
The New Thorn in the Sides of Big Banks.

Lawyer Joel Liberson is leading the charge in Miami's lawsuit against Bank of America and Wells Fargo, blaming them for the city's economic troubles

Joel Liberson's mortgage lawsuits against Bank of America Corp. and Wells Fargo & Co. follow a now-familiar template: accuse big banks of targeting minority borrowers with unfair loans that fed a housing crisis.

What is unusual is his client. Mr. Liberson, a 52-year-old lawyer who has devoted much of his career to defending apartment dwellers from eviction, is suing on behalf of the city of Miami. In the lawsuits, Miami blames the banks for widespread declines in property values and tax revenue, and increased expenses for police, fire and other services, due to the burdens of mass foreclosures.

The banks, which already shelled out tens of billions of dollars for mortgage-related settlements with federal and state governments since the financial crisis, have challenged whether the city has the right to sue. The Supreme Court in June agreed to take up the question and is likely to hear oral arguments in the fall and will decide by July 2017.

The court's decision potentially could reshape the breadth and use of the Fair Housing Act, a landmark civil-rights statute that forbids discrimination in real-estate lending, rental property and other areas of the housing industry.

The banks said Miami is stretching the bounds of a law meant to integrate neighborhoods, not fill tax coffers. They also dispute that Miami has proved its economic woes are a direct result of the banks' actions.

In a legal filing, Wells Fargo said its lending practices "did not cause the City's financial difficulties any more than they caused the City to thrive in the years leading up to the financial crisis." Bank of America expressed a similar sentiment in its filings.

The banks believe a Supreme Court decision siding with Miami will leave them vulnerable to a torrent of mortgage litigation from anyone who said they were harmed by the housing bubble. Lobbyists warn that banks might curtail lending in urban neighborhoods because of the legal risk.

The city and its attorney disagree. The Supreme Court has traditionally been lenient in interpreting the Fair Housing Act, according to academics who study the issue. Last year, for example, it ruled such lawsuits can be brought without proof of intentional bias.

In Mr. Liberson's view, a ruling in the banks' favor would limit an important weapon borrowers have wielded in housing lawsuits for decades, leaving them more vulnerable to questionable loans.

"What happens to a city when houses go vacant?" Mr. Liberson said. "Everybody suffers."

Mr. Liberson has spent the past several years encouraging cash-strapped cities to sue the banks under the Fair Housing Act. He has enlisted help from bigger plaintiffs' firms and big-name legal talent, including Erwin Chemerinsky, dean of the law school at the University of California, Irvine, and author of a popular textbook on constitutional law. But Mr. Liberson often works alone, hunched over a smudged Lenovo ThinkPad laptop at coffee shops and public libraries, manning the firm he named Trial & Appellate Resources.

Mr. Liberson, who lives in New York, is overseeing similar lawsuits on behalf of Los Angeles, Oakland, Calif., and Miami Gardens, Fla.

A ruling in Miami's favor could recharge those suits, which are pending. It could do the same for similar lawsuits by Atlanta-area counties and Cook County in Illinois, both spearheaded by a small firm in Georgia. Some municipal officials believe their cities could be in line for tens of millions of dollars or more, with a cut for Mr. Liberson, if they eventually win. A ruling against Mr. Liberson could cripple those claims.

"If the Supreme Court finds standing for the city, then you'll see a lot more of these lawsuits," said George Rutherglen, a professor at the University of Virginia School of Law. "And if not, then the court is retrenching on a very broad approach to litigation under the Fair Housing Act."

The legal process has taken longer than Mr. Liberson expected, but he said the strategy has worked before. Wells Fargo in 2012 resolved charges of race-based housing discrimination brought by the city of Baltimore. That agreement was wrapped into a larger settlement by the Justice Department.

It was while that case was pending that Mr. Liberson started approaching other cities to see if they were interested in doing the same. The sooner you file, the sooner you can get your money, he told them, with reassurances that the banks tended to settle such lawsuits and resolve them quickly.

Francis Suarez, a Miami city commissioner, remembers when Mr. Liberson came to him around early 2013 with an offer to work on a contingency basis. "It was kind of a no-brainer," Mr. Suarez said. "We have the opportunity to vindicate the city for its residents, and we don't have to front the money."

Mr. Liberson declined to say how the cases were being financed.

Miami also is suing Citigroup Inc. and J.P. Morgan Chase & Co., although those cases aren't before the Supreme Court. Citigroup and J.P. Morgan have denied Miami's accusations.

Mr. Suarez, a real-estate lawyer who is running for mayor, said that if the lawsuits are successful, he would like to use the money to pay for police, fire, park and library services, and affordable housing, among others.

Even if Miami wins in the Supreme Court, a payout isn't guaranteed. The banks have previously argued they didn't make racially discriminatory loans, and that the statute of limitations for filing such claims has expired. Those arguments likely would come up again in district court.

And banks are fighting back more against housing-crisis cases. Bank of America recently won an appeal to overturn Justice Department accusations and a jury finding of mortgage-securities fraud.

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