

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

T.J. FISHER, an Individual,  
T.J. BISCAYNE HOLDINGS, LLC, and  
MARKET STREET PROPERTIES  
PALM BEACH LLC

SD 2011CA005579XXXX MD

Plaintiffs,

CASE NO.:

vs.

BANK OF AMERICA CORPORATION,  
A North Carolina Corporation, and  
PETER KAFOUROS, an individual

AO

Defendants.

COPY  
RECEIVED FOR FILING

APR 13 2011

SHARON R. BOCK  
CLERK & COURT CONTROLLER  
CIRCUIT CIVIL DIVISION

COMPLAINT

Plaintiffs, T. J. Fisher, T.J. Biscayne Holdings, LLC, and Market Street Properties Palm Beach, LLC, by and through undersigned counsel, sues Defendants, Bank of America Corporation and Peter Kafouros to recover damages in excess of \$70 Million for negligence and breach of fiduciary duty.

The Parties

1. Plaintiff, T. J. Fisher is a Florida resident who resides in Palm Beach.
2. Plaintiff, T. J. Biscayne Holdings, LLC is a Florida Limited Liability Company. At all times T. J. Fisher was the sole manager of T. J. Biscayne Holdings, LLC and was the only person authorized to conduct banking and financial transactions through the banking and financial accounts of T. J. Biscayne Holdings, LLC.
3. Plaintiff, Market Street Properties Palm Beach, LLC, is a Florida Limited Liability Company. At all times T. J. Fisher was the sole manager of Market Street Properties Palm Beach, LLC.

*Complaint*

4. Defendant, Bank of America Corporation (“BOA”) is a North Carolina Corporation authorized to conduct business in the State of Florida and conducting business in the State of Florida.
5. Defendant Peter Kafouros was at all times material the manager of the Bank of America Banking Center at Palm Beach.

**Venue and Jurisdiction**

6. Venue is proper in Palm Beach County because the causes of action alleged in this Complaint accrued in Palm Beach County, Florida, and because the Defendants reside in Palm Beach County, Florida and operate and maintain offices in Palm Beach County.
7. Further, venue is required in Palm Beach County under the joint residency rule because both BOA and Kafouros reside in Palm Beach County, Florida.
8. Jurisdiction is proper in the Circuit Court because Plaintiffs seek damages in an amount that exceeds Fifteen Thousand Dollars (\$15,000.00, exclusive of costs and attorneys' fees), to wit: \$70 Million.

**Attorneys' Fees and Costs**

9. Plaintiffs have retained Maraist Law Firm, P.A., to recover the damages Defendants have caused and to represent them in all other matters arising out of this transaction or occurrence in this action.
10. Plaintiffs have become obligated under contract to pay Maraist Law Firm, P.A., to represent them in this action and reserve the right to seek recovery of same under potential statutory causes of action which may be raised in an amended complaint.
11. All conditions precedent to the filing of this action have been satisfied or waived.

*Complaint*

**General Allegations**

12. Stuart C. Fisher at all times material maintained an intimate banking relationship with BOA and Kafouros.
13. BOA and Kafouros were intimately familiar with all business entities in which Stuart C. Fisher was either a manager or officer.
14. BOA and Kafouros were likewise intimately familiar with the business entities and banking/financial operations of Plaintiffs.
15. BOA and Kafouros allowed Stuart C. Fisher to open and maintain an account for Crescent City Estates, LLC without following proper protocol and complying with banking regulations and statutes.
16. BOA and Kafouros should have never opened the Crescent City account.
17. After opening the Crescent City account, BOA and Kafouros allowed Stuart C. Fisher to deposit \$12 million into that account.
18. Thereafter, BOA and Kafouros allowed Stuart C. Fisher to deposit \$6 million from Crescent City's account into the account of T.J. Biscayne Holdings, LLC.
19. BOA and Kafouros knew that Stuart C. Fisher was not a member or authorized signatory or authorized person to transact any financing or banking operations through T.J. Biscayne Holdings, LLC or Market Street Properties, LLC.
20. Despite the foregoing, BOA and Kafouros allowed Stuart C. Fisher deposit the check in the amount of \$6 million into the bank account of T.J. Biscayne Holdings, LLC.
21. The check was made payable to T.J. Fisher Biscayne Holdings, LLC, an entity which does not and did not exist.

