

AMERICAN PREDATORY LENDING AND THE GLOBAL FINANCIAL CRISIS

ORAL HISTORY PROJECT

Interview with

Kris Slayden

Bass Connections

Duke University

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PREFACE

The following Oral History is the result of a recorded interview with Kris Slayden conducted by Jon Rosen on June 23, 2021. This interview is part of the Bass Connections American Predatory Lending and the Global Financial Crisis project.

Readers are asked to bear in mind that they are reading a transcript of spoken word, rather than written prose. The transcript has been reviewed and approved by the interviewee.

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Interviewee: Kris Slayden
Interviewer: Jon Rosen

Session: 1
Location: Zoom
Date: June 23, 2021

- Jon Rosen: I'm Jon Rosen, a student at Duke Law School and a member of the Bass Connections American Predatory Lending and Global Financial Crisis Team. It is Wednesday, June 23rd, 2021. I am speaking with Kris Slayden, Chief of the Resource Planning and Support Services Unit of the Office of State Courts Administrator for the Florida Supreme Court, for an oral history interview. Ms. Slayden joins me via Zoom. Thank you so much for joining me.
- Kris Slayden: Thank you, Jon.
- Jon Rosen: I'd like to start by establishing a little bit about your background. I believe that you received your bachelor's degree from Florida State. Is that right?
- Kris Slayden: That's correct.
- Jon Rosen: Can you describe the work of the Office of the State Court Administrator and your role within that?
- Kris Slayden: I'll clarify. I have a Master's in Economics from Florida State as well. I have a Bachelor's and Master's. The Office of the State Courts Administrator is the administrative unit of the Florida judicial branch. We are responsible for paying the bills, the budget, and court improvement type of research for the trial courts and appellate courts in Florida.
- Jon Rosen: Can you describe the process for how the Florida court system was funded before the foreclosure crisis?
- Kris Slayden: Yes, the history of the court system funding is kind of long and varied. But generally, the court system is funded through the general revenue pot with the Florida legislature, through appropriations. And they receive revenues through tax collections and sales tax. So, we are funded through that.
- Jon Rosen: What considerations went into funding that system in the legislature? Was it a strict budgetary matter? Do you think there were political considerations?
- Kris Slayden: Are you referring to the funding we received specifically for the foreclosure crisis?
- Jon Rosen: I think before and [then,] that [foreclosure] funding.
- Kris Slayden: The [Florida] constitution requires that the court system is funded by the legislature. It's a Florida constitutional requirement. We develop [a] legislative budget request, letting the legislature know of our funding needs each year. Then the legislature meets annually to determine. That's their one requirement,

that they have to pass a budget. We've been funded over the years -- - by, as I said, many changes. The foreclosure crisis was a special appropriation that we received to handle the influx of cases.

Jon Rosen: Before the crisis, were resources in the court system already constrained?

Kris Slayden: Yes, typically every year we request additional resources for funding that we need. We've always typically requested additional judgeships to handle our cases and other types of support resources. ... [S]ome years the availability of funds is better than other years. [Sometimes] the legislature is able to fund our requests and sometimes they're not able to.

Jon Rosen: At what point during your time in the Florida Court System, did you become involved with foreclosures?

Kris Slayden: I think you asked this question earlier, but I didn't get into that. I've been with the court system for 21 years in this position or others at the Office of the State Courts Administrator. I'm used to dealing with statistics. A part of the statistics we would get is the number of filings coming in the door to our trial courts. I noticed an increase in, they're called *lis pendens*,¹ which are the initial foreclosure filings.

Back in 2005, we were actually in a housing bubble, I believe. The interest rates and all the factors associated with housing were really great at that time. During those housing bubbles, you see less foreclosures. So, our foreclosure cases that were coming to the courts were kind of artificially low in 2005. I'll just mention, I don't know if you've run into this before. But there are states that are judicial foreclosure states, and there are some that they're processed; or foreclosures [are] handled outside of the court system. Florida is obviously a judicial state and so [in] cases when people haven't paid their mortgage, the lender will come to the court systems and file what I mentioned, that *lis pendens*. What happened is [that] we weren't noticing anything in 2005 and, actually, in about 2006, we started noticing an increase in these filings. Our average back in 2005, when I said it was kind of artificially low, was about 4,700 cases per month. So that's for this whole state of Florida, those cases coming in.

In 2006, it had jumped up to about 6,200 cases per month. And in October of 2006, it actually hit 8,000 cases. That's when we started noticing - I'll just give you a frame of reference in 2009, where we normally have about 70,000 cases statewide, we had about 400,000 cases statewide. So that was just a 600% increase from the lowest number we had had to the highest number we had had. So, it was fairly obvious, that this was happening. I got involved fairly early on with the cases, just noticing the statistics, that those were going up. We started having the concerns in 2009, as I mentioned, when we saw such a huge number. Actually, the legislature funded us \$6 million in 2010 to address this.

¹ A *lis pendens* is a formal, written notice that a lawsuit has been filed involved the ownership to a piece of property.

It was kind of giving us money. They had appropriations for us to address this and we took this money and said, "okay, well, we'll put it with some judges to get these cases out of" – because we were developing this huge backlog – "we'll get these cases out. ... We've got all these cases coming in the door, let's reduce this backlog by 62%." And what happened back in 2010 was that the lending institutions kind of halted all of their moving forward on these foreclosure actions, filing new ones or moving forward [on existing cases]. That was not only in Florida, but around other states as well. And we realized that we had this \$6 million, but if the parties aren't willing to move, what do we do?

We didn't receive any additional funding the next year, 2011–2012. We did receive additional money in 2012–13, \$4 million and \$5 million. Again, it was just giving us some money to hire temporary judges to address these issues. And we realized it just wasn't working. So, in January of 2013, we put a work group together to take a more strategic approach to how we could move these cases through the system... Florida was lagging way behind other states in terms of recovering from the crisis, because, first of all, we're judicial foreclosure state. We couldn't get those cases moving.

If you have foreclosed houses sitting in your neighborhood, the property values are going down for everybody. So, we saw there was this need - for Florida to actually recover, we needed to do a better job of addressing this issue. This work group got together in January, and they put out a report,² after this, in April of 2013. ... They identified three issues that they needed to address. That was to identify what barriers existed that we weren't able to get these cases resolved, strategies that would help improve the process for getting the cases through the judicial system, and then identify what resources we needed to address those issues.

The work group identified two main problems with it. First, as I mentioned before, the plaintiffs did not appear that they wanted to move forward on these. And there were a number of reasons, as you probably know. I mean, obviously the defendants, the homeowners didn't want to move forward with this. So, they weren't pressuring the courts to get it moving, but the litigants – the plaintiffs – didn't either. And there were lots of – I don't know if you've heard about the robo-signing and all of those issues. There were lots of paperwork and procedural issues that we knew were delaying the case. On our part, we had huge problems, we didn't have technology back then. We didn't have the ability for our judge to see the cases. It was all paper files, and we couldn't tell which cases were older or whatever.

We didn't know how old they were, unless some of them calculated it by hand. We didn't have the information to know where the case was and the technology to be able to see it electronically. So, the work group came up with three budget solutions which were getting more active judicial or quasi-judicial - I don't know

² Florida Supreme Court, [Foreclosure Backlog Reduction Plan for the State Courts System: Recommendations of the Foreclosure Initiative Workgroup](#), April 10, 2003.

if you've heard the term quasi-judicial. It's not a judge. It's called a general magistrate. So, getting just those judges more actively involved in the case and also getting case managers, some support staff to help them with the case. Then [get,] as I mentioned, the technology that they desperately needed to be able to work in the environment. They also came up with some process improvements. They actually had some statutory revisions that they recommended.

They had a rule amendment. I can describe that a little bit, some Supreme Court administrative orders, directing what they wanted to achieve, some docket control policies, and some training components. Those were kind of the areas that they wanted to improve the process, because they thought they could move these cases. They did also look at performance indicators, and they thought that performance indicators would be a way to move these cases through the system. So, they looked at time to disposition, age of pending cases and clearance rate to say where they were.

Jon Rosen: You mentioned the rule changes in 2013 recommendations. Can you just expand a little on that?

Kris Slayden: The one rule that they recommended and the Supreme Court did implement - because this was a recommendation of the work group to the Supreme Court and Supreme Court is the one that decides - is called a Rule 1.490 Florida Rules of Civil Procedure.³ We realized that our general magistrates, those quasi-judicial officers, in order to hear more of the cases that we needed to allow referrals to those general magistrates because they can't - unless there's an ability for a party to ask for the general magistrate, the rule prohibits it. This was allowing the referral of a foreclosure case to a general magistrate with the implied consent of the parties. So, we could move those cases over to a general magistrate and have those resources available.

That was a fairly basic rule change. Some of the statutory changes that we requested and the Supreme Court requested - but the Supreme Court doesn't have the authority over that, that's the legislature - was to allow our senior judges to come back more quickly after retiring, which would give us a greater pool of resources available to hear these cases. That was not passed by the legislature. That was something that didn't happen. And the Supreme Court did issue an administrative order to implement some of these recommendations and it required each of our - we have 20 judicial circuits in Florida - circuits that's overseen by a chief judge to develop a case management plan that would talk about how they were going to move these cases through the system and how they would be able to do that with docket control policies and other types of process improvements that would help.

The Supreme Court directed the clerks of court to better identify foreclosure cases in our system. Again, I told you about the data problems that we had. The clerks of court are an independently elected official. They're not under the

³ Florida Rules of Civil Procedure, [Rule 1.490 General Magistrates](#).

judicial branch. So, we have this issue where the Supreme Court, through administrative orders, directs the clerks to do something. They can't just tell them to do it, they have to go through that process. So that was, again, being able to identify these cases, target the cases that are the oldest that we needed to resolve and everything. We also had an educational component that we really needed to understand. I think I mentioned that the national consumer board was implementing process changes to the foreclosure. And in order [for] our judges and case managers and general magistrates to understand these improvements to the process, we implemented some training components.

Jon Rosen: On that 2013 working group and the recommendations, of those that were passed by the legislature and the Supreme Court, did you find that they were effective in reducing the backlog?⁴

Kris Slayden: Absolutely. We actually put together a proposal for a three-year plan, we needed \$37.5 million dollars, and we thought it was going to take three years to go through the backlog and resolve these cases. We received two years of the funding from the legislature. But it took even longer than that to resolve these cases. And the legislature worked with us. Any money that we hadn't spent in those two years, they reappropriated the next year for us. So, we did actually get some of it back for a third year. So absolutely. We reduced our backlog, considerably. ... We had about 400,000 filing backlog that existed out there, and these strategies definitely helped move those cases.

Jon Rosen: Just to go back to the beginning of the crisis, you mentioned how cases started to rise in 2006, 2007, 2008. Was there a point in time when you and your office realized that there was going to be a significant budgetary issue with the amount of foreclosures coming in?

Kris Slayden: As I mentioned earlier, we did receive money in 2010. So, I think in 2009 is when we started putting in requests to the legislature saying, "wait, there's no way we can do this. The backlog is becoming so large. There's no way we can do this with our current resources, we need additional resources." But we didn't implement those process improvements until 2013. And [we] got the technology funding to help with that. That was really kind of the turning point. But we definitely saw the backlog, and it takes a while for the backlog to hit those epic proportions. But I think 2009 is when we really saw that and put in a request to the legislature.

Jon Rosen: Towards the beginning of the crisis, when the foreclosure cases started coming in, were you seeing those cases come in from kind of specific circuits or areas of Florida?

Kris Slayden: That's a great question because it wasn't like it was happening in one area. There were definitely hot spots. I think it was strange, our big circuits, our big

⁴ Florida Supreme Court, [Foreclosure Backlog Reduction Plan for the State Courts System: Recommendations of the Foreclosure Initiative Workgroup](#), April 10, 2003.

areas are Miami-Dade, Broward, Fort Lauderdale area, and Tampa area. But we were seeing a lot of the activity in the Fort Myers, west coast. Obviously a lot of foreclosures in Florida were related to second homes or timeshares or other properties related to vacation type of situations. We did see that, but it was really a unique phenomenon. And I don't know if anyone else has talked about this, but we had very few law firms around the state that were handling these cases.

That was the whole issue with the robo-signing and all of that. You really saw a movement. They were filed in different circuits, but they were handled by a very small group of law firms. So, they were able to do it -- all of a sudden, you just overnight see these cases filed. It was a definitely a statewide phenomenon, I think both the cases flowing in and then the cases turning off. And all of a sudden it was, we were dead in the water, they issued moratoriums and those kinds of things. It was a very unique situation, [since] you don't normally see judicial cases being a statewide kind of activity like it was.

