AMERICAN PREDATORY LENDING AND THE GLOBAL FINANCIAL CRISIS

ORAL HISTORY PROJECT

Interview with

Matt Weidner

Bass Connections

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PREFACE

The following Oral History is the result of a recorded interview with Matt Weidner conducted by Jon Rosen on June 3, 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.

Transcriber: Jon Rosen Session: 1
Interviewee: Matt Weidner Location: Zoom
Interviewer: Jon Rosen Date: June 3, 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 and it is Thursday, June 3rd, 2021. I am speaking with Matt Weidner, a partner at Weidner Law, for an oral history interview. Mr. Weidner joins me via Zoom. Thanks so much for joining me today.

Matt Weidner: Thank you for having me, great project.

Jon Rosen: I'd like to start by establishing a little bit about your background. I believe that you grew up in Ormond Beach, Florida and went to Florida State for college and law school. Is that right?

Matt Weidner: Yes.

Jon Rosen: What made you want to go to law school?

Matt Weidner: I always go back to my law school entrance essay. I had this concept of the Knights of the Round Table in modern America. I believe that lawyers were out there to fight for the good of the good, whatever we define the good as. I largely believe that today and largely believe here, twenty years since I got that diploma or more, that that's what lawyers are put on this planet to do.

Jon Rosen: And how did you first become involved with residential mortgages?

Matt Weidner: There's a book out there called *The Unwinding* by George Packer.[1] It's a New York Times best-selling book and he interviewed me and asked sort of a similar question. And the answer to the question was, I didn't get to go to a fancy law firm. We call it tall building lawyers, with marble floors and marble desks. I'm a street lawyer, always have been. And I practiced a unique specialty of law called threshold law. Threshold simply means whatever would walk across the threshold of that storefront law firm, I'd take that case and get working on it.

So in the run-up to the crisis, when we talk about the financial crisis as this distinct period, but things were troublesome for the consumer in the months and years leading up to that. And people would come into my office and initially these were folks at the lower end of the economic spectrum, lawn workers and cafeteria workers, whatever, and they were falling behind on their bills.

1 Packer, G. (2014). *The Unwinding: An Inner History of the New America*.

And I was sort of sensing, if you think of a storm or a hurricane, these people were the first bands of the crisis that's about to come. And no one really defended foreclosures because there was such a small volume prior to this. This would be 2006-2007 or whatever. But those first ones that started to come in, I would do my best to defend them, kind of slow down the process. And of course, it built as a crescendo, much as a storm does, the bands of rain started coming in more, the clients phone calls start coming in more and more until, it was very much a hurricane. There's a law school article out there, "Foreclosing in the Eye of a Hurricane."[2] That's a *Stetson Law Review* article.

Jon Rosen: And just to talk about the progression of your experience with foreclosure defense, you mentioned that initially it stated with people at the lower end of the economic spectrum. But can you talk about the progression you saw over time with foreclosure cases?

Matt Weidner: Yeah, and that was what made it very compelling. If we think about history and where all of us were, not just in this country, but in the world at that time, 2007-2008, we were in good times, I believe we were in really great times, 2006-2007, money was flying off the shelves. There were mortgage lenders on every corner in every storefront. And it very much, I don't want to say carnival atmosphere, but it was almost like a Black Friday shopping spree kind of atmosphere. And that permeated the entire country. I don't think there were many regions that didn't experience that kind of growth and run-up of housing and mortgages. And it felt like pretty good times. I think that was at the beginning of a tech boom and so the stock market was healthy and it seemed kind of "rah, rah, rah," generally.

Well, the crash came really quickly. And if you can think about your family sitting around a dinner table, dad had a job, mom had a job, everything was plugging along okay. There would be really new folks that were hurting all of a sudden, that was network news at the time. But you're probably a little young to remember that. The broadcasters would come on [about] this stock market crash and people would sort of take notes. I think one of the most compelling things that I think about now is how quickly that happened. It was boom boom times, and then boom, …, it came so quickly. And in a very short period of time, you started to see financial troubles across the entire spectrum. And that I think was the most compelling thing. I mean, it felt literally like the markets just seized up and people were experiencing real financial trouble very quickly.

Jon Rosen: And you just said that it kind of all happened over a short period of time, but was there a point when you realized that … the rise of foreclosures was a systemic issue, that it was [this] hurricane. How did that progress?

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2 Weidner, Matthew D., and Michael Fuino. "Foreclosing in a Hurricane: Florida Courts Struggle to Deal with a Crisis of Epic Proportions." Stetson Law Review 41, no. 3 (2012): 679–718.

Matt Weidner: You know, here we are in the Tampa Bay region of Florida and throughout the crisis they [called them] the sand states, Florida, Nevada, and California, as the sort of epicenter of the crisis. And here in the Tampa Bay region and down in Fort Myers, Lee County, just south of us, we had a real high concentration. I want to say at some point in time in this county, Pinellas, we had like 30,000 foreclosure cases pending and I think statewide, there were 400,000, pretty big number. It came on gradually, the foreclosure and the numbers of filling, but then again, it just came in waves. And I remember I would get a list of foreclosure cases that were filed in this county every day and it just sort of started going up really quickly from just a couple to hundreds. I got this list and had for years of, they call it *Foreclosures Daily*, and it was a list of the foreclosure filings.

