasson in these proceedings and in 7 of the 14 pending bar matters against Mr. Jacobs since 2018.

4. Mr. Kuehne and Mr. Wasson requested an extension to determine who would continue to represent Mr. Jacobs going forward. They do not represent Mr. Jacobs in these proceedings and will not represent him in the seven new bar proceedings that have arisen since April of 2022.

5. The Florida Bar granted a one week extension.

6. On June 9, 2022, once it was decided that undersigned counsel would represent Mr. Jacobs, undersigned counsel requested an extension from Tonya Avery, the Florida Bar prosecutor that has prosecuted all 14 bar complaints, including those in these proceedings. Ms. Avery denied a request to allow a response after Mr. Jacobs filed his initial brief in these proceedings.

7. At the same time, in these proceedings, undersigned counsel filed multiple motions which tolled the deadlines for Mr. Jacobs' Initial Brief. However, the Bar's counsel, Mr. Altenbernd, insisted that the tolling

provisions of the appellate rules don't apply to Mr. Jacobs. Mr. Altenbernd represented that my office was only attempting to delay these proceedings.

8. This Honorable Court agreed that the rules tolling the time for filing Mr. Jacobs' initial brief applied, but set a deadline to file the initial brief for 5pm on Monday, June 20, 2022.

9. At present, in addition to these appellate proceedings, I am past a deadline to respond to multiple new bar complaints and there are also deadlines from the Third DCA for even more complaints. As a result of those actions by counsel for the Bar, this flurry of deadlines for this case have overwhelmed my practice.

10. I cannot effectively represent Mr. Jacobs to ensure he has a meaningful opportunity to be heard on his meritorious arguments because The Florida Bar is making that impossible.

11. Undersigned counsel renews his request for a reasonable extension to file Mr. Jacobs' Initial Brief on Monday June 27, 2022. I have been representing clients in significant bankruptcy hearings in federal court this week and Mr. Jacobs has been at scout camp in North Carolina with his sons without a proper wifi signal.

12. As outlined in my letter attached as Exhibit A, Mr. Jacobs believes he has a first Amendment right to report unethical conduct of lawyers and judges for which he has documented evidence.

13. Undersigned counsel respectfully requests that it is necessary and appropriate to grant this withdrawal and stay these proceeding for ten (10) days to allow Mr. Jacobs to obtain new counsel. Undersigned counsel cannot zealously defend Mr. Jacobs and ensure his constitutional right to due process under these deadlines and representations that I am merely seeking to delay.

14. Alternatively, **if the Court allows an extension until June 27, 2022 I would not seek to withdraw from my representation of Mr. Jacobs.** We have been actively preparing the initial brief which will simply not be ready by Monday June 20th. A week delay will not cause prejudice.

15. Finally, this court should order the Florida Bar to stay the new grievance proceedings to allow Mr. Jacobs twenty (20) days to file his appropriate responses after he files his Initial Brief on June 27, 2022.

16. This motion is brought regrettably after great deliberation and as a last resort. The reality of the situation and the overwhelming onslaught of bar deadlines made it impossible to represent Mr. Jacobs in a manner consistent with the Rules Regulating the Florida Bar.

17. Mr. Jacobs has a right to a meaningful opportunity to be heard before being denied his constitutional right of free speech and his ability to practice law, necessitating the dire need to bring this Motion.

18. Counsel for The Florida Bar has indicated that undersigned counsel can represent that it takes no position on his motion to withdraw, but opposes the requested extension of deadlines.

WHEREFORE, DAVID J. WINKER, P.A. respectfully requests this Honorable Court either: (1) grant his motion to withdraw and stay the matter for 10 days to give Mr. Jacobs time to retain new counsel; or (2) grant an extension until June 27, 2022 to file the initial brief and order The Florida Bar to allow Mr. Jacobs 20 days from that deadline to file his responses to the new bar complaints before any grievance committee meeting; and any further relief deemed mete and just.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically via the Florida Courts E-filing Portal upon all parties listed on the Service List for this case on this 17th day of June 2022.

Respectfully submitted,

s/davidwinker/

David J. Winker, Esq.

Fla. Bar. No. 73148

David J. Winker, PA

4720 S. LeJeune Rd

Coral Gables, FL 33146

305-801-8700

dwinker@dwrlc.com

EXHIBIT A

DAVID J. WINKER, P.A.

**4720 S. LeJeune Rd
Coral Gables, Fl 33146
305 801 8700
dwinker@dwrlc.com**

Via Email

June 16, 2022

Tonya L. Avery, Bar Counsel
The Florida Bar
Rivergate Plaza, Suite M100
444 Brickell Avenue
Miami, FL 33131
tavery@floridabar.org

Chris W. Altenbernd
Banker Lopez Gassler P.A.
501 East Kennedy Blvd, Suite 1700
Tampa, Florida 33602
caltenbernd@bankerlopez.com

Re: Bruce Jacobs, Esq.

Dear Ms. Avery and Mr. Altenbernd:

As you are aware, Mr. Altenbernd has taken the position that the Florida Rules of Appellate Procedure regarding tolling do not apply to Mr. Jacobs and that I am merely seeking delay. At the same time, Ms. Avery denied us the courtesy of allowing us to respond to the Florida Supreme Court before we responded to the onslaught of new grievances filed by the Third DCA and other judges involved in what Mr. Jacobs believes are fraudulent foreclosures.

Mr. Jacobs has faced an unprecedented onslaught of over half a dozen new complaints since April, including an emergency motion for suspension.

He has concurrent impending deadlines to respond to the Third DCA, the Florida Supreme Court, and The Florida Bar. The deadlines you are imposing are simply unfair and unconstitutional.