*Complaint*

22. Despite the foregoing, BOA and Kafouros allowed Stuart C. Fisher to deposit the funds into the account of T.J. Biscayne Holdings, LLC and move the funds un and out of its bank account.
23. T.J. Fisher never authorized Stuart C. Fisher or any of his entities to transact banking or financing through T.J. Biscayne Holdings, LLC.
24. T.J. Fisher did not become aware of the unauthorized banking transactions into and out of T.J. Biscayne Holdings, LLC until March 2008.
25. As a sole and direct or proximate result of BOA and Kafouros' permission and acquiescence to Stuart C. Fisher's unauthorized deposits and withdrawals of millions of dollars of funds into and out of the bank account of T.J. Biscayne Holdings, LLC, every Plaintiff was joined as parties to complex, contentious, damaging and costly litigation spanning several jurisdictions and venues.
26. As a sole, direct and proximate result of the acts and omissions of BOA and Kafouros, a judgment of \$33.3 million was entered against every Plaintiff in a Maryland Civil Court proceeding.
27. Further, in January 2011, a Maryland bankruptcy court issued a \$180,000.00 civil judgment against every Plaintiff.
28. BOA and Kafouros had a personal monetary interest in failing to comply with banking regulations, statutes and standards and in breaching their duties to T.J. Fisher and T.J. Biscayne Holdings, LLC to accommodate Stuart C. Fisher.
29. For example, BOA and Kafouros allowed Stuart C. Fisher to essentially do whatever he desired, regardless of the impropriety of doing so or the consequences to Plaintiffs.

*Complaint*

**COUNT I: Breach of Fiduciary Duty: BOA AND KAFOUROS**

30. Plaintiffs, incorporate and re-allege Paragraphs 1 through 25 as if fully restated herein.
31. This is a claim against BOA and Peter Kafouros to recover damages for breach of fiduciary duty.
32. BOA and Peter Kafouros took on extra services in their business dealings with Plaintiffs.
33. BOA and Peter Kafouros knew or had reason to know that Plaintiffs were placing trust and confidence in them and that they were relying on their obligations and representations to ensure proper protocol and banking procedures were followed in all transactions.
34. BOA and Peter Kafouros established a fiduciary relationship implied in law based upon the specific factual circumstances described herein surrounding the long term banking relationship and personal assurances of Peter Kafouros.
35. Plaintiffs were justified in placing trust and confidence in the Defendants.
36. BOA and Peter Kafouros breached their fiduciary relationship with Plaintiffs by, among other things, failing to ensure that the transactions being made into the T.J. Biscayne Holdings Account were authorized and conducted within proper protocol and banking procedures.
37. Plaintiffs have been damaged by BOA and Peter Kafouros' breach of the fiduciary relationship.
38. Plaintiffs are entitled to recover the damages in excess of \$70 Million proximately caused by the breach of the fiduciary relationship.

*Complaint*

**Accordingly**, Plaintiffs requests that this Honorable Court enter Final Judgment against Defendants BOA and Peter Kafouros as follows:

- A. Finding that a fiduciary relationship existed;
- B. Finding that BOA and Peter Kafouros breached the fiduciary relationship;
- C. Finding that Plaintiffs have been damaged by the breach of the fiduciary relationship in an amount exceeding \$70 Million; and,
- D. Granting such further and additional relief as this Court deems just under the circumstances.

**COUNT II: NEGLIGENCE: BOA AND KAFOUROS**

- 39. Plaintiffs, incorporate and re-allege Paragraphs 1 through 25 as if fully restated herein.
- 40. This is an action to recover damages in excess of \$70 million from Defendants Bank of America and Peter Kafouros, due to negligence.
- 41. Plaintiff, T.J. Biscayne Holdings, LLC, established a banking account with Defendant BOA, and maintained this account at times material, under the close direction and supervision of Kafouros.
- 42. BOA and Kafouros had a duty and obligation to conform to certain standards of conduct to protect T.J. Biscayne Holdings, LLC from unreasonable risks, including the risks of unauthorized deposits, and disbursements by those not authorized to make such deposits and disbursements, specifically including Stuart C. Fisher or any of his entities.
- 43. BOA and Kafouros breached the standard of care and its duty of care to T.J. Biscayne Holdings, LLC in allowing unauthorized deposits and disbursements into and out of

Complaint

the account.

44. BOA and Kafouros' breach of their duty to exercise reasonable care in handling T.J.

Biscayne Holdings, LLC's account is a tort independent from any breach of contract.

45. Defendants' breach of the standard to exercise reasonable care proximately and directly caused damages to Plaintiff in excess of \$70 Million.

