

Filing # 83941593 E-Filed 01/25/2019 05:02:02 PM

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA

CASE NO.: 2018 CA 001272

HMC ASSETS, LLC SOLELY IN ITS CAPACITY
AS SEPARATE TRUSTEE OF CAM XIX TRUST,

Plaintiff,

vs.

THE UNKNOWN HEIRS, BENEFICIARIES,
DEVISEES GRANTEEES, ASSIGNEES, LIENORS,
CREDITORS, TRUSTEES, AND ALL OTHERS
WHO MAY CLAIM AN INTEREST IN THE
ESTATE OF MARTHA S. BURNS (DECEASED);
STEWART MITCHELL ROBERTS; LAKE
CHARLENE EAST OWNERS ASSOCIATION, INC.;
UNITED STATES OF AMERICA ACTING ON
BEHALF OF THE SECRETARY OF HOUSING AND
URBAN DEVELOPMENT; ANY AND ALL
UNKNOWN PARTIES CLAIMING BY, THROUGH,
UNDER, OR AGAINST THE HEREIN NAMED
INDIVIDUAL DEFENDANT(S) WHO ARE NOT
KNOWN TO BE DEAD OR ALIVE, WHETHER SAID
UNKNOWN PARTIES MAY CLAIM AN INTEREST
AS SPOUSES, HEIRS, DEVISEES, GRANTEEES, OR
OTHER CLAIMANTS; UNKNOWN TENANT #1;
UNKNOWN TENANT #2 whose name is fictitious to
account for parties in possession,

Defendants.

IN REM FINAL JUDGMENT OF FORECLOSURE

THIS ACTION came before the Court at the hearing on January 22, 2019 on Plaintiff's Motion for Summary Judgment. Based on the evidence presented and being otherwise fully informed in the premises,

IT IS ORDERED AND ADJUDGED that:

1. *In Rem* Final Judgment of Foreclosure is **GRANTED** in favor of Plaintiff, **HMC ASSETS, LLC SOLELY IN ITS CAPACITY AS SEPARATE TRUSTEE OF CAM XIX TRUST**, c/o Planet Home Lending, LLC, 321 Research Parkway, Suite 303, Meriden, CT 06450, and against Defendants, **THE UNKNOWN HEIRS, BENEFICIARIES, DEVISEES GRANTEES, ASSIGNEES, LIENORS, CREDITORS, TRUSTEES, AND ALL OTHERS WHO MAY CLAIM AN INTEREST IN THE ESTATE OF MARTHA S. BURNS (DECEASED); STEWART MITCHELL ROBERTS; LAKE CHARLENE EAST OWNERS ASSOCIATION, INC.; UNITED STATES OF AMERICA ACTING ON BEHALF OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT; ANY AND ALL UNKNOWN PARTIES CLAIMING BY, THROUGH, UNDER, OR AGAINST THE HEREIN NAMED INDIVIDUAL DEFENDANT(S) WHO ARE NOT KNOWN TO BE DEAD OR ALIVE, WHETHER SAID UNKNOWN PARTIES MAY CLAIM AN INTEREST AS SPOUSES, HEIRS, DEVISEES, GRANTEES, OR OTHER CLAIMANTS.** Service of process has been duly obtained over Defendants. Defendants, Unknown Tenant #1 and Unknown Tenant #2 were dropped as parties to this action.

2. **Amounts Due.** There is due and owing to the Plaintiff the following:

Principal due on the note secured by the mortgage foreclosed	\$167,924.03
Interest on the note and mortgage from 4/30/2018 to 1/22/2019	\$ 4,805.16

Court costs:

Clerk of Court filing fee for Complaint, Summonses, and LP (including portal charge)	\$ 985.50
Service of Process [ABC Legal]	\$ 565.00
Court-Appointed Guardian Ad Litem fee	\$ 615.00
Publication of Notice of Action [Escambia Sun Press]	\$ 396.00
Clerk of Court/Sale fees	\$ 140.00

Additional costs:

Inspection fees	\$ 42.00
Property preservation fees - Re-Key	\$ 105.00
Trip Charge	\$ 35.00
Title Search/Report [First American]	\$ 290.00
Title Search/Update [First American]	\$ 75.00
Eli Loan Conv.	\$ 1,573.90
Processing/Recording fees	\$ 40.00

Attorney's fees total (Ashland Medley Law, PLLC) \$ 5,190.00

Less: Undisbursed escrow funds

Less: Unearned insurance premiums

Less: Miscellaneous deductions or credits

GRAND TOTAL: \$182,781.59

3. **Interest.** The grand total referenced in Paragraph 3 shall bear interest from this date forward at the prevailing legal rate of interest in accordance with Section 55.03, Florida Statutes.

