

Filing # 98955494 E-Filed 11/15/2019 01:25:59 PM

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

THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF THE CWMBS INC., CHL
MORTGAGE PASS-THROUGH TRUST 2004-12,
MORTGAGE PASS-THROUGH CERTIFICATES, SERIES
2004-12,

CASE NO. 2019 CA 000548

312019CA000548XXXXXX

Plaintiff,

vs.

MAURIZIO IANTORNO; CHRISTINIA ECKLUND A/K/A
CHRISTINA ECKLUND; CITY OF VERO BEACH,
FLORIDA;

Defendants.

**FINAL JUDGMENT OF FORECLOSURE
AND RE-ESTABLISHING LOST NOTE**

This action was heard before the court on November 15, 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 **\$114,814.12**. In
accordance with section 28.241(1)(a)2.c., Florida Statutes, the Court identifies the actual value of the
claim to be **\$162,029.32**, 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, THE BANK OF NEW YORK MELLON FKA THE BANK OF
NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE CWMBS INC., CHL
MORTGAGE PASS-THROUGH TRUST 2004-12, MORTGAGE PASS-THROUGH CERTIFICATES,
SERIES 2004-12 (hereafter, "**Plaintiff**"), c/o Bayview Loan Servicing, LLC, 4425 Ponce De Leon Blvd,
4th Floor, Coral Gables, FL 33146-1837, is due:

Principal

\$ 71,559.44

Interest from 02/01/2014 to 08/09/2019	\$	14,593.66
Interest from 08/10/2019 to 11/15/2019	\$	984.90
Escrow Advances Total	\$	32,074.79
Property Inspections	\$	1,965.00
Property Preservations	\$	35,757.93
BPO	\$	81.00
Attorneys' flat fees		
Attorneys' flat fees total	\$	3,105.00
Court costs		
Filing fees	\$	1,100.00
Service of Process	\$	807.60
TOTAL	\$	162,029.32

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

5. **Lien on Property.** Plaintiff holds a lien for the total sum superior to all claims or estates of defendants, MAURIZIO IANTORNO; CHRISTINIA ECKLUND A/K/A CHRISTINA ECKLUND; CITY OF VERO BEACH, FLORIDA; (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:

LOT 2, BLOCK 4, JACOBY'S ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 4, PAGE 54, PUBLIC RECORDS OF ST. LUCIE COUNTY, SAID LAND NOW LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA.

Property address: **1844 26TH AVENUE VERO BEACH, FL 32960**

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 property at public sale on ___ December 16 ___, 2019 ___, to the highest bidder for cash, except as prescribed in paragraph 7, by electronic sale at www.indian-river.realforeclose.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 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.** 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: a written indemnification agreement within the affidavit of lost note, Judgment is hereby entered in favor of Plaintiff as to its request to enforce the lost note.

13. If Plaintiff should elect to assign its bid at sale, the assignment of bid shall be effective upon the filing of a Notice of Assignment of Bid or Motion and Order for Assignment of Bid and the Clerk of the above entitled Court is hereby directed to issue the Certificate of Title to such assignee without further payment.

14. **Pursuant to *Ross v. Wells Fargo Bank*, 2013 Fla. App. LEXIS 2143, *2-3 (Fla. 3d DCA Feb. 13, 2013), the Court retains jurisdiction of this action to enter Orders relating to supplemental**

proceedings to address any omitted parties who may possess an interest in the subject property post-judgment.

15. The court retains jurisdiction to enter further orders to permit Plaintiff's recovery of advances, including but not limited to: taxes, insurance, inspection, repairs, publication, attorney fees, and costs from any and all surplus proceeds from the foreclosure sale.

16. Any sale proceeds distributed by the Clerk of Court as a result of a third-party bidder at foreclosure sale shall be made payable to the Plaintiff of record.

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, 772-770-5185 2000 16TH AVENUE, VERO BEACH, FL 32960 772-770-5185 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 Vero Beach, Florida, on _____ day of _____ 2019.
8:49 am, Nov 15 2019


CIRCUIT JUDGE

Please see the attached service list:

Copies Furnished by e-portal to:

[John S. Turner, Esq., cityatty@covb.org, jturner@covb.org]

[Van Ness Law Firm, PLC, Pleadings@vanlawfl.com]

Plaintiff's counsel shall serve paper copies on all Defendants not otherwise served by U.S. Mail to:

CASE NO.: 2019 CA 000548
SERVICE LIST:

MAURIZIO IANTORNO
1245 LINDELL DRIVE
WALNUT CREEK, CA 94596

CHRISTINIA ECKLUND
A/K/A CHRISTINA ECKLUND
1245 LINDELL DRIVE
WALNUT CREEK, CA 94596