**Accordingly**, Plaintiffs requests that this Honorable Court enter Final Judgment against Defendants BOA and Peter Kafouros as follows:

- A. Finding that BOA and Peter Kafouros committed negligence;
- B. Finding that Plaintiffs have been damaged by the breach of the negligence relationship in an amount exceeding \$70 Million; and,
- C. Granting such further and additional relief as this Court deems just under the circumstances.

**Jury Demand:** Plaintiffs demand that all issues so triable be tried by a jury.

Dated this 13<sup>th</sup> day of April, 2011

MARAIST LAW FIRM, P.A.,  
525 Northlake Blvd., Suite 4  
North Palm Beach, FL 33408  
Telephone: 561-844-0018  
Facsimile: 561-844-0114

By: 

PATRICK W. MARAIST  
Florida Bar No.: 0109185

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

T.J. FISHER, an Individual,  
T.J. BISCAYNE HOLDINGS, LLC, and  
MARKET STREET PROPERTIES  
PALM BEACH LLC

2011 CA 0 05579 XXXX

Plaintiffs,

CASE NO.:

vs.

BANK OF AMERICA CORPORATION,  
A North Carolina Corporation, and  
PETER KAFOUROS, an individual

Defendants.

FILED  
11 APR 13 PM 4:39  
SHARON R. BOCK, CLERK  
PALM BEACH COUNTY, FL  
CIRCUIT CIVIL 4

SUMMONS

THE STATE OF FLORIDA:

To: Each Sheriff of the State (or selected Process Server):

YOU ARE COMMANDED to serve this summons and a copy of the Complaint in this action on Defendant,

**PETER KAFOUROS**  
18895 Pond Cypress Ct.  
Jupiter, FL 33458

IMPORTANT

A lawsuit has been filed against you. **You have 20 calendar days after this summons is served on you to file a written response to the attached Complaint with the clerk of this court and serve copies upon undersigned counsel.** A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the "Plaintiff/Plaintiff's Attorney" named below.



DATED on this day of April, 2011.

APR 13 2011

CLERK OF THE CIRCUIT COURT

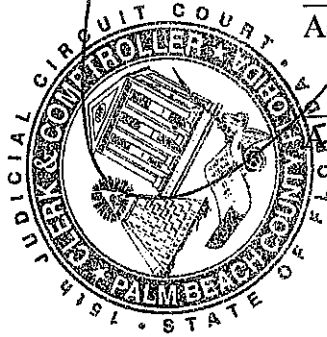
SHARON R. BUCK

~~Clerk & Comptroller~~

As Clerk of the Court

As Deputy Clerk

CATHERINE MAY



SHARON R. BUCK  
Clerk & Comptroller  
P.O. Box 4007  
West Palm Beach, Florida  
33402-4667

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

T.J. FISHER, an Individual,  
T.J. BISCAYNE HOLDINGS, LLC, and  
MARKET STREET PROPERTIES  
PALM BEACH LLC

2011 CA 0 5579 XXXX

Plaintiffs,

CASE NO.:

vs.

BANK OF AMERICA CORPORATION,  
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Defendants.

FILED  
11 APR 13 PM 4:39  
SHARON R. BOCK, CLERK  
PALM BEACH COUNTY, FL  
CIRCUIT CIVIL 4

SUMMONS

THE STATE OF FLORIDA:

To: Each Sheriff of the State (or selected Process Server):

YOU ARE COMMANDED to serve this summons and a copy of the Complaint in this action on Defendant,

**BANK OF AMERICA CORPORATION**  
Through its registered agent,  
CT Corporation System  
1200 South Pine Island Rd  
Plantation, FL 33324

IMPORTANT

A lawsuit has been filed against you. **You have 20 calendar days after this summons is served on you to file a written response to the attached Complaint with the clerk of this court and serve copies upon undersigned counsel.** A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the

"Plaintiff/Plaintiff's Attorney" named below.

### IMPORTANTE

Usted ha sido demandado legalmente. Tiene 20 días, contados a partir del recibo de esta notificación, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefónica no lo protegerá. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el número del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podría ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guía telefónica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

### IMPORTANTE

Des poursuites judiciaires ont été entreprises contre vous. Vous avez 20 jours consécutifs à partir de la date de l'assignation de cette citation pour déposer une réponse écrite à la plainte ci-jointe auprès de ce tribunal. Un simple coup de téléphone est insuffisant pour vous protéger. Vous êtes obligés de déposer votre réponse écrite, avec mention du numéro de dossier ci-dessus et du nom des parties nommées ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne déposez pas votre réponse écrite dans le délai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent être saisis par la suite, sans aucun préavis ultérieur du tribunal. Il y a d'autres obligations juridiques et vous pouvez requérir les services immédiats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez téléphoner à un service de référence d'avocats ou à un bureau d'assistance juridique (figurant à l'annuaire de téléphones).

