

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

**AMENDED ADMINISTRATIVE ORDER 2017-05
(as to language of final judgment pursuant to amended
45.031 relating to surplus funds)**

**IN RE: MODIFICATION OF PROPOSED FINAL JUDGMENT OF FORECLOSURE
IN RESIDENTIAL FORECLOSURE CASES**

WHEREAS it has been previously ordered in Paragraph 4 of Administrative Order 2015-07 that all proposed final judgments of foreclosure shall be in the same or similar format as the form attached to that Order as Exhibit "A"; and

WHEREAS it is necessary that final judgments of foreclosure conform with section 28.241(1)(a)2.c., Florida Statutes, providing that the court shall identify the actual value of the claim in its final order of disposition;

Now, therefore, I, Lawrence Mirman, pursuant to the authority vested in me as Chief Judge of the Nineteenth Judicial Circuit under Florida Rule of Judicial Administration 2.215, do hereby

ORDER the following:

Exhibit "A", Final Judgment of Foreclosure, Administrative Order 2015-07 is amended in conformity with section 28.241(1)(a)2.c., Florida Statutes.

Effective immediately, all proposed final judgments of foreclosure submitted to the court shall be in the same or substantially similar format as the amended form attached hereto and to Administrative Order 2015-07 as Exhibit "A."

DONE AND ORDERED in quadruplicate this 8th day of July, 2019 at Stuart in Martin County, Florida.



CHIEF JUDGE LAWRENCE MIRMAN

EXHIBIT A

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

This action was heard before the court on **[date of hearing]** and on the evidence presented and being otherwise duly advised in the premises,

IT IS ORDERED AND ADJUDGED that:

1. **Motion Granted [or] Final Judgment.** There is no dispute of material facts and plaintiff’s motion for summary judgment is granted **[or]** The plaintiff is entitled to entry of final judgment **[or]** The parties have consented to entry of this final judgment.

2. **Value of Claim.** At the initiation of this action, in accordance with section 28.241(1)(a)2.b., Florida Statutes, plaintiff estimated the amount in controversy of the claim to be \$ **[insert amount]**. In accordance with section 28.241(1)(a)2.c., Florida Statutes, the Court identifies the actual value of the claim to be \$ **[insert amount]**, as set forth below. For any difference between the estimated amount in controversy and the actual value of the claim that requires the filing fee to be adjusted, the Clerk shall adjust the filing fee. In determining whether the filing fee needs to be adjusted, the graduated filing fee scale in section 28.241(1)(a)2.d., Florida Statutes, controls. If an excess filing fee was paid, the Clerk shall provide a refund of the excess fee. If an additional filing fee is owed, the plaintiff shall pay the additional fee at least five business days prior to the judicial sale. If any additional filing fee owed is not paid prior to the judicial sale, the Clerk shall cancel the judicial sale without further order of the Court.

3. **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 (if applicable)	\$.....
LESS: Escrow balance	.....
LESS: Unearned insurance premiums	.....
LESS: Other [describe]	.....
TOTAL	\$.....

4. **Interest.** The total amount in Paragraph 3 shall bear interest from this date forward at the prevailing statutory rate of interest.

5. **Lien on Property.** Plaintiff holds a lien for the total sum superior to all claims or estates of defendant(s), (with the exception of any assessments that are superior pursuant to Section 718.116, or 720.3085, Florida Statutes) on the following described property in **[Indian River/St. Lucie/Martin/Okeechobee]** County, Florida:

[Description of property]; Property address: **[Street address]**

6. **Sale of Property.** If the total sum with interest at the rate described in Paragraph 3 and all costs accrued subsequent to this judgment are not paid, the Clerk of the Court shall sell the property at public sale on _____, 20____, to the highest bidder for cash, except as prescribed in Paragraph 7, by electronic sale at

[Indian River beginning at 10:00 a.m.] www.indian-river.realforeclose.com [St. Lucie beginning at 8:00 a.m.] www.stlucie.Clerkauction.com [Martin beginning at 10:00 a.m.] www.martin.realforeclose.com [Okeechobee sales begin at 11:00 a.m. Sales are not electronic in Okeechobee and are held at the Okeechobee Judicial Center, jury assembly room, 312 NW 3rd Street, Okeechobee, Florida 32972] www.Clerk.co.okeechobee.fl.us/Foreclosures in accordance with section 45.031, Florida Statutes. **The public sale shall not be postponed or canceled without a court order. All orders postponing or canceling the sale must be filed with the Clerk of Court no later than 5:00 p.m. five (5) business days before the sale date. Counsel for plaintiff must be certain that all sale and Clerk fees are paid and that the original proof of publication is filed no less than five (5) business days before the sale date. Failure to timely file the original proof of publication of the notice of sale and pay the sale and Clerk fees will stop the sale. Additionally, the failure of plaintiff's counsel to pay the sale fee and 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.** 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.

7. **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, plaintiff shall file an affidavit within 5 business days and the Clerk shall credit plaintiff's bid with the total sum with post-judgment 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.

8. **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 3 from this date to the date of the sale; and by retaining any remaining amount pending further order of this court.

9. **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.

10. **Right of Possession.** Upon filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property. If any defendant or tenant remains in possession of the property, an Order Granting the Motion for Writ of Possession shall be entered without further notice or hearing, subject to the purchaser's compliance with Section 83.561, Florida Statutes.

11. **Jurisdiction Retained.** Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, a deficiency judgment, writs of possession and such supplemental relief or judgments as may be appropriate.

12. **Lost Note.** **[Use this this paragraph only if a lost note has been reestablished.]** The Court finds that the plaintiff has re-established the terms of the lost note and its right to enforce the instrument as required by Section 673.3091, Florida Statutes. Plaintiff shall hold the defendant(s) maker of the note harmless and shall indemnify defendant(s) from any loss they may incur by reason of a claim by any other person to enforce the lost note. Adequate protection is provided as required by Section 673.3091, Florida Statutes, by the following means: **[Identify means of security per section 702.11: Written indemnification agreement, surety bond, letter of credit, cash collateral, or other security described in detail.]** Judgment is hereby entered in favor of plaintiff as to its request to enforce the lost note.

[Any language which needs to be added to the final judgment shall be inserted at this point using paragraphs numbered sequentially beginning with Paragraph 12.]

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, IF ANY, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE DATE THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU FAIL TO FILE A TIMELY 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 FLORIDA RURAL LEGAL SERVICES MONDAY THROUGH FRIDAY AT 1-888-582-3410 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 FLORIDA RURAL LEGAL SERVICES AT 1-888-582-3410 FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE AND ORDERED on **[date]** at **[City]**, Florida.

[NAME] CIRCUIT JUDGE

Copies furnished by e-portal to:
(E-mail addresses)

Plaintiff's counsel shall serve paper copies on all defendants not otherwise served by U.S.

Mail to:

[Distribution list]