And, I would see immediately the increase in filings. I remember one day in particular, downloading the spreadsheet and seeing that it was a couple of hundred filings long, and that really got my attention. And I was very obsessive about that particular list. And I would look at the actual filings here in my county. One of the interesting things is it was different than what was being reported in the press. The news would always come out with, “we had a spike in filings,” or “we've had a decrease in filings,” or whatever else and this was based on bad information. What I found was that oftentimes we had a lot more than was even being repeated and reported in the newspapers. But it came on quickly and steadily and it just kind of kept coming in waves and waves.

And one of the interesting things was, if I think about some of those early cases, cases that were filed in 2007 or 2008, those cases took forever to get resolved or closed by the court. And so more cases would be piled up on top of them every single day in my office and in the courts alone. As an example, here we are in 2021. And just the last couple of weeks, I have been closing out cases that were filed in 2008, 2009. I mean, I'm literally, before I got on this call with you, working on closing out a case that was filed in 2009 and alleged that the default was in 2007. And that's kind of mind-boggling and that's not even my oldest one. A couple of months ago, I closed out one from 2003, 2003! And I just finally closed it out.

So point was, throughout this crisis, these cases built up. And for lack of resources in the courts, first of all, and then just the banks not having their act in order, these things just piled in. And they talk about like a snake, right? There's this big lump of cases sitting in the snake's body trying to make their way through. And it was just very, very cumbersome because no one, not at the banks level, not at the court system level, not at the consumer finance, federal, state level, nobody had the resources to prepare for what we were going through, much less deal with it.

Jon Rosen: When you first started working on a foreclosure defense? Can you describe the legal process in Florida and what that was like?

Matt Weidner: Non-existent. When I started there wasn't a defense of foreclosure. I remember early on, there just was no one defending these things. And so in the wider community, I guess kind of the word got out there that, “hey, Weidner’s defending these things.” And the old timers would say, “well, geez, I didn't know there was any kind of a defense.” So we kind of had to make it on the fly and applied some really arcane little details and procedural things that, had never been applied to foreclosure cases to foreclosure [defense] and make it up as we went along.

Jon Rosen: Just to follow up on that, can you describe the state of the legal options that borrowers had at that time?

Matt Weidner: None. I mean, again, when, when this started [in] 2006, 2007, and I think for all history before that, there was such a small volume of foreclosures. I mean, people bought their houses and the default rates would have probably been single digits and not much of it and so there wasn't much of a defense. On the defense side of things, I can remember early on, judges being quite surprised that anybody was daring to defend, because it just was not done. In fact, the whole model that was built by the plaintiff law firms was — a payment model based on no one defending these things. And so if you look at the big [foreclosure] mills that were operating, that started processing thousands and tens of thousands of cases, it was very sloppy because they weren't used to anyone putting up a defense. So they just kind of slapped [foreclosures] together as quickly as they could to get that conveyor belt moving off the door. And it's only when people started defending, it was a fly in the ointment to them.

Jon Rosen: Were there specific lenders that you were seeing more than others in these initial foreclosure proceedings in 2007, 2008?

Matt Weidner: So, Bank of America and Countrywide immediately come to mind. They were clearly at the tip of the spear and then Citibank and some of the bigger ones were there first and [other] recognized names. It was only much later that you started to see what I call the alphabet soup of trusts and all this other stuff. But to me, it was those mainstream lenders that were in the headlines for all the wrong reasons. Countrywide collapsed; it really comes to mind, that was heavily concentrated here, saw a lot of that.

Jon Rosen: During this time, … were you seeing a lot of commercial borrowers or it was mostly just residential?

Matt Weidner: So families is always what comes to mind. I guess it is interesting, a few commercial things would come in here or there, but this was always a very personal, intimate affair with folks, families that were quite stressed that were feeling the brunt of this first. I think that the business failures and the commercial stuff only came along later.

Jon Rosen: And I know you've talked before about foreclosure rescue firms. Can you describe that and how did you perceive what they were doing?

Matt Weidner: In any crisis, any kind of crisis, I guess there are predators out there. These foreclosure rescue firms scams popped up and were quite damaging to individuals, to the financial system, to the court system, because they were preying upon people. [A] new program that would come out, the official legitimate government program to help people. The next day the scam firm would pop in and [used] that [same] language that [the government program used,] used those logos and things. And what would happen is, they would divert people. Lawyers are bound by some rules that prevent us from being really aggressive and making untrue statements to people. These firms would have boiler rooms and have people knocking on doors and saying, “hey, Mr. Smith, we can guarantee that we're going to save your home. Just, just give us the 5,000 bucks now, I guarantee we're going to save your home.”