4. **Lien on Property.** Plaintiff, **HMC ASSETS, LLC SOLELY IN ITS CAPACITY AS SEPARATE TRUSTEE OF CAM XIX TRUST** c/o Planet Home Lending, LLC, 321 Research Parkway, Suite 303, Meriden, CT 06450, holds a lien for the 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 Sections 718.116 or 720.3085, Florida Statutes. The plaintiff's lien encumbers the subject property located in **Escambia County, Florida** and described as:

LOT 32, BLOCK "A", LAKE CHARLENE EAST, A SUBDIVISION OF A PORTION OF SECTIONS 20 AND 56, TOWNSHIP 2 SOUTH, RANGES 31 AND 30 WEST, ESCAMBIA COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 14, PAGE 72, OF THE PUBLIC RECORDS OF SAID COUNTY

PROPERTY ADDRESS: 534 LONG LAKE DRIVE, PENSACOLA, FL 32506

REFERENCE/PARCEL: 202S314300032001

5. **Sale of Property.** If the grand total 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 of Marion County shall sell the subject property to the highest bidder for cash, except as provided hereafter, at public sale on the 27th day of February 2019 after having first given notice as required by Section 45.031, Florida Statutes. The judicial sale will be by electronic sale and conducted online beginning at 11:00 a.m. CST, 12:00

p.m. EST on the prescribed date at <https://escambia.realforeclose.com> in accordance with Chapter 45, Florida Statutes.

6. **Costs.** Plaintiff shall advance all subsequent required 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. If a third-party bidder is the purchaser, the third-party bidder must pay the documentary stamps attached to the certificate of title in addition to the bid. The Clerk shall receive the service charge imposed by Section 45.031 Florida Statutes, for services in making, recording, and certifying the sale and title that shall be assessed as costs.

7. **Additional Expenses.** If Plaintiff incurs additional expenses subsequent to the entry of this final judgment and prior to the sale date, Plaintiff may file an Affidavit with the Court, served on all parties, to include said additional expenses which may include the sale fee, the cost of publication of the Notice of Sale, any post-Judgment escrow advances, property preservation costs, post-Judgment attorney's fees and costs and post-Judgment bankruptcy fees and costs, if applicable, and the amount due to the Plaintiff shall be increased by the amount of such advances without further order of this Court.

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, unless the property is purchased by a third party bidder; third, plaintiff's attorneys' fees; fourth, the total sum due to the plaintiff, less the items paid, plus interest at the rate prescribed in this final judgment 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 / Right of Redemption.** On filing of the Certificate of Sale 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, except as to claims or rights under Chapter 718 or Chapter 720, Florida Statutes, if any. Upon filing of the certificate of title, the person named in the certificate of title shall be let into possession of the property, and the Clerk shall issue forthwith a writ of possession upon request of the person named on the Certificate of Title. On filing of the Certificate of Sale, defendant's right of redemption as prescribed by Florida Statutes, Section 45.0315 shall

be terminated. The rights of any tenant(s) residing in the subject property set forth in this final judgment are not those of a bona fide tenant under the provisions of the Protecting Tenants at Foreclosure Act or arise as a result of a tenancy at will and are subject to the termination as provided by law.

10. Attorneys' Fees. The Court finds, based upon the affidavit presented by counsel for the Plaintiff, Ashland Medley Law, PLLC, a total of 4.40 hours was reasonably expended by plaintiff's counsel, that an hourly rate of \$225.00 for a total of hourly fees in the amount of \$990.00 is appropriate and that flat fees in the amount of \$4,200.00 are appropriate, for a total fee amount of \$5,190.00 for Ashland Medley Law, PLLC.

PLAINTIFF'S COUNSEL CERTIFIES 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).

A portion of the requested attorney's fee is a flat rate fee that the Plaintiff has agreed to pay in this matter. Given the amount of fee requested and the labor expended, the Court finds that a lodestar analysis is not necessary and that the flat fee is reasonable.