Mr. Jacobs has every intention of providing detailed and thoughtful responses to all of these proceedings. However, your refusal to grant the requested extensions has placed me in a position where I cannot meet my professional obligations to Mr. Jacobs.

From where Mr. Jacobs is sitting, this all seems intentional and part of a biased effort to deprive him of due process.

As you know, Mr. Jacobs is with his sons on a Coral Gables Troop 7 Scout summer camp trip in North Carolina this week without signal and will return on Father's Day, June 19, 2022. I have been in trials all week, which has made it very difficult to communicate about his cases.

This unprecedented circumstance leaves me with no choice but to withdraw from my representation of Mr. Jacobs. I simply cannot provide competent representation to Mr. Jacobs on all of these fronts under the timelines being imposed by the Florida Bar given my current workload.

Please let me know if you will be objecting to my motion to withdraw which will be asking that Mr. Jacobs be given ten (10) days to engage new counsel and provide his response to the Florida Supreme Court in the appeal. Please also advise whether you have any objection to the request in my motion that Mr. Jacobs' new counsel be given an additional twenty (20) day extension to respond to the pending bar grievances from the date his Florida Supreme Court brief is due.

If you insist on presenting these matters to the grievance committee on your timeline, please include this email on Mr. Jacobs' behalf. Mr. Jacobs respectfully submits that he should not be prosecuted for following the Florida Bar Rules that he report unethical conduct by lawyers and judges. Mr. Jacobs position is that his pleadings are legally correct, factually true and protected by the First Amendment. His responses to the Third DCA contempt proceedings documented serious allegations of violations of The Florida Bar rules by Akerman attorneys, Roniel Rodriguez IV, and other lawyers engaged in fraud upon the court and other misconduct.

Mr. Jacobs alleges serious violations of the Judicial Canons by the judges on the Third DCA and those judges that refused to consider evidence of fraud, prejudged the case, engaged in ex parte communications with bank counsel, ignored admissions of perjury, and knowingly refused to protect the constitutional rights of Mr. Jacobs' clients. The Fifth Amendment could not be more clear- No person shall be deprived of life liberty or property without due process of law. Mr. Jacobs' position is that there can be no due process by a fraudulent foreclosure prosecuted by unethical attorneys before biased judges.

Mr. Jacobs has no power to force a judge to grant disqualification. He cannot force a judge to follow the judicial canons, the rules of evidence, or enforce The Florida Bar rules. He can only document the evidence of bias and misconduct and report it to the proper authorities. The Florida Bar and the Third DCA cannot silence Mr. Jacobs and violate his First Amendment rights by accusing him of filing frivolous and bad faith pleadings when the evidence shows his pleadings are filed in good faith and supported by substantial competent evidence.

Mr. Jacobs respectfully submits Bank of America is using The Florida Bar and these proceedings to protect racketeering activities across the nation. Not only are these foreclosures fraudulent, but Bank of America just blocked Mr. Jacobs from appearing pro hac vice in a \$150 Million racketeering case he filed in Hawaii Federal Court. Bank of America discriminated against Native Hawaiians for decades and then engaged in racketeering activity to avoid a formal commitment to compensate the Native Hawaiians for its violations of the Fair Housing Act.

Within days of Mr. Jacobs filing this historic complaint, Bank of America asked the Federal Judge to deny Mr. Jacobs pro hac vice status citing these bar prosecutions. The Hawaii racketeering complaint also includes a count for violations of the Ku Klux Klan Act of 1871 because Bank of America denied the Native Hawaiians of their \$150 Million commitment “under color of law” by capturing officers of the government to protect their fraudulent scheme.

Mr. Jacobs is about to file another federal class action RICO lawsuit in Hawaii on behalf of Maria Williams James, Ana Lazara Rodriguez, and Julie Nicolas, and several Hawaiian plaintiffs who all faced foreclosure by the same Bank of America fraud documented through the orders of several circuit court judges. The Florida Bar investigated the Maria Williams James case and accused Mr. Jacobs of misconduct. In fact, Ms. Williams James paid her mortgage and has the cancelled checks to prove it. Judge Bailey did enter an order granting her Motion to Vacate Judgment Due to Fraud. There is no evidence of an agreed order.

Ms. Williams James proved she paid her mortgage and was foreclosed on anyway. What is that besides fraud on the court? Then Adam Schwartz, Esq. prosecuted a second foreclosure using the same false evidence from the first Bank of America foreclosure. He presented a witness who testified under oath that the servicer verified the bank's version of the payment history was accurate. Of course, it could not be accurate because Ms. Williams James had the cancelled checks to prove she paid her mortgage. This was part of a series of cases where Mr. Schwartz presented false testimony and false arguments without consequence.

The Orlando Sentinel wrote an op-ed last week decrying the “loss of independence in Florida’s high courts.” What is happening to Mr. Jacobs is evidence of that problem. The Florida Bar has its own obligation to enforce the rules of ethics against those engaged in fraud. Mr. Jacobs has an affirmative obligation under the Bar Rules to report unethical conduct by lawyers and judges.

The Florida Bar’s actions against Mr. Jacobs are biased, harassing and violate the Ku Klux Klan Act of 1871 because Mr. Jacobs is being deprived of his first amendment rights under color of law.

I urge you to step back and take a look at what is happening in this case- if this can be done to silence a nationally recognized foreclosure defense lawyer, it won't be long before it happens to anyone who tries to fight to protect constitutional rights in any area of law.

Please let me know your position regarding my Motion to Withdraw and the relief requested therein.

Sincerely,

s/David Winker