That was very, very prominent. And they travel on all kinds of different acronyms and names and things like [that], legitimate sounding things. One of the interesting things is that, it was oftentimes difficult for me, as a relatively sophisticated lawyer, to figure out if this was a scam. And again, because a lot of times they were traveling under otherwise legitimate government programs with the logos and the phone numbers and everything else like that and they map it onto their form and the phone number, the digit or something would be off. And so, many people got sucked into that, kind of like quicksand and got sucked into that. And before you know it they were in trouble because they went down that scam route and it took them a lot to work that out.

So I would say that that was one of the things that I found most frustrating about this entire process is the unwillingness of government at all levels to address that. It could have been done instantly. It should have been done instantly because we've got the resources on the books at the state, federal, local levels. These things should have been shut down instantly and they just weren’t. Just on this particular subject, because now you're drawing up a lot of bile from my belly here because of the amount of time that I spent, wasted, reporting to alphabet soup government agencies, one after the other. And I'll never forget meeting with a group in Orlando. These were government investigators and [I talked] to them about these boiler room operations that I had all the information on and thinking that they would do something about it because, “here's the address, here's the phone numbers, go there and shut it down.” And they didn’t do any of it.

Jon Rosen: — [C]an you talk a little bit about, at this time, the plaintiffs firms representing large lenders and the work that they were doing?

Matt Weidner: The firms grew organically and David Stern was the big one down in south Florida and he started with a relatively small book of businesses, I suppose. And I understand on that plaintiff's side of things, they would reach out to different lenders who had a volume of defaults that were coming in and convinced them

that, “if you give me, the plaintiff firm, these 10,000 cases, I can get them moved through.” And then of course, other law firms built up around that. But, again, those firms grew organically as the volume of cases that came in and as Bank of America would have record numbers of defaults or thousands within Florida — this firm would grab so many referrals and another firm grabbed so many referrals. And I think [from] the defense side of things, [the plaintiff’s firms], they were putting the plane together as they were flying it. So they'd get those five, ten thousand referrals and start putting the case together and start getting them filed and maybe not realize that there were problems with their filings early on, but they kept flying the plane and trying to fix it as it went along.

Jon Rosen: I know you've talked about this, but to deal with the rise in foreclosure cases, I know that Florida set up a separate foreclosure docket to deal with these cases in an expedited manner in which senior judges would hear the cases with an expedited procedure. Can you talk a little bit about how that system developed?

Matt Weidner: One of my greatest frustrations about the manner in which the [Florida Supreme Court] dealt with this problem was the total lack of input from the defense side of things or from the consumer's perspective. As the problem progressed and we were clearly getting these volumes of cases again at the state and the court level, these programs would just be announced. The [Florida] Supreme Court work study would be announced and some new procedures, something would come out and there would have been zero input whatsoever from anybody on the consumer side of things.

So I, along with a couple of other lawyers, hired a lobbyist. We took our own good money and hired a gentleman who had been the clerk of the Florida Supreme Court to say, “look, if the court system, the third branch, is going to be adopting these procedures that are going to be mandatory statewide at the very least, give us a seat at the table and let us have some input on it.” And I remember a meeting in the Florida Supreme Court in their administrative offices there, a very nice meeting with all kinds of people and nice bottles of water set out very formal and absolutely nothing came of it. It became apparent throughout the process that consumers were absolutely not — the consumers nor the lawyers or anybody representing them had any seat at the table, nor was that a desire by anybody. And that was very frustrating.

Jon Rosen: Could you expand on the dynamic between the opponents and the consumer groups and then the proponents of that system?

Matt Weidner: So again, things got bad, the volume was picking up and I would say that defense attorneys were doing our job. As lawyers, you accept representation of a client, you're trying to sort out an issue — and we defense lawyers, we were doing a good job. We were negotiating, collaborating, fighting with the plaintiffs on the other side. But, when it became clear that we were doing too good a job on the defense side of things, we were slowing things down too much, because quite frankly, we were just pointing out the errors and the deficiencies in the

plaintiff's process. The court then began working with the plaintiffs to try and figure out a way around us.

And I will explain this with one very clear example. I went to a seminar that was put on by a local lawyer organization and the seminar was directed specifically at helping lawyers decide [whether to] to run for [judge]. So it was a panel discussion and there were judges up there and the whole thing of the presentation was, “hey, if you want to run for judge, here's what you should do down the road.” So a gentleman gets up there, [I] have a profound amount of respect for him, still do now and just gives his introduction. And he said, “well, for the last months or whatever, I've been working as a senior judge, helping to clear through this foreclosure backlog.” And he says, “it's interesting the way this comes up, we have this judicial conference over in Ponte Vedra, Florida. And what happened was there was this meeting with the lawyers and representatives from the banks. And they came to us and they said, ‘we'd like to have you guys use senior judges to come in and help us clear up this backlog.’”

And I remember at that time, just, my head wanted to explode. There were a couple of people in the audience who knew how involved I was in this and I remember them looking at me and I just couldn't believe how blunt that was. And the bottom line is, this judge was a very good guy. He was telling the truth. That's what happened. But the application of that was so damaging and that that remains one of my great frustrations as a lawyer now, twenty years on. The idea that the court system could be manipulated in a way to serve a particular side's interests in such a dramatic and blunt fashion was very disturbing to me at the time.