Jon Rosen: You mentioned the law firms involved. When the cases were kind of flooding in, how did you perceive how the plaintiff and defense bars were operating in terms of using court resources effectively?

Kris Slayden: I'm not sure I understand your question. And I may not know the answer to your question because that's more of an on the ground kind of operational issue.

Jon Rosen: Generally, to the extent that you saw, how were the law firms operating within this system?

Kris Slayden: Like I said, it was very few. There were concerns. If you don't mind, let me refer to some of the issues - we did reach out to our judges around the state and did interview questions with them. I'm just looking to see if there was anything. ... There was something that they referred to – in terms of the problems with it. Because I know there were a number of – like I mentioned before – the plaintiffs weren't inclined to move forward on it. I want to mention one thing also that in Rule 2.545,⁵ it's our case management, the judges and lawyers have professional obligations to conclude litigation as soon as it's reasonably and justly possible to do.

For case control, the trial judge shall take charge of all cases at an early stage in the litigation and shall control the progress of the case. When we looked back at that, we recognized that the attorneys weren't concluding it as quickly as possible or working towards it. And that our judges were obligated to take charge of it. That's where we made those changes. I will just mention that we did do a lot of reassigning judges from other divisions into that area of civil division. We set cases for trial in lieu of summary judgment using non-jury trials, limiting continuances, dismissing cases or sanctioning attorneys when there were frequent problems, requiring personal appearances by counsel in all case

⁵ Florida Rules of Judicial Administration, [Rule 2.545 Case Management](#).

management hearings and all non-jury trial and setting case management hearings.

That was that kind of active case management on the part of our judges and our support staff; contacting the law firms, identifying key personnel at law firms and Loss Mitigation departments, reviewing the files. ... [T]here were a lot of things that we really kind of changed our approach with this. We did have to review files for correct and completed documents, notifying the parties of proper paperwork procedures. And then again, using our [new] monthly data that we were able to collect and analyze to target those older cases. We did a lot of block summary judgment hearings and block trials. And where there were uncontested mortgage foreclosures, we were able to set hearings for those. Another big part of it was grouping our hearings by the law firm, so all the cases for particular law firm were set for trial or for the hearing at the same time....

Jon Rosen: In 2009, the Florida legislature increased filing fees for foreclosures. Can you just talk about that process and what you made of that strategy?

Kris Slayden: I was very involved in that part of it. As you know, during the foreclosure crisis, we were all also suffering this huge economic crisis in the State of Florida. We don't have income tax. A lot of our money comes from documentary stamps, which is the money that they collect from real estate transactions. We didn't have a lot of tourists coming in. We didn't have people moving to Florida. With all of those issues, the legislature was in a deficit situation. One thing they came up with was to increase the filing fees, fairly significantly for foreclosure cases based on the value of what was owed on the mortgage. It was a way to generate revenue, and they directed a large amount of that funding to the state court system. So, we actually, in 2009, went from where I mentioned before of a general revenue type of funding pot to a state courts revenue trust fund. And a big portion of our state courts revenue trust fund came from those foreclosure filings. It was \$1,900 for cases over \$250,000 and \$900 filing fee for those from \$50,000 to \$250,000. The normal filing fee that we charged for civil cases [was] \$400 for those under \$50,000.

Jon Rosen: Can you just expand a little bit on the trust fund operating funding rather than the previous system?

Kris Slayden: Let me step back a minute. In 2007, 2008, and I think 2009, we were going through that economic crisis in Florida and, as I said, the trial courts were general revenue funded. We took significant cuts to our resources. I think we lost 249 positions. It was significant to us. It was a pretty hard cut to our budget. The [Florida] Supreme Court – I think it was under Chief Justice Quince – looked at a revenue stabilization plan of how can we – we were taking these huge cuts – stabilize our revenue source, that general revenue [where we] were just taking cuts. So, the Supreme Court adopted this revenue stabilization plan that looked at creating a trust fund so that we could have a diversified mechanism or funding source.

