



ADMINISTRATIVE OFFICE OF THE COURTS
INTER-OFFICE
MEMORANDUM

2010-24

TO: Honorable Jeffrey K. Barton
Honorable Marsha Ewing
Honorable Sharon Robertson
Honorable Joseph E. Smith

FROM: Thomas A. Genung, Trial Court Administrator

DATE: September 17, 2010

RE: **Administrative Order 2010-08**
Foreclosure Final Judgments

A handwritten signature in black ink, appearing to be "Thomas A. Genung", written over a horizontal line.

Attached please find original **Administrative Order 2010-08** for filing with the Court.

If you have any questions regarding the above, please do not hesitate to contact me.

TAG/mt
Attachment

cc w/attach: All Judges in the Nineteenth Judicial Circuit
All Magistrates and Hearing Officers in the Nineteenth Judicial Circuit
All Staff Attorneys in the Nineteenth Judicial Circuit
Honorable Bruce Colton, State Attorney's Office
Honorable Diamond Litty, Public Defender's Office
All County Attorneys in the Nineteenth Judicial Circuit
All Local Law Libraries
All Local Bar Presidents
IT

IN THE CIRCUIT COURT OF THE
NINETEENTH JUDICIAL CIRCUIT IN
AND FOR INDIAN RIVER, MARTIN,
OKEECHOBEE AND ST. LUCIE
COUNTIES, FLORIDA

ADMINISTRATIVE ORDER 2010-08

Re: Foreclosure Final Judgments

WHEREAS, the Supreme Court of Florida has issued Opinion SC09-1460 prescribing 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 2007-06 is not in compliance with the form 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:

1. Administrative Order 2007-06 is vacated.
2. Effective immediately all foreclosure final judgments submitted to the trial courts of the Nineteenth Judicial Circuit must be in the format attached 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.
3. The previous practice which permitted the plaintiff to cancel a foreclosure sale without a motion and order is discontinued. The Clerks of Court of the Nineteenth Judicial Circuit will no longer postpone or cancel a sale without a court order.
4. The sale date will not be cancelled without a court order issued after a timely filed motion is ruled on prior to the day of the sale. All orders canceling the

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

sale must be filed with the clerk of court no later than 5:00 p.m. two business days before the sale date.

5. The public sale will proceed regardless of whether the plaintiff, plaintiff's counsel, or any other representative is present.
6. Counsel for the 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 will not stop the sale, however the certificate of sale will not issue until the original proof of publication is filed.
7. The failure of counsel for the plaintiff to properly and timely publish the notice of sale may result in sanctions against the plaintiff, plaintiff's attorney individually, and the law firm representing the plaintiff.
8. 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.
9. Each Clerk of the Court will maintain a listing of all cases in which the original proof of publication of the notice of sale is not filed within ten calendar days after the sale, and provide that list weekly to the judges in each county hearing foreclosure cases, to enable the judge(s) to issue show cause orders.

This order takes effect immediately.

SIGNED and ORDERED in quadruplicate on September 16th, 2010.



STEVEN J. LEVIN, Chief Judge

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

Plaintiff(s),

v.

CASE NO.

Defendant(s).
_____ /

FINAL JUDGMENT OF FORECLOSURE
(Form Approved by 19th Circuit Administrative Order 2010-08)

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:	
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.". If any defendant remains in possession of the property, the clerk shall without further order of the court issue forthwith a writ of possession upon request of the person named on the certificate of title.

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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