Jon Rosen: And on the expedited system specifically, can you talk a little bit about how that functioned and how you've felt that defendant's due process protections were violated by [the] system?

Matt Weidner: Let me close the loop on that senior judge thing, because it's really important as well. In this country we think we have a constitution that is supposed to matter. The state of Florida, and I think most states, has a constitution as well. So, in the state of Florida, our constitution says that judges are supposed to be elected or appointed and then subject to retention by the voters on a prescribed basis. That's in the constitution. And what I found was that the use of senior judges, was a blunt, dramatic, black and white violation of the Florida Constitution and the very specific limitations placed on elected judges. So I filed a petition for the Florida Supreme Court that said, “hey, Florida Supreme Court, there's a constitution, and this widespread, persistent use of senior judges is a black and white, blunt violation of that.”

It was flushed down the judicial toilet in record speed, I believe. And that petition is one that I'm proud of drafting and was proud of being a part of, and I was really frustrated that no one cared to give it the attention. Now, I've got a different perspective on it, twenty years on or ten years on or whatever, we'll

get to that in a minute. But, just to see how quickly such important parts of the judicial system were violated was frustrating to me.

So now let's talk about the application of that and why that became so. — [T]he elected bodies, the governor, the legislative branch, along with the banks, recognized that they had a problem. They had 400,000+ foreclosures in the state and we had to get through that. And these pesky defense attorneys and people that were trying to slow things down, we're getting in the way of the economic engine that was stalled out.

So what they did was, they created this rocket docket. And again, even though we'd hired a lobbyist and gone into the [Florida] Supreme Court and wanted to be part of how this was going to occur, no one, and I checked with legal aid groups all around the state, none of those folks had a seat at the table. So some of this went through the legislature first, because first you got to have funding.

But someone, and I could only conceive of a dark star chamber of bankers sitting with cigars and whiskey along with elected officials, decided that we would start this foreclosure, this rocket docket. And I remember there were a couple of times when we, defense lawyers and consumer advocates, would go up to the state's Capitol. And we would talk about these things. We would meet with legislators and we would talk about solutions or whatever. And there were various technical [pieces of] legislation, things that are not relevant at this point in time. But I remember in particular one time when I was up there, a lobbyist that represented the Florida Bar, who I knew from law school, she alerted me to this funding bill that had sailed through, [because] she knew that I was involved in foreclosure. And she tells me about this funding that had gone through for foreclosure. I never heard anything about [the legislation] up there and I was relatively well-informed. But the bottom line is this, the banks, and whomever they were working with up there, had funded this rocket docket system. And then, lo and behold, weeks later, now the courts are provided with a big sum of money that was going to set up these court systems.

That was the rocket dockets. And the rocket dockets, at their core, had one purpose in mind. And that was to flush out these cases, flush them through the system and that was the general concept. And then they went out and I suppose that's when they had the meeting to the judges in Ponte Vedra. And they said – “hey, the existing circuit court judges can't handle that, so let's draft in these senior judges, we'll pop them up there.” And this is reduced down to writing, called the Florida foreclosure backlog relief project or something, but I remember "backlog relief.”[3] And all this stuff is plugged into there. And what you will find is that, again, these folks are meeting in star chamber rooms. There were representatives of court systems across the state, probably every circuit represented, and the legislature had provided the money.

[3] Task Force on Residential Mortgage Foreclosure

And they then architected this system. This was no small undertaking. They were talking about computer systems and I remember there was millions of dollars worth of funding for computer systems, then millions of dollars of funding for salaries of staff, millions of dollars of funding for judges - all with the purpose of "curing the backlog." And so now they had built the system and then they had to actually execute the system and the courts would develop their list of cases and then they had to figure out how they were going to push them through the system as quickly as possible.

And so now you get to the actual execution of that. And here at the local level, I'll take one thing in particular — I mean, heck it's been fifteen or so years, and I can remember it like yesterday. I had caught seven cases that were teed up as a lawyer that were dead bang winners for me. There's just no question at all that, based on the black and white law and the black and white rules that a naive lawyer thinks the judge has to follow, I was going to walk into that courtroom and in every one of them, I was absolutely, black and white, entitled to a judgment in my favor. Well, I stood up for the first one and I [had] my suit on, all organized, everything done perfectly, and the judge just knocked me out and I couldn't wrap my brain around that at first. I remember that was at the Clearwater Courthouse. And I couldn't wrap my brain around how, with something so black and white, the judge could just shoot me down. But I figured, well, that's just one, let's go to the next one.

Second one: again, black and white. The bottom line is the other side had not filed anything in opposition, so the judge could not not give me what I want. Second one: just knocked me out. And everyone went like that, all seven of them, I just got kicked in the teeth. It was at that moment where I recognized that the system was not about an equal playing field for plaintiff and defendant. The system was now about, “how can we quickly give these to the plaintiff,” at all costs. That's, what happened with the rocket dockets. And I think that even probably judges that wanted to do true allegiance to the oath they took of being fair, were pushed back against. And I think that that's why we were given senior judges. And the bottom line was that there was a purpose in mind and that was to clear all these cases. If we added more rules and case law along the way, that's just fine. That's what they did.