Si vous choisissez de déposer vous-même une réponse écrite, il vous faudra également, en même temps que cette formalité, faire parvenir ou expédier une copie de votre réponse écrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou à son avocat) nommé ci-dessous.

Patrick W. Maraist  
Maraist Law Firm, P.A.  
525 Northlake Blvd., Suite 4  
North Palm Beach, FL 33408  
Telephone: 561-844-0018  
Facsimile: 561-844-0014

In accordance with the Americans With Disabilities Act, persons in need of a special accommodation to participate in this proceeding, contact the Administrative Office of the Court, 205 N. Dixie Highway, Room 5.2500, West Palm Beach, Florida 33401, 561-355-

4380/telephone 1-800-955-8771 (TDD), or 1-800-955-8770 (V), via Florida Relay System.

**DATED on this day of April, 2011.**

APR 13 2011

CLERK OF THE CIRCUIT COURT

SHARON R. BOOK

As Clerk of the Court ~~Clerk & Comptroller~~

CATHERINE MAY

As Deputy Clerk

SHARON R. BOOK  
Clerk of the Court  
Florida  
West Palm Beach, Florida  
561-402-4667

D U P L I C A T E R E C E I P T

PALM BEACH CTY CIR CT JISPROD

Receipt Number: CAMB548317  
Date: 13-APR-2011  
Cashier: CMMAY

Payor: MARAIST LAW FIRM  
Addr:

Violation/Docket	Description	Amount
Case: 2011CA005579 - TJ FISHER V BANK OF AMERICA CORPORA Party: TJ FISHER CAFF		401.00 20.00
	CHECK RECEIVED GENERAL ACCT	-421.00

Total Fees: 421.00  
Total Payment: 421.00

MARAIST LAW FIRM, P.A.  
631 US Hwy 1 Ste 314  
North Palm Beach, FL 33408  
Ph. 561-844-0018

1442  
63-643/670  
BRANCH 51047

DATE 4/13/11

PAY TO THE ORDER OF Clerk of Court \$ 421.00

Four hundred twenty one and 00/100 DOLLARS

Security  
Deposit on  
Back



WACHOVIA  
Wachovia Bank, N.A.  
wachovia.com

*Robert Anderson*

FOR TJ Fisher, Complaint & Summons (2)

⑆001442⑆ ⑆067006432⑆ 2000034696239⑆

# RETURN OF SERVICE

Circuit Court

State of Florida

County of Palm Beach

Case Number: 502011CA005679XXXMBAO



Plaintiff:  
**T.J. FISHER AN INDIVIDUAL, T.J. BISCAYNE HOLDINGS, LLC AND  
MARKET STREET PROPERTIES PALM BEACH LLC**

vs.

Defendant:  
**BANK OF AMERICA CORPORATION AND PETER KAFOUROS**

For:  
Patrick W. Maraist, Esquire  
MARAIST LAW FIRM P.A.  
525 Northlake Blvd. Suite 4  
North Palm Beach, FL 33408

Received by C.W. SERVICES & ASSOCIATES, INC. on the 14th day of April, 2011 at 9:40 am to be served on  
**PETER KAFOUROS, 18895 POND CYPRESS CT, JUPITER, FL 33458.**

I, Carl W. Woods, do hereby affirm that on the 14th day of April, 2011 at 7:20 pm, I:

**INDIVIDUALLY/PERSONALLY** served by delivering a true copy of the **Summons and Complaint** with the date and hour of service endorsed thereon by me, to: **PETER KAFOUROS** at the address of: **18895 POND CYPRESS CT, JUPITER, FL 33458**, and informed said person of the contents therein, in compliance with state statutes.

**Military Status:** Based upon inquiry of party served, defendant is not in the military service of the United States.

**Description of Person Served:** Age: 43, Sex: M, Race/Skin Color: W, Height: 5-8, Weight: 203, Hair: Black, Glasses: N

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server in good standing in the judicial circuit in which the process was served. Under Penalties of Perjury, I Declare I have Read the Foregoing Document and the Facts Stated in it are True. No Notary is Required Pursuant to Florida State Statute 92.525(2)

**Carl W. Woods**  
Investigator/Court Officer 723

**C.W. SERVICES & ASSOCIATES, INC.**  
4908 Grassleaf Drive  
Palm Beach Gardens, FL 33418  
(561) 630-4866

Our Job Serial Number: CWO-2011001920