We would have the general revenue, but we would also have revenues coming in the door from this trust fund. And when we designed it, we kept our judges and our constitutional type of requirements, expert witnesses, court reporters, court interpreters on the general revenue side, and put a lot of our support staff on this trust fund. It was appropriated by the legislature, they said, "okay, we're taking away part of your general revenue." And I think we used to be like 90% general revenue funded, 10% trust funded. After that, we went from maybe 75% trust funded to 25% general revenue funding. It was a fairly significant kind of "oh my gosh – this money. Was it going to come in and were we going to be able to pay our bills?"

Because general revenue – the legislature takes care of that. They [the legislature] say, "you're going to get this amount." So, it was really tracking this trust fund, closely. It was funded by not only foreclosure filing fees but also other types of filing fees, a lot of family court filing fees. There were some traffic and fine revenue that we got from there. So, it did come in pretty heavily when those foreclosures were flowing in. And then all of a sudden, boom, it dropped off and the foreclosure/ lending institutions implemented those moratoriums. Our revenue source dried up. We were having all sorts of problems with that. We had to go to the governor and ask for a loan. There was a lot of instability there, so that was kind of scary.

Jon Rosen: You said that when the foreclosure filings started coming in, that was a boon for the revenue and then it dried up later. Can you just talk more about the dependence of the Florida courts on that foreclosure filing funding?

Kris Slayden: Like I said, it wasn't just the foreclosure filing revenue. It was all sorts of different types of revenue, and foreclosures filings were part of that. But all of our support staff, a lot of our case managers, and staff attorneys were paid out of the trust fund. We were dependent on it. If the money didn't come in, if we can't pay, if we're down \$1 of what our salary liability is, we can't pay anybody. So, it was a very scary time of relying on that trust fund.

Jon Rosen: Can you expand on trying to budget in that system of the precarious funding?

Kris Slayden: Part of the statutory authority is that we can go to the governor and request a loan. ...Our duties and responsibilities are tied to the constitution. If we need the funding to be able to adjudicate the cases and provide due process, we need the money. So, it was making sure we had the documentation to show what we needed and how much money we didn't have, and making our justification for the loan. I guess that was the biggest part of it. We did talk a lot about having to – at that time, I believe there were discussions about having to furlough employees. The authority or the structure in Florida is the judges are appropriated and required by the constitution. So even if we had budget cuts or didn't have enough money to pay our whole operations, we can't furlough the judges. We can't cut their pay. Their pay is set in statute. So, we were looking at what we would have to do to furlough the staff that support them. Obviously, [the judges] need their staff to carry out their duties. So that was difficult.

- Jon Rosen: Can you expand a little bit on how the loans operated from the legislature?
- Kris Slayden: I was involved in it a little bit, but that's a little out of my wheelhouse. It is in statute. There's a requirement that from the [Florida] Chief Justice to the governor, asking for the loan. I know we received a number of loans, and I don't remember if it's in the report that we talked about. I know that the clerk's support also received a number of loans at that time...
- Jon Rosen: You mentioned the lenders moratorium on foreclosures. Can you talk about how that happened, how long it lasted, and that whole process?
- Kris Slayden: We were tracking the numbers fairly closely. ... And the high in 2009, was I think about 40,000 cases/month whereas the low in 2005 was about 4,000 cases. It was a huge, significant change. Sometime in 2010, we saw this dramatic drop-off in cases... Obviously, our court system has connections with the Florida Bar Association. We were reaching out to them, and they have a civil division. As I remember this is going back now 11 years ago, I think there were some announcements that they were going to hold up. So, we got the kind of advanced notice that they were going to impose these moratoriums. It may have come after all of the robo[-signing] identifications – what was going on out there. And they said, "okay, we need to step back. We need to look at this." We went from twenties and thirties, down to, in October of 2010, like 14,000 and then dropped off to 8,000. We could see these filings numbers over the months dropping way off. They not only stopped moving on their cases or saying they couldn't move on their case, they were also not filing cases, so we didn't have new cases coming in the door.
- Jon Rosen: Once the moratorium was lifted, did you find that the lenders pick back up the pace right up? Or was there a change?
- Kris Slayden: There was a number of moratoriums in that time period where they would drop off, pick back up, and then they would drop off again - 2013 was another significant one. We saw the drop in 2010. Then we saw another one in 2013, where they had another moratorium. I think they did start picking up. But again, it was that the judge really was there and having to manage the case and get the attorneys into court to resolve the cases.
- Jon Rosen: You mentioned that Florida has the judicial system for foreclosures while laws of others states have a separate administrative procedure. During the crisis, was there any conversation about changing the judicial system or moving into an administrative procedure or generally?
- Kris Slayden: You're bringing up memories, these haunting memories that I have. I think that the legislature was looking at that. Florida kind of stood out. RealtyTrac – I don't know if RealtyTrac still exists – was all over this issue, talking about the foreclosures and the time that Florida was taking to resolve these cases. And we had one of the highest times to disposition. It was like over a thousand days,