Jon Rosen: You mentioned that in this rocket docket system, lenders would often put together these cases that were very easy to poke holes in, they didn't have the original note or something like that. Can you just talk about your experience with those cases?

Matt Weidner: So keep in mind that, from the beginning of modern history, the beginning of human existence, if we entered into contracts with one another, even before we had written language, I suppose, we expected one another to honor the terms of the contract. Well, fast-forward to sophisticated America, and the consumer entered into a contract with the bank. And you asked about the development of foreclosure defense; foreclosure defense was basic contract

law. First year law school, we all learned about contracts. When there's a written contract, both sides have to follow it.

What you found in the defensive foreclosures was that the banks, on a systematic basis, had violated term after term of their own contract. I mean, the reality is in the run-up to — when all these mortgages were being made, it was clear that the banks hadn't read the fourteen or thirty-page note and mortgage document that they had created, and neither did the consumer either.

But when defense lawyers started reading that contract, we found that the banks violated it left and right. —By and large, the solution was not to hold the banks accountable for the contract that they created. By and large, the solution was, “we're just going to allow the banks to ignore the contract that they created and we're just going to let it slide through.” And that again was, again, a frustrating part. Now, there were many judges - as an example, the contract said that, “before you file foreclosure, Bank of America, you got to send out a letter to Joan consumer and say, ‘hey, pay me a thousand bucks and this thing gets reinstated.’” And what we found was that, in wide-scale across the country, those provisions had just been widely ignored. For a good period of time, judges were following the black-letter law, saying to Bank of America, “hey, you drafted this contract and your [foreclosure] letter doesn't meet it, this case is dismissed.” But what happened was, is that got too popular and successful, so the judges just started to ignore it, at the trial court level. And then what you found was that that progressed to the appellate court levels. The appellate courts came in and started saying, “yeah, we can't hold them to the black-letter of their contract, so let's just ignore that.” And you started to get appellate opinions that allowed them to ignore their own contract. And at the end of the day, here we sit in 2021; there's virtually no defenses left anymore. The judicial system has gone back, and I call it putting Humpty Dumpty back together again, such that there's almost no defenses anymore.

Jon Rosen: I know you've mentioned that at sometimes, it seemed like there was no coherent strategy by the lenders in terms of which homes they would foreclose on and which not. Can you expand on that?

Matt Weidner: Yeah, I'll give you current examples. I currently have on my books cases filed more than a decade ago. I remember driving around town and this area of the state throughout [the foreclosure crisis] and there would be five houses, waterfront houses with millions dollars mortgage on it, that were not in foreclosure and had gotten dismissed years previously. Then there were small mortgages and houses that weren't worth anything that would immediately get refiled. — I think the problem was so big and there were so many defaults and so many mortgages out there that, the banks clearly lost control. And so, there was a lot that fell through the cracks. I think that clearly they were just, they the banks, were just moving as fast as they could to push these cases through, but there were so many cases that they just couldn't get their hands wrapped around it. And again, I have cases now that the banks still haven't picked up or started moving on and they're decades old in many cases.

Jon Rosen: In terms of your experience representing defendants in this “hurricane” system, did you ever feel like you had to get more aggressive in the process in the courts?

Matt Weidner: Listen, when you accept the oath of an attorney on the wall behind me back there, you take a sacred responsibility to defend the rights of people that have entrusted their family to you. And it was absolutely apparent that, at some point in time, this was not a fair system and it was absolutely apparent that the deck was stacked against individuals. And I remember thinking at the time that, if the court was so willing to ignore core principles of due process, of fairness, for foreclosures; if something real came along later, we were setting a very bad precedent that the courts were so willing to do this. And so, yes, if you were going to be successful in defending the rights of individuals, you had better be willing to throw yourself into the woodchipper and quite frankly, to just ram your face directly into the fist of the judicial system. You were required, in order to do your job, to confront an opposition force, and all of the instrumentalities of the judicial system, that were opposed to everything you were doing.

I'll give you an example. The courthouse is right behind me over here in the corner. In the middle of this foreclosure stuff, literally the entire core resource, the calendar that was available for hearing time, was only available for the plaintiffs. So the plaintiff firms could go and get unlimited hearings next week, or whatever. And when I call in to try and get hearings for defense matter, it absolutely was not available. And so I spent weeks and months just ramming my head against the wall saying bluntly, that is black and white not fair. And that's just one very blunt example, how the system was set up just to move those cases through and not to be fair and give defendants a day in court. So that was a very unfortunate part of the process.

Jon Rosen: You've run a blog through your law firm website since 2009. Can you talk a little bit about your goals for the blog and your experience running it?

