

Filing # 88141000 E-Filed 04/17/2019 03:54:56 PM

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

Wells Fargo Bank, National Association, as  
Successor by Merger to Wachovia Bank,  
National Association

Plaintiff(s),

V.

CASE NO.: 2018-CA-000690

312018CA000690XXXXXX

Frank W. McLaughlin; Carolyn J. McLaughlin;  
Frances K. Clark; Wells Fargo Bank, National  
Association, as Successor by Merger to  
Wachovia Bank, National Association;  
Unknown Parties in Possession #1, If living,  
and all Unknown Parties claiming by, through,  
under and against the above named  
Defendant(s) who are not known to be dead or  
alive, whether said Unknown Parties may claim  
an interest as Spouse, Heirs, Devisees,  
Grantees, or Other Claimants; Unknown Parties  
in Possession #2, If living, and all Unknown  
Parties claiming by, through, under and against  
the above named Defendant(s) who are not  
known to be dead or alive, whether said  
Unknown Parties may claim an interest as  
Spouse, Heirs, Devisees, Grantees, or Other  
Claimants

Defendant(s).

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**FINAL JUDGMENT OF FORECLOSURE**

THIS ACTION was heard before the court on **April 17, 2019** and on the evidence presented and being otherwise duly advised in the premises,

**IT IS ORDERED AND ADJUDGED that:**

1. **Motion Granted.** There is no dispute of material facts and Plaintiff's motion for summary judgment is granted.

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 \$82,379.86. In accordance with section 28.241(1)(a)2.c., Florida Statutes, the Court identifies the action value of the claim to be \$89,264.41, as set forth below. For any difference between the estimated amount in controversy and the action value of the claim that requires the filing fee to be adjusted, the Clerk shall adjust the filing fee. In determine 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, **Wells Fargo Bank, National Association, as Successor by Merger to Wachovia Bank, National Association, 18700 NW Walker Road #92, MAC #P6053-022, Beaverton, Oregon 97006**, is due:

Principal	\$79,658.55
Interest on the note and mortgage from November 20, 2017 to November 19, 2018	\$4,191.86
Per diem interest at rate 4.25%. from November 20, 2018 to April 17, 2019	\$1,730.91
Title search expense	\$275.00
Taxes	\$0.00
Insurance premiums	
Attorney's fees	
Other *	\$3,450.00
(* The requested attorney's fee is 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.)	
Attorneys' fees total	<b>\$3,450.00</b>
Court costs	
Filing fee/ Statutory Convenience Fee	\$905.00
Service of Process at \$65.00 / Frank W. McLaughlin \$195.00 / Carolyn J. McLaughlin \$65.00 / Wells Fargo Bank, National Association, as Successor by Merger to Wachovia Bank, National Association	\$715.00

\$65.00 / Unknown Parties in Possession #1 n/k/a Marion McLaughlin	
\$65.00 / Unknown Parties in Possession #2 n/k/a Crystal McLaughlin	
\$260.00 / Frances K. Clark	
Additional Costs	
Late Charges	\$0.00
Lis Pendens Recording Fee	\$9.00
Clerk Cost - Summons	\$60.00
Subtotal	\$90,995.32
LESS: Escrow Balance	(\$0.00)
<b>TOTAL</b>	<b>\$90,995.32</b>

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 County, Florida:

ALL OF LOT 4 AND LOT 5, LESS THE SOUTH 25 FEET THEREOF, BLOCK 4, GLENDALE LAKES SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 26, OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA.

Property Address: 891 47th Avenue, Vero Beach, FL 32966

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 this court shall sell the subject property at public sale on June 3, 2019 to the highest bidder for cash, except as prescribed in Paragraph 7, by electronic sale at [www.indian-river.realestateclose.com](http://www.indian-river.realestateclose.com) beginning at 10:00 a.m. 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 not 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 and advances pursuant to the mortgage 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 interest and costs and advances pursuant to the mortgage 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 and advances pursuant to the mortgage; 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 the 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, if appropriate, writs of possession and such supplemental relief or judgments as may be appropriate.

**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, JEFFREY SMITH, 2000 16<sup>TH</sup> AVENUE, VERO BEACH, FL 32960, 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.**

THE LEGAL DESCRIPTION CONTAINED IN THE SUBJECT MORTGAGE BEING FORECLOSED BY THIS PROCEEDING IS HEREBY REFORMED TO REFLECT THE ORIGINAL INTENT OF THE PARTIES TO THE INSTRUMENT, AND THUS SAID LEGAL DESCRIPTION IS REFORMED TO READ AS SHOWN HEREINABOVE IN THIS JUDGMENT.

THE LEGAL DESCRIPTION CONTAINED IN THE DEED VESTING TITLE IN THE DEFENDANT MORTGAGOR IS HEREBY REFORMED TO REFLECT THE ORIGINAL INTENT OF THE PARTIES TO THE INSTRUMENT, AND THUS SAID LEGAL DESCRIPTION IS REFORMED TO READ AS SHOWN HEREINABOVE IN THIS JUDGMENT.

DONE AND ORDERED on April 17, 2019 at VERO BEACH, Florida.

  
Janet Carney Croom, Circuit Judge

Copies furnished to:

SHAPIRO, FISHMAN & GACHÉ, LLP, 2424 North Federal Highway, Suite 360, Boca Raton, FL 33431

Frank W. McLaughlin, 891 47th Avenue, Vero Beach, FL 32966

Carolyn J. McLaughlin, 891 47th Avenue, Vero Beach, FL 32966

Wells Fargo Bank, National Association, as Successor by Merger to Wachovia Bank, National Association, c/o Corporation Service Company, R.A., 1201 Hays Street, Tallahassee, FL 32301

Unknown Parties in Possession #1 n/k/a Marion Mclaughlin, 891 47th Avenue, Vero Beach, FL 32966

Unknown Parties in Possession #2 n/k/a Crystal Mclaughlin, 891 47th Avenue, Vero Beach, FL 32966

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