

# Third District Court of Appeal

## State of Florida

Opinion filed May 15, 2019.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D18-244  
Lower Tribunal No. 14-8095

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**OneWest Bank, N.A.,**  
Appellant,

vs.

**Gloria Leek-Tannenbaum, etc.,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Pedro P. Echarte, Jr., Judge.

Bradley Arant Boult Cummings LLP, and D. Brian O'Dell (Birmingham, AL), for appellant.

Jacobs Legal, PLLC, and Bruce Jacobs, for appellee.

Before EMAS, C.J., and LOGUE and MILLER, JJ.

LOGUE, J.

Applying “our rather unremarkable precedent that, as a matter of law, when the surviving spouse signed the mortgage as a borrower, as revealed by an

examination of the mortgage itself, the spouse will be treated as a borrower for purposes of the mortgage,” OneWest Bank, FSB v. Palmero, No. 3D14-3114, slip op. at 21 (Fla. 3d DCA Apr. 24, 2019) (en banc) (citation and quotation omitted), we affirm.

EMAS, C.J., concurs.

MILLER, J., specially concurring.

Although I am constrained by the authority of precedent, neither distinguishable upon legal principle nor material fact, to concur, the concerns expressed in my dissenting opinion in OneWest Bank, FSB v. Palmero, No. 3D14-3114, at \*38 (Fla. 3d DCA April 24, 2019) (Miller, J., dissenting) (discussing the majority's abandonment of long-standing, controlling principles of law) remain.