Matt Weidner: You know, it's funny because the blog started at the time that this foreclosure stuff started, it kind of evolved organically with it. It began as nothing more than my attempts to be sort of a town crier, about the problems that I saw and the concerns that I had. I was a naive lawyer at the time that believed in the absolute equality of integrity and all this other stuff. And when I would come across specific examples, I've mentioned some of those, I would put them out there in the hopes that [of] ultimately educating, I wanted the other lawyers to find out about it. I wanted consumers to find out about it. I hoped that the judicial system would find out about it and moderate some of the things that I found most disturbing.

And it absolutely had the positive impact of connecting warriors, fighters, across the state, across the country and sharing information. And that collegiality, that professionalism, that we developed, I think was one of the positive things about it because none of us would have been successful had those words not been shared. April Charney is the godmother, the queen, of a foreclosure defense — I

have to give credit to that.[4] —I came across recently a three-ring binder. There was this woman, April Charney, that worked at Legal Aid of South Florida, down in Naples or something. And this crazy woman had the wild idea that people should actually defend foreclosures. Whoa! And I remember going to a CLE [Continuing Legal Education Seminar], one of the first ones I ever did, over in Tampa. And this April Charney woman had this idea that you could defend foreclosures and that changed the course of my life. That is critical to point out because April Charney is how foreclosure defense started and the seminars that she did statewide are what sort of spread this gospel of foreclosure defense. My blog did it. And then we all started connecting in that, that raised this community.

Jon Rosen: During the rocket-docket system, the Florida court system chaired a Foreclosure Initiative Working Group in 2013 and tried to reform the process. Can you talk about those efforts after the fact to reign it in and how you saw those?

Matt Weidner: The only objective was to clear the backlog. So the system was set up; somewhere in there they talked about the snake. I think it actually might be in that report. This volume of cases that they had to push through the system. And I don't think reining it in was ever part of the job. The job was only to push the cases out as quickly as possible. And anyone getting in the way, “you're an enemy of the court system, you're an enemy of the country by daring to stand in the way of this.” And that remains the case to this day.

Jon Rosen: Can you talk a little bit about robo-signing and the impact that it had on the foreclosure docket?

Matt Weidner: So again, what had occurred was the banks, when the volume of cases came in, didn't acknowledge at the front-end how grossly unprepared they were for the crisis that they found themselves in and how grossly deficient much of their practices were. And we're talking about basic record keeping that should lie at the heart of any business practice. So what became apparent, in having taken depositions now and talking to the lawyers and things like that, [they were trying] to put Humpty Dumpty back together again, or solve these paper problems. Documents were just created out of wholesale cloth, assignments to mortgage and endorsements and other things like that. Papers that should have existed in prior filing a case, were created out of whole cloth as the plane was flying in the air.

And then they just kind of rushed the papers to kind of meet them together. And there's one other [example], I just talked to the judge about this again recently. I remember sitting in a judge's chambers, just across the street over here, early into this crisis. And I remember, [the] judge is sitting there and I'm local, so I'm sitting in the courtroom and the lawyer from the other side is on the telephone. It was a hearing. And I had identified some problems with a

[4] The American Predatory Lending interview with April Charney: https://predatorylending.duke.edu/histories/april-charney/

particular piece of paper. I think it was an “amounts due in owing” or something like that. Something was off. And the lawyer said on the other end of the phone, she said, “well, Judge, don't worry about that, we can just go ahead and fix that here.” And the judge says, “well, what do you mean, you could just fix that here?” And the lawyer said, “well, we got the computer system right here and we'll just print it up and I can have them fax right over to you.” And the judge says, “this is supposed to be your client's information. What do you mean you'll just fix that?” And the lawyer who's being quite candid and honest about it was describing to the judge that they, the lawyers, had control of all the information and they could just recreate whatever evidence they needed, spit it over. So that was a real disturbing and real blunt example of what was occurring in widescale.

Jon Rosen: You just mentioned the judge who called out the fact that [at times] these documents weren't really on the level. Did you see wider efforts from judges to call this stuff out or was it pushed aside in the rocket-docket system?

Matt Weidner: So again, I remember acutely, I could conjure up exactly the name, Tim Hinton, was the name of that case. And if anybody ever wanted to look it up, it's on the docket. Early on, judges were concerned about things like this, that judge was concerned about that. Concerned enough that she remembered that, I talked to her just recently in 2021 and that was probably 2010 or something like that. And she remembered it, by the way, she remembered that incident. And early on, there were many judges that had concerns with the kind of things that we were identifying. But we come to realize in the middle of all of this, that courts serve a functional process. This temple of the judicial system in the case of these kind of things is a bit of a naive perspective on things I believe, in retrospect now.

I think that those judges that were going to get fixated on that, in fact, there was another judge that comes to mind, Judge [Arthur] Shack, out of New York. I was listening to an interview [I did] from years ago and the interviewer was asking me, “are there judges out there doing the right thing?” And I said, “this Judge Shack in New York, he's a champion and he would identify these problems with records and things like that.” Anyway, I think judges that got fixated on that too much, the integrity and all this, were pushed aside. Judges that weren't going to be as fixated on that got plugged in there. And, I'll just leave it at that.

Jon Rosen: We've talked a lot about the Florida state response to the foreclosure crisis. Can you talk a little bit about the federal response to it and anything that surprised you about it?

