

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR MARTIN COUNTY, FLORIDA

ADMINISTRATIVE ORDER 2011-_____

Re: Amendment to Foreclosure Final Judgments

WHEREAS, the Supreme Court of Florida issued Opinion SC09-1579 amending the approved form for foreclosure final judgments,

WHEREAS, the form foreclosure final judgment previously approved for use in the Nineteenth Judicial Circuit by Administrative Order 2010-08 is not in compliance with the amended form recently approved by the Supreme Court,

NOW, THEREFORE , pursuant to the authority vested in me as Chief Judge of the Nineteenth Judicial Circuit of Florida under Rule 2.050, Rules of Judicial Administration, it is hereby **ORDERED** as follows:

Effective immediately all foreclosure final judgments submitted to the trial courts of the Nineteenth Judicial Circuit must be in the format that is attached hereto as Exhibit "A" to this administrative order. The only deviations from the attached form may be by adding language to the approved form. Any additions must only be contained in numbered paragraphs beginning with paragraph "11".¹ The trial judge has the final discretion to strike or add language.

The Clerks of Court of the Nineteenth Judicial Circuit will no longer issue writs of possession in foreclosure cases, without specific court order authorizing issuance of a writ of possession.

This order takes effect immediately. Please note other than the Final Judgment form attached to Administrative Order 2010-08, all other requirements set forth within Administrative Order 2010-08 remain in full force and effect.

STEVEN J. LEVIN, Chief Judge

¹ This requirement is designed to alert the trial judge to any language added to the approved form.

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

Plaintiff(s),

CASE NO.

v.

Defendant(s).

_____ /

FINAL JUDGMENT OF FORECLOSURE
(Form Approved by 19th Circuit Administrative Order 2011-____)

Note: This final judgment format may only be modified by adding language in sequentially numbered paragraphs beginning with paragraph 11. Attorneys may be sanctioned for submitting a final judgment which improperly varies the approved format.

This action was heard before the court on the plaintiff's Motion for Summary Final Judgment on **[date of hearing]**. On the evidence presented;

IT IS ADJUDGED that:

1. **Motion Granted.** There is no dispute of material facts and plaintiff's motion for summary judgment is granted.

2. **Amounts Due.** Plaintiff, **[plaintiff's name and address]**, is due:

Principal	\$.....
Interest on the note and mortgage from [date] to [date]
Per diem interest at [rate] % from [date] to [date]
Title search expense
Taxes
Insurance premiums
Attorneys' fees	
Finding as to reasonable number of hours:	
Finding as to reasonable hourly rate:	

EXHIBIT "A"

Other*:

(*The requested attorney's fee is a flat rate fee that the firm's client has agreed to pay in this matter. Given the amount of the fee requested and the labor expended, the Court finds that a lodestar analysis is not necessary and that the flat fee is reasonable.)

Attorneys' fees total

Court costs

Filing fee

Service of Process at \$[amount] per defendant

Publication for [reason]

Additional Costs

[list separately]

Subtotal \$.....

LESS: Escrow balance

LESS: Unearned insurance premiums

LESS: Other [describe]

TOTAL \$.....

3. **Interest.** The total amount in paragraph 2 shall bear interest from this date forward at the prevailing rate.

4. **Lien on Property.** Plaintiff holds a lien for the total sum superior to all claims or estates of defendant(s), on the following described property in [name of county] County, Florida:

[describe property]

Property address: [street address]

5. **Sale of Property.** If the total sum with interest at the rate described in paragraph 2 and all costs accrued subsequent to this judgment are not paid, the clerk of this court shall sell the property at public sale on [blank line for date], to the highest bidder for cash, except as prescribed in paragraph 6,:

_____ at [room and street address of courthouse] beginning at [blank line for time]

_____ by electronic sale at [website address for online sales] beginning at [blank line for time]

in accordance with section 45.031, Florida Statutes **The public sale shall not be postponed or canceled without a court order, and shall proceed regardless of whether plaintiff, a plaintiff's representative, or plaintiff's counsel is present. All orders postponing or canceling the sale must be filed with the clerk of court no later than 5:00 p.m. two business days before the sale date. Counsel for plaintiff must be certain that the clerk has the original proof of publication of the notice of sale on file no less than three business days before the sale date. Failure to file the original proof of publication of the notice of sale will not stop the sale, however the certificate of sale will not issue until the original proof of publication of notice of sale is filed. The failure of plaintiff's counsel to properly and timely publish the notice of sale may result in sanctions against the plaintiff, plaintiff's counsel individually, and the law firm representing the plaintiff.** If the original proof of publication of the notice of sale is not filed with the clerk within ten calendar days after the sale, an order will be entered directing the plaintiff to show cause why the sale should not be vacated and the case dismissed with or without prejudice. The fact that an attorney has a high volume practice will not be a showing of good cause.

Any electronic sale by the clerk shall be in accordance with the written administrative policy for electronic sales published by the clerk at the official website for the clerk and posted in the public areas of the clerk's offices.

6. **Costs.** Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the clerk if plaintiff is not the purchaser of the property for sale, provided, however, that the purchaser of the property for sale shall be responsible for the documentary stamps payable on the certificate of title. If plaintiff is the purchaser, the clerk shall credit plaintiff's bid with the total sum with interest and costs accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full. The clerk shall receive the service charge imposed in Section 45.031, Florida Statutes.

7. **Distribution of Proceeds.** On filing the certificate of title, the clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of plaintiff's costs; second, documentary stamps affixed to the certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 2 from this date to the date of the sale; and by retaining any remaining amount pending the further order of this court.

8. **Right of Redemption.** On filing the certificate of sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens shall be foreclosed of all estate or claim in the property, except as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any.

9. **Right of Possession.** Upon the filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property, subject to the provisions of the "Protecting Tenant At Foreclosure Act of 2009".

10. **Jurisdiction Retained.** Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, a deficiency judgment.

[Any language which needs to be added to the final judgment shall be inserted at this point using paragraphs numbered sequentially beginning with paragraph 11]

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THE FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, (INSERT INFORMATION FOR APPLICABLE COURT) WITHIN 10 DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT (INSERT LOCAL OR NEAREST LEGAL AID OFFICE AND TELEPHONE NUMBER) TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT (NAME OF LOCAL OR NEAREST LEGAL AID OFFICE AND TELEPHONE NUMBER) FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

ORDERED on [date]

[Name], Circuit Judge

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19th Circ FJ Foreclosure Jan. 2011