11. In accordance with 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 THIS 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 ESCAMBIA COUNTY CLERK OF THE CIRCUIT COURT, M.C. BLANCHARD JUDICIAL BUILDING, 190 GOVERNMENTAL CENTER, ROOM 23011 – SECOND FLOOR, PENSACOLA, FL 32502, TELEPHONE: (850) 432-2336 WITHIN TEN (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 LEGAL SERVICES OF NORTH FLORIDA, 1741 N. PALAFOX ST., PENSACOLA, FL 32501, TELEPHONE: (850) 432-8222 OR EMERALD COAST LEGAL AID, 701 S. "J" STREET, PENSACOLA, FL 32502, TELEPHONE: (850) 432-2336 OR (850) 432-3999 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 LEGAL SERVICES OF NORTH FLORIDA, 1741 N. PALAFOX ST., PENSACOLA, FL 32501, TELEPHONE: (850) 432-8222 OR EMERALD COAST LEGAL AID, 701 S. "J" STREET, PENSACOLA, FL 32502, TELEPHONE: (850) 432-2336 OR (850) 432-3999, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

12. Assignment. The Plaintiff may assign the judgment and credit bid by the filing of an assignment prior to the issuance of the certificate of title without further order of the court.

13. Standing. The Court finds that Plaintiff has standing to seek and receive the relief obtained herein.

14. Third Party Funds. Any funds payable from third party funds, including attorney's fees and costs, shall be payable to the Plaintiff, HMC ASSETS, LLC SOLELY IN ITS CAPACITY AS SEPARATE TRUSTEE OF CAM XIX TRUST, c/o Planet Home Lending, LLC, 321 Research Parkway, Suite 303, Meriden, CT 06450.

15. Jurisdiction Retained. The court retains jurisdiction of this action to enter further orders that are proper, including, without limitation, orders authorizing writs of possession, orders granting additional attorney's fees and costs, orders determining the amount and responsibility for assessments that may be due a condominium or homeowner's association pursuant to Sections 718.116 or 720.3085 of the Florida Statutes, orders arising out of re-foreclosure, to include permitting a supplemental

complaint to add an interest-holder, and/or orders involving reformation of the mortgage instrument or deed to perfect title.

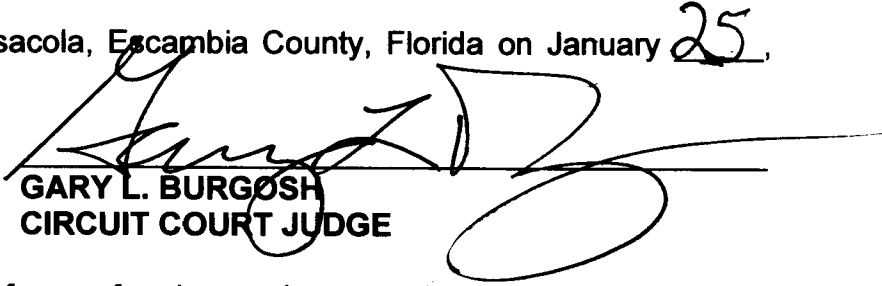
IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT:

**COURT ADMINISTRATION, ADA LIAISON
ESCAMBIA COUNTY
190 GOVERNMENTAL CENTER, 5TH FLOOR
PENSACOLA, FL 32502
PHONE (850) 595-4400 FAX (850) 595-360**

ADA.ESCAMBIA@FLCOURTS1.GOV

AT LEAST 7 DAYS BEFORE YOUR SCHEDULED COURT APPEARANCE, OR IMMEDIATELY UPON RECEIVING THIS NOTIFICATION IF THE TIME BEFORE THE SCHEDULED APPEARANCE IS LESS THAN 7 DAYS; IF YOU ARE HEARING OR VOICE IMPAIRED, CALL 711.

IT IS ORDERED in Pensacola, Escambia County, Florida on January 25, 2019.


**GARY L. BURGOSH
CIRCUIT COURT JUDGE**

Service by the Court (Copies for conforming and stamped envelopes provided by Plaintiff's counsel).

SERVICE LIST:

**THE UNKNOWN HEIRS, BENEFICIARIES, DEVISEES, GRANTEES, ASSIGNEES, LIENORS, CREDITORS, TRUSTEES, AND ALL OTHERS WHO MAY CLAIM AN INTEREST IN THE ESTATE OF MARTHA S. BURNS (DECEASED)
C/O LOUIS E. HARPER III., ESQ.
HARPER LAW, P.A.
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612 S 1ST ST., APT 27
PENSACOLA, FL 32507-3375

LAKE CHARLENE EAST OWNERS ASSOCIATION, INC.
C/O REGISTERED AGENT, ANDREA WHITE
538 LONG LAKE DRIVE
PENSACOLA, FL 32506

UNITED STATES OF AMERICA ACTING ON BEHALF OF THE SECRETARY OF
HOUSING AND URBAN DEVELOPMENT
C/O UNITED STATES ATTORNEY
CORY J. SMITH, ASSISTANT UNITED STATES ATTORNEY
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TALLAHASSEE, FL 32301
USAFLN.STATE.COURT@USDOJ.GOV

UNKNOWN PARTIES IN POSSESSION
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