Matt Weidner: So look, I am convinced that what happened was the, can't remember the name of the settlement, the $25 billion settlement or whatever they called that thing.[5] The bankers met with the regulators and a deal was cut that there would not be a perp walk of the bankers, provided that they agreed to this settlement. $25

5 University of North Carolina School of Law, National Mortgage Settlements Digital Archive. https://scholarship.law.unc.edu/mortgage-settlements/.

billion is the number that comes to mind, which seems like a pittance in today's money. But it became clear to me that the solution out of this quagmire that we were in was to throw money at it. I remember [U.S. Treasury Secretary Tim] Geithner had a quote, they were going to "foam the runways with money."

But in any event, the banks agreed that we would cut a certain amount of money aside and then that money would flow its way down to the states and that's how we would get through this problem. And I guess that's a practical solution. I'm very critical of the court system and then the mechanical way the sausage was being made down at the state level, but it is clear that what happened was the banks recognized there was only so much that they could slush through the court system, without big problems with the federal level. So they have this big multi-billion dollar settlement and that money was to go down to the state level in order to push things through. In retrospect, it ends up being a pretty good solution because at the end of the day, some of that money, enough of that money, I suppose, made its way down to the individuals and enough of it was solved.

But one of my great criticisms, that I remember back in the trenches at that time, was how much of that slush money never made it to consumers. And again, back to this meeting with the Florida Supreme Court, I envisioned that the Attorney General, Pam Bondi, would have taken some portion of the massive millions of dollars that were made down to the state and gave it in a more direct way to consumers. And there was never enough of it to my liking. I don't remember exactly what it was, but I just recall that that money ended up just being a slush fund that the state attorneys general used and it really didn't make its way to consumers. Now, the flip side of the coin is that there developed this massive modification scheme, that was a practical way to work out of this problem in a way that I think did benefit consumers, such that many got to save their homes. We didn't see the kind of widespread displacement that could have happened. We were able to negotiate and work things out to keep people in their homes and I think ultimately it was a good thing.

Jon Rosen: You've talked about how you were flagging to the state legislature the problems about foreclosure rescue firms and even the rocket docket system and met with legislators and lobbyists. Did you ever think about, or attempt to pursue, some sort of policy reform at the state level to curb predatory lending or the foreclosure system like other states had done or did that not come up?

Matt Weidner: Me and other defense attorneys and consumers, we had a really active group. We went up once a year to the legislature. There are some videos out there of me singing from years ago, standing on the steps of the Capitol. And if you want to follow up, there's a Congressman, Darren Soto … He was a senator at the time in the state of Florida and he was a guy, who at his core, recognized he was a lawyer and he actually defended cases. And he was the one voice I can remember that seemed to care about this stuff. And he's in Congress now. I talked to him not so long ago, he remembers well the fight for some kind of integrity. But the reality is the banks are just too powerful and they, the banks,

were going to do what they wanted to do and weren't going to listen to legislation or laws or anything else like that.

: It was what the banks wanted. So more specific to your question, the banks had the power of the lobbyists and the legislators to ram through whatever they wanted to ram through. And we consumer groups hired lobbyists and we tried to make tweaks here and there. Ron Book is a very well-respected lobbyist in the state and we we're able to tweak a couple of things here and there. But at the end of the day, there was no fighting back against the machine that is the banks and the institutions.

Jon Rosen: You mentioned Darren Soto as a legislator who was involved in this issue. Was there a coalition of others that were interested in reform and they just got bulldozed, or did it not even get to that level?

Matt Weidner: The magnitude of this was so big, there wasn't a legislator that didn't have foreclosure as the major problem in their district. And yes, all they wanted was the problem solved. Congressman Soto may tell you whether he had allies up there, but I can tell you that it sure didn't seem like there was anybody that really wanted to fight for consumers. But that said, let's go back to the practical resolution of these things. At the federal level, this money was pumping back down and then these modification schemes developed. So my perspective is that the lawmakers and the elected officials pushed this into the hands of the banks and said, “you better come up with practical solutions here that do not involve our constituents being displaced.” As I look back with a little bit of maturity now, you asked, “did you have to fight and be aggressive and things like that,” yeah, I did. But as I look back now with a little bit of maturity, as much as I was fighting the court system, on balance I think it worked its way through. So while there may not have been formal legislation, I think on the policy side, the extra-judicial, extra-legislative bank policy side of things, the market worked itself out.

Jon Rosen: In 2012 you launched a campaign for the Florida House of Representatives. Can you talk a little bit about your goals for that campaign and how that worked out?

Matt Weidner: So that's when I was young and naive and didn't have kids. And I remember at that time being really politically active and going up there to Tallahassee and thinking naively that I could do something there. And so I ran and I think my percentage ended up being something like six percent or something like that. But the reality is my wife announced that we were pregnant at some point in time and God bless my child for coming along because that turned the switch off on that campaign. I didn't pursue it and I'm glad that I didn't, quite frankly. To me, it was a time of naivete, I suppose on my part, thinking that individuals could do something up there. I will say this, I think the race was very close. I ended up meeting with the guy that actually won, Dwight Dudley. And I think that little five or six percent that I swung his direction could have made the difference.