where our rule is we're supposed to dispose of cases – our time standard is – within 12 months. We were taking three years almost on average, and it was getting worse. I think there was some discussion with the legislature looking at the nonjudicial process for this. But with the funding, like I said, and the strategy of taking these solutions, not just throwing money at it, but all of these other kinds of processes, we really seemed to fix it ourselves and got back on track with the time standards and getting rid of that backlog so that the Florida economy could recover.

Jon Rosen: During that time ... the state court judges were involved in hiring these case managers and clearing the backlog. Was there any conversation on their part around the whole judicial foreclosure system and if it should be modified further?

Kris Slayden: I don't know the answer to that question. I know there was obviously a lot of judicial education going on with the changes to the improvements [of] the process to prevent another foreclosure crisis. But I think that the judges were more on the receiving end of that, as opposed to creating those types of improvements.

Jon Rosen: You mentioned earlier that the Florida state legislature authorized the initial \$6 million. Can you talk about what you thought of that authorization process and whether that amount was sufficient?

Kris Slayden: The initial amount of \$6 million ... We got \$6 million in one year; \$4 million, one year; \$5 million one year. Then, I think it was \$21 million over two years. It was \$21 million over two years because it included \$16 million for the resources and another \$5 million for the technology. That money came from, actually, the federal settlement with the lenders. Our work group put together our \$35 million legislative budget request. The other ones were out of the non-recurring, general revenue that the legislature gave us. Anything they give us is appreciated and valuable. We did hire retired judges in 2010 and again in 2012/13, with those funding. But to get the technology and - the two years, the significant money that's where we really made progress, learning of how we best can get those cases moving through the system with the litigants.

Jon Rosen: When the court system received that funding, were there any lobbying efforts by plaintiffs and defense group to adjudicate how that money was spent, or was it kind more closed off?

Kris Slayden: I probably wouldn't know if there were other lobbying groups. We have a team of judges that talk with the legislatures and describe just what I've described to you – our strategy and our need for these resources. I don't know, on the other side of that, if there was any. I know that we didn't hear a lot from the mortgage companies. They were kind of staying quiet with when they were going to start ramping back up. We didn't hear from them, but I wouldn't know if they were over at the legislature asking for resources or not. They are not funded

obviously by the legislature, so I don't know if they would have been lobbying for some other issue.

Jon Rosen: Looking back at the crisis over a decade later, what do you see as the most important lessons for state level policymakers?

Kris Slayden: That's a good question. Give me a minute to think about it. I've been involved on the money side of it so much where we're just asking for funding and additional resources. ... To me the real success of this – and I think Florida was seen as a huge success of finally getting those cases resolved and getting our economy back on track. It was this multi-pronged approach of not just throwing a bunch of resources at it, but developing those case management plans, having the technology, educating, changing rules so [they fit] more uniquely in the situation. That was really a changing point in how we handled crises from the past.

Jon Rosen: We are nearing the end of the interview. is there anything that I didn't ask about that you'd like to talk about?

Kris Slayden: No. I think I covered everything that I was thinking might be valuable. I do have the report that details [this], if you want to see that report. I have an example of our tracking reports that we had during that time. And I have that history of the filings that I referenced. If you want to see those, that may be too much information, but I do have those things. If you want, I could send you.⁶

Jon Rosen: That would be great. Thank you so much for your time. It was really great to speak with you.

Kris Slayden: Thank you. It was a nice look back at the history.

[END OF SESSION]

⁶ [Florida Foreclosure Dispositions History, 2005-2019.](#)
[Florida Foreclosure Filings History, 2005-2021.](#)
[Florida Foreclosure Initiative Status Report, October 2015.](#)