

# Foreclosure Shifts From Summary Denial to Reversal With Opinion

[Joseph](#), Daily Business Review

March 16, 2016 | [0 Comments](#)



Miami- Bruce Jacobs, with Jacobs Keeley, PLLC J. Albert Diaz

Foreclosure defense attorney Bruce Jacobs achieved a rare feat.

The Miami lawyer surmounted two hurdles: He successfully petitioned the Fourth District of Appeal to [write an opinion](#) in a case it had already affirmed without an opinion, then persuaded the court to reverse its ruling.

"This is a unicorn," said Jacobs of Jacobs Keeley.

His coup in reversing a per curiam affirmance, or PCA, caught the attention of fellow foreclosure defense attorneys.

"It's the Holy Grail," said Royal Palm Beach attorney Thomas Ice, who was not involved in the litigation. "I don't know if I've ever seen one in the foreclosure context. It's very rare for (an appellate court) to write an opinion when they haven't written one. And the more incredible part is for them to reverse themselves, do a 180-degree turn and rule the opposite way."

The unsigned March 9 ruling by District Judges Robert Gross, Mark Klingensmith and Jonathan Gerber granted Jacobs' motion for rehearing, withdrew the PCA and entered an opinion that reversed in favor of homeowner Sharlene Hampton Lewis against U.S. Bank N.A.

It was an unlikely ending to a case that started with Jacobs and his law partner, criminal trial attorney and former prosecutor Court Keeley, facing sanctions, a Florida Bar ethics complaint and a suggestion they might spend the weekend in jail for their behavior before Broward Circuit Judge Jeffrey Streitfeld.

The case dates back to 2008 when U.S. Bank, acting as trustee for the registered holders of ABFC 2007-WMC 1 Trust, filed a foreclosure action and included a count seeking to reestablish a lost note. No copy of the original note was attached to the bank's complaint.

By the time the case went to trial in 2014, the bank had updated the endorsements on an allonge to the note, but its witness could not testify about when the change occurred.

The trial [transcript](#) shows Jacobs and Keeley argued the lender lacked standing to sue Lewis. But their case fizzled before Streitfeld, who admonished them for what the judge saw as unprofessional behavior after they pressed their case and Keeley pushed an objection.

"Let me tell you something. We're skating close to a real problem now, and that's such a shame. I have to tell you something. I have lawyers in here that don't sleep because of the weight of the cases that they handle, and they do not do what you're doing," Streitfeld said before taking a five-minute recess. "You better get your act together."

Jacobs later interrupted bank attorney Heidi Weinzetl's remarks to the judge, prompting another admonishment from Streitfeld.

"If you two do this one more minute, you're going to spend the weekend in a very uncomfortable place," the judge said. "That's just not what we do. We don't do that, and you don't do that. She was responding to my question."

In the end, Streitfeld sided with the lender — a ruling the Fourth DCA initially affirmed but later reconsidered after Jacobs filed a [motion for rehearing en banc](#) and a request for a written opinion.

Read more:

<http://www.dailybusinessreview.com/id=1202752251066/Foreclosure-Shifts-From-Summary-Denial-to-Reversal-With-Opinion#ixzz434c9EVKD>