Jon Rosen: In 2015, you were hired by the City of St. Petersburg to speed up the process of freeing up abandoned properties, by forcing a judge to bring them to auction. Can you talk a little bit about that project?

Matt Weidner: In retrospective, this is one of the greatest opportunities that exist nationwide. That point in time was the aftermath if you will. Back to this analogy of a hurricane, bad economic times go through and there's houses that are in disrepair and communities in disrepair, banks that have abandoned properties. We came up with this idea that one of the ways that we could help communities was to clear the title to these things. That's actually been very successful. There's a multi-billion dollar opportunity out there for communities nationwide to go into underserved communities and pick up some of these properties that have just been abandoned or left behind by banks. There's not a community in this country, that does not experience what we experienced in this community, which is, some of the damage, debris after hurricane left behind. So using my experience on the defense side of things, I flipped onto the plaintiff's side and said, “look, we can push these things through quickly, clear title and do something good for the community.”

Jon Rosen: You mentioned that this could be applied to other communities. In your experience with the project, did you find that there were other communities doing this or St. Petersburg was an outlier?

Matt Weidner: Absolutely not and that's one of the most frustrating things. I've spent unknown amounts of money and time pushing this concept that I call “active code enforcement.” And what I have found is that there are communities, all across this country, that have billions of dollars, literally billions, of liens, that means money owed to taxpayers that's piled up against vacant and abandoned properties and they're not doing anything about it. And I think that's government malpractice. I think that what our local officials have an obligation to be doing is to go into these areas where we see concentrations of blight and find out why it is that property is vacant and abandoned. And in the vast majority of cases, it's vacant and abandoned because Bank of America walked away from it ten or twenty years ago or families walked away from it. If communities nationwide would simply do this one thing, which is go in and address those vacant properties, we could create billions of dollars worth of wealth for communities and revitalize communities nationwide.

Jon Rosen: Over the last decade, we've seen a lot of narratives about what caused the financial crisis and how to explain it. How do you understand what caused the crisis?

Matt Weidner: I'm trying to put that in perspective of where we are in 2021, right. If you think about where, we as a nation, were in 2000, there was an economic theory that if government was too big then we would wind up in trouble with deficit spending, with Bush one or two or whatever. And I believed that part of the crisis was just free money and that it was the easy money of the mortgages and it was the banks just blowing around money. And I remember at the time

thinking that with the tech boom that the nation, the banks, were just sort of creating money out of thin air, without anything real at the foundation. And that what ultimately happened is when someone pulled the stool out, kind of like that Ring Around the Rosie or whatever, when someone realized, “wait a minute, this is all fake money and there there's nothing that we're producing at its core.” Then the music stopped and it all just fell down. And even the kind of like the plates spitting up in the air and then they just stopped spinning. So, I think that's what occurred. And if you go back to what was happening with lending at the time, like the movie with Matthew McConaughey … with the stock market or trading, they're all “rah, rah, rah.” I can remember going into a mortgage brokerage house, locally, where there were young, really aggressive people. Their job was to just convince every consumer that they could ever get their hands on to go out and take the biggest amount of money they could, to buy the biggest, fattest house they could. And it was very much this boiler room attitude that served that community, at least initially, because builders were put to work and communities were being built, mansions were being built and it was because of that entire system. We were just throwing money around as quickly as we could. And it just was unsustainable.

Jon Rosen: … As a foreclosure defense attorney, do you feel that your personal experience fits in with that larger narrative of the crisis?

Matt Weidner: — the “rah, rah” nature thing. If you think about pre-Great Depression, “we’re in the money”, that kind of thing. And I very much remembered that at the time and going out to restaurants seeing people, folks that didn’t have a lot of income. A great example is the Hummer. Everybody that was flipping houses and that stuff, that was the car to drive and whenever you’d see one of those you knew that that guy was a house-flipper or something like that. And that was kind of emblematic of those “rah, rah” times that were not supported by anything that was real. Then just the whole financial services industry as far as I can tell, then and now, was based on nothing more than flipping money out of thin air.

Jon Rosen: We're coming to the close of the interview. Is there anything else that I didn't ask you about that you wanted to talk about?

Matt Weidner: It's just kind of funny as we're talking here, I'm getting emails even now for cases that have 2009 and 2010 dates on them. And here we are 2021. I will say this, I was trying to understand why is it that now these older cases are kind of coming to attention. I understand it's because, as these firms are getting prepared for whatever's coming next, there are metrics that involve those older cases. And so the reason why these cases are getting dismissed and getting attention now is that the firms are lining up their chess pieces and getting ready for the next thing. They've got to take care of these other problems that are sitting there before they can get ready for the next go-around. And so, I think it's clear that we are going to see some new version of what we saw previously. I have absolutely given up on trying to predict what that future might look like.

But something's coming in. I only hope that it will be better than the last time around.

Jon Rosen: Thank you so much, Mr. Weidner for agreeing to do this and joining us.

[END OF SESSION]