

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

THIRD AMENDED ADMINISTRATIVE ORDER 2017-05

**IN RE: MODIFICATION OF FINAL JUDGMENT ORDER FORM IN FORECLOSURE
CASES**

WHEREAS, effective April 1, 2024, the Florida Supreme Court adopted form amendments to existing forms 1.996 (a) (Final Judgment of Foreclosure) and 1.996(b) (Final Judgment of Foreclosure for Reestablishment of Lost Note), Florida Rules of Civil Procedure.

WHEREAS, it is appropriate to amend *Second Amended* Administrative Order 2017-05 to reflect current amendments, as applicable, within the Final Judgment Order Form in Foreclosure Cases.

WHEREAS, it is necessary to maintain that all proposed final judgments of foreclosure shall be in the same or similar format and in conformity with sections 28.241(1)(a)2.c. and 45.031, Florida Statutes as it relates to identifying actual claim values and surplus funds.

Now, therefore, I, Charles A. Schwab, pursuant to the authority vested in me as Chief Judge of the Nineteenth Judicial Circuit under Florida Rule of General Practice and Judicial Administration 2.215, do hereby,

ORDER the following:

Exhibit "A", Final Judgment of Foreclosure, *Second Amended* Administrative Order 2017-05 is amended to incorporate the Court's amendments to existing form 1.996(a) (Final Judgment of Foreclosure), Florida Rules of Civil Procedure.

All proposed final judgments of foreclosure shall continue to be submitted to the court in the same or substantially similar format as the amended form attached hereto and as originally ordered in Paragraph 4 of Administrative Order 2015-07 as to Exhibit A.

The *Second Amended* Administrative Order 2017-05 is hereby updated and amended by this Administrative Order, *nunc pro tunc* to April 1, 2024.

DONE AND ORDERED in quadruplicate this 5th day of April, 2024 at Ft. Pierce in St. Lucie County, Florida.



CHARLES SCHWAB, CHIEF JUDGE

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]** Plaintiff is entitled to entry of final judgment **[or]** The parties have consented to entry of this final judgment.

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

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

4. **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:

[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 must sell the property at public sale on _____, 20__ to the highest bidder for cash, except as prescribed in paragraph 6, 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.] <https://stlucieclerk.gov/services/auctions/foreclosure> [Martin beginning at 10:00 a.m.] www.martin.realforeclose.com [Okeechobee beginning at 11:00 a.m.]** held in the Jury Assembly Room of the Okeechobee County Courthouse www.clerk.co.okeechobee.fl.us/Foreclosures in accordance with section 45.031, Florida Statutes. **The public sale must 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 must 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 must advance all subsequent costs of this action and must 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 must be responsible for the

documentary stamps payable on the certificate of title. If plaintiff is the purchaser, plaintiff must file an affidavit within 5 business days and the clerk must 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 must receive the service charge imposed in Section 45.031, Florida Statutes.

7. **Distribution of Proceeds.** On filing the certificate of title, the clerk must 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 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 must be foreclosed of all estate or claim in the property, and defendant's right of redemption as prescribed by section 45.0315, Florida Statutes, must be terminated, except as to the rights of a bona fide tenant occupying residential premises under the federal Protection Tenants at Foreclosure Act, 12 U.S.C. sec. 5220, note, or section 83.5615, Florida Statutes, and claims or rights under chapter 718 or chapter 720, Florida Statutes, if any.

9. **Right of Possession.** On the filing of the certificate of title, the person named on the certificate of title must be let into possession of the property subject to the rights of a bona fide tenant occupying residential premises under the Federal Protecting at Foreclosure Act, 12 U.S.C. sec 5220, note, or section 83.5615, Florida Statutes. If any defendant or tenant remains in possession of the property, an Order Granting the Motion For Writ of Possession must be entered without further notice or hearing, subject to the purchaser's compliance with Section 83.5615, Florida Statutes.

10. **Attorneys' Fees. [If a default judgment has been entered against the mortgagor]** Because a default judgment has been entered against the mortgagor and because the fees requested do not exceed 3% of the principal amount owed at the time the complaint was filed, it is not necessary for the court to hold a hearing or adjudge the requested attorneys' fees to be reasonable. **[If no default judgment has been entered against the mortgagor]** The court finds, based upon the affidavits/testimony presented and upon inquiry of counsel for the plaintiff that hours were reasonably expended by plaintiff's counsel and that an hourly rate of \$ is appropriate. Plaintiff's counsel represents that the attorney fee awarded does not exceed its contract fee with the plaintiff. The court finds that there are no reduction or enhancement factors for consideration by the court under *Florida Patients Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985). (If the court has found that there are reduction or enhancement factors to be applied, then such factors must be identified and explained herein).

[If the fees to be awarded are a flat fee] The requested attorneys' fees are 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.

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.** **[Delete this paragraph unless 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 must hold the Defendant(s) maker of the note harmless and must 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 statute 702.11: a written indemnification agreement, a surety bond, a letter or credit or cash collateral or other, which include specific 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 must 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 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 the property being foreclosed on has qualified for the homestead tax exemption in the most recent approved tax roll, the final judgment must additionally contain the following statement in conspicuous type:]

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 SERVICE – FORT PIERCE OFFICE, 510 SOUTH US HIGHWAY 1, SUITE 1, FORT PIERCE, FLORIDA 34948, (772) 466-4776, 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 SERVICE – FORT PIERCE OFFICE, (772) 466-4776, 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 must serve paper copies on all Defendants not otherwise served by U.S. Mail to:

[Distribution list]