

THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA

CASE NO. 09-1
(Court Administration)

ADMINISTRATIVE ORDER
NO. 09-09 A1
(Amending AO No. 09-09)

IN RE: AMENDING ADMINISTRATIVE
ORDER AND FINAL JUDGMENT OF
FORECLOSURE FORM

WHEREAS, pursuant to Administrative Order No. 09-09, certain residential mortgage foreclosure documents were ordered to be submitted in a form as authorized by the Court; and

WHEREAS, one such form was the Final Judgment of Foreclosure; and

WHEREAS, pursuant to Section 45.031(10), Florida Statutes, the Clerk of the Courts is statutorily authorized to conduct the sale of real or personal property under an order or judgment by electronic means; and

WHEREAS, the Final Judgment of Foreclosure must reflect such authorization; and

WHEREAS, the "Protecting Tenants At Foreclosure Act of 2009", enacted by the U.S. Congress, prescribes certain procedures to be followed in foreclosure actions involving tenant occupied residential properties wherein the originating lender loans were made by Fannie Mae, Ginnie Mae, or a financial institution insured by the Federal Government; and

WHEREAS, such Act should be referenced in Administrative Order No. 09-09 and in the Final Judgment of Foreclosure;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, under Rule 2.215, of the Florida Rules of Judicial Administration, it is hereby **ORDERED**:

1. Paragraph 5 of Administrative Order is hereby revised to read as follows:

"Writs of Possession. The courts shall not issue writs of possession in foreclosure actions involving homestead or non-homestead residential properties without evidence that all parties involved in such action have been properly served, notice of hearing has been provided and a hearing is held before the court. Further, the issuance of writs of possession is subject to the provisions of the Protecting Tenant At Foreclosure Act of 2009." (Emphasis added)

2. Administrative Order No. 09-09 is amended to reflect the revisions to the Final Judgment of Foreclosure that provide for the electronic sale of real property in the form attached hereto.
3. Except as herein amended, Administrative Order No. 09-09 shall remain in full force and effect.

This Order shall take effect immediately and shall remain in full force and effect until further order of the Court.

DONE AND ORDERED in Chambers at Miami-Dade, Florida, this 13th day of November, 2009.

**JOEL H. BROWN, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.:

Plaintiff,

vs.

Defendant(s).

FINAL JUDGMENT OF FORECLOSURE
(Pursuant to Administrative Order 09-09)

THIS ACTION was heard before the Court on Plaintiff's Motion for Summary Final Judgment on _____, 20____. On the evidence presented,
IT IS ORDERED AND ADJUDGED that:

1. The Plaintiff's Motion for Summary Judgment is GRANTED. Service of process has been duly and regularly obtained over Defendants: _____.
2. **Amounts Due.** There is due and owing to the Plaintiff the following:

Principal due on the note secured by the mortgage foreclosed:	\$ _____
Interest on the note and mortgage from _____ to _____	\$ _____
Per diem interest at _____ % from _____ to _____	\$ _____
Title search expenses	\$ _____
Taxes for the year of _____	\$ _____
Insurance premiums	\$ _____

Court Costs:

Filing fee	\$ _____
Service of Process at \$ _____ per defendant	\$ _____
Publication for _____	\$ _____

SUBTOTAL	\$ _____
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Additional Costs:

_____	\$ _____
_____	\$ _____
_____	\$ _____
SUBTOTAL	\$ _____

Attorney fees based upon _____ hours at \$ _____ per hour \$ _____
Less: Undisbursed escrow funds \$ _____
Less: Unearned insurance premiums \$ _____

GRAND TOTAL \$ _____

3. **Interest.** The grand total amount referenced in Paragraph 2 shall bear interest from this date forward at the prevailing legal rate of interest.

4. **Lien on Property.** Plaintiff, whose address is _____, holds a lien for the grand total sum specified in Paragraph 2 herein. The lien of the plaintiff is superior in dignity to any right, title, interest or claim of the defendants and all persons, corporations, or other entities claiming by, through, or under the defendants or any of them and the property will be sold free and clear of all claims of the defendants, with the exception of any assessments that are superior pursuant to Florida Statutes, Section 718.116. The plaintiff's lien encumbers the subject property located in Miami Dade County, Florida and described as:

(LEGAL DESCRIPTION)

Property address: _____

5. **Sale of Property.** If the grand total amount 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 subject property at public sale on _____, 20____, to the highest bidder for cash, except as prescribed in Paragraph 6, at:

[] Room 908, 140 West Flagler Street, Miami, Florida at 11:00 a.m.

[] www.miamidade.realforeclose.com, the Clerk's website for on-line auctions at 9:00 a.m.

after having first given notice as required by Section 45.031, Florida Statutes.

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. 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, for services in making, recording, and certifying the sale and title that shall be assessed as costs.
7. **Right of Redemption.** On filing of the Certificate of Sale, defendant's right of redemption as proscribed by Florida Statutes, Section 45.0315 shall be terminated.

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 the plaintiff's costs; second, documentary stamps affixed to the Certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to the plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 2 from this date to the date of the sale. During the sixty (60) days after the Clerk issues the certificate of disbursements, the Clerk shall hold the surplus pending further Order of this Court.
9. **Right of Possession.** Upon filing of the Certificate of Title, defendant and all persons claiming under or against defendant since the filing of the Notice of Lis Pendens shall be foreclosed of all estate or claim in the property and the purchaser at sale shall be let into possession of the property, subject to the provisions of the "Protecting Tenant At Foreclosure Act of 2009."
10. **Attorney Fees.** The Court finds, based upon the affidavits 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 pursuant to *Florida Patient's Compensation Fund v. Rowe*, 472 So.2d 1145 (Fla. 1985).
11. **NOTICE PURSUANT TO AMENDMENT TO SECTION, 45.031, FLA. ST. (2006)**

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 LIEN HOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN SIXTY (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, 140 WEST FLAGLER STREET, ROOM 908, MIAMI, FLORIDA (TELEPHONE: (305) 375-5943), 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 THE LEGAL AID SOCIETY AT THE DADE COUNTY BAR ASSOCIATION, 123 N.W. FIRST AVENUE, SUITE 214, MIAMI, FLORIDA, (TELEPHONE: (305) 579-5733), 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 THE DADE COUNTY BAR ASSOCIATION LEGAL AID SOCIETY, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

12. **Jurisdiction.** The Court retains jurisdiction of this action to enter further orders that are proper, including, without limitation, writs of possession and deficiency judgments.

DONE AND ORDERED in Chambers in Miami Dade County, Florida, this _____ day of _____, 20____.

Circuit Judge

Copies furnished to all parties: