

Filing # 181018826 E-Filed 09/01/2023 03:21:58 PM

**IN THE CIRCUIT COURT OF THE 19TH
JUDICIAL CIRCUIT IN AND FOR INDIAN
RIVER COUNTY, FLORIDA**

CASE NO.: 2022 CA 000702

312022CA000702XXXXXX

**WINTRUST MORTGAGE, A DIVISION OF
BARRINGTON BANK & TRUST CO., N.A.,**

Plaintiff,

v.

**WILLIAM C. STEPHENS, JR.; CYNTHIA
STEPHENS; et al,**

Defendants.

FINAL JUDGMENT OF FORECLOSURE

THIS ACTION was heard before the Court on **August 28, 2023** and on the evidence presented and being otherwise duly advised in the premises,

IT IS ORDERED AND ADJUDGED that:

1. Final Judgment. There is no dispute of material facts and plaintiff's Motion for Summary Judgment is granted. The Plaintiff is entitled to entry of the final judgment against the following defendants: WILLIAM C. STEPHENS, JR.; CYNTHIA STEPHENS; UNKNOWN SPOUSE OF CYNTHIA STEPHENS; UNKNOWN SPOUSE OF WILLIAM C. STEPHENS, JR.; CAPITAL ONE BANK (USA), N.A.; WILLIAM C. STEPHENS, JR., AS TRUSTEE OF THE STEPHENS FAMILY REVOCABLE LIVING TRUST; CAROLYN LOUISE STEPHENS; CAROLYN LOUISE STEPHENS AS TRUSTEE OF THE STEPHENS FAMILY REVOCABLE LIVING TRUST AGREEMENT; KIMBERLY DAWN GRAHAM; KIMBERLY DAWN GRAHAM AS SUCCESSOR TRUSTEE OF THE STEPHENS FAMILY REVOCABLE LIVING TRUST AGREEMENT; JOHN & SON ROOFING, INC.; UNKNOWN TENANT #1; UNKNOWN TENANT #2.

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 \$ 50,001- \$249,999. In accordance with section 28.241(1)(a)2.c., Florida Statutes, the Court identifies the actual value of the claim to be \$ 122,698.16 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, WINTRUST MORTGAGE, A DIVISION OF BARRINGTON BANK & TRUST CO., N.A., c/o Ghidotti Berger LLP, 1031 North Miami Beach Blvd, North Miami Beach, FL 33162, is due:

Principal due on the note secured by the mortgage foreclosed:	\$98,111.96
Accrued Interest from 03/01/2021-03/07/2023	\$8,655.36
Per Diem Interest @ \$11.76 from 03/08/2023-08/28/2023	\$2,046.24
Property Inspection	\$75.00
Taxes	\$2,443.75
Prior Service Escrow Advances	\$7,525.91
Forbearance	\$(494.48)
Attorneys' Fees	\$3,355.00
Costs	\$3,680.43
TOTAL	<u>\$125,399.17</u>

4. Interest. The total amount in Paragraph 3 shall bear interest 7.69 % 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 defendants, (with the exception of any assessments that are superior pursuant to Florida Statutes, Section 718.116, or 720.3085, Florida Statutes) on the following described property in Indian River County, Florida:

ALL THE CERTAIN LAND SITUATED IN INDIAN RIVER COUNTY, FLORIDA, TO WIT:

THE EAST 80 FEET OF LOT 26, "LITTLE ACRE FARMS", ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE(S) 27, OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA, SAID LAND NOW LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA.

PARCEL ID: 3339020001100000026.1

Street Address: 2045 17TH STREET, VERO BEACH, FL 32960

6. Sale of the 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 the Court shall sell the subject property at public sale on **October 27, 2023** at 10:00 A.M. to the highest bidder for cash, except as prescribed in Paragraph 7, by electronic sale at www.indian-river.clerkauction.com after having first given notice as required by 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 documentary stamps payable to 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 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 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 of 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, Fla. Stat., if any.

10. Rights 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. The Court finds that the Plaintiff has reestablished 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 maker of the note harmless and shall indemnify them from any loss they may incur by reason of a claim by any other person to enforce the lost note. Since adequate protection is provided as required by Section 673.3091, Florida Statutes, judgment is hereby entered in favor of the Plaintiff as to its request to enforce the lost note.

13. Attorneys' Fees. 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 fee requested and the labor expended, the Court finds that a lodestar analysis is not necessary and that the flat fee is reasonable.

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, IN ANY, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE DATE THAT THE CLERK REPORTS THE FUNDS 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, INDIAN RIVER COUNTY CLERK OF THE COURT (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 THE FLORIDA RURAL LEGAL SERVICES MONDAY THROUGH FRIDAY AT 1-888-582-3410, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE. LEGAL AID SOCIETY, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE AND ORDERED in Indian River County, Florida, this _____ day of August, 2023.

09/01/2023 15:18:35
2022 CA 000702

eSigned by JANET CARNEY CROOM (NOT) 09/01/2023 15:18:35 s80bHPVM

Copies furnished to all parties named on the service list:

SERVICE LIST
CASE NO.: 2022 CA 000702

Cynthia Stephens
2045 17th Street
Vero Beach, FL 32960

William C. Stephens, Jr.
2045 17th Street
Vero Beach, FL 32960

Unknown Spouse of Cynthia Stephens
2045 17th Street
Vero Beach, FL 32960

Unknown Spouse of William C. Stephens, Jr.
2045 17th Street
Vero Beach, FL 32960

Capital One Bank (USA), N.A.
100 Shiockoe Slip, 2nd Floor
Richmond, VA 23219

Carolyn Louise Stephens as Trustee of The Stephens Family Revocable Living Trust Agreement
1274 38th Ave
Vero Beach, FL 32968-4923

Kimberly Dawn Graham
1274 38th Ave
Vero Beach, FL 32968-4923

John & Son Roofing, Inc.
C/O Mchugh, John J, Jr.
1555 Indian River Boulevard, Suite B125
Vero Beach, FL 32960

Kimberly Dawn Graham as Successor Trustee of The Stephens Family Revocable Living Trust Agreement
1274 38th Ave
Vero Beach, FL 32968-4923

Carolyn Louise Stephens
1274 38th Ave
Vero Beach, FL 32968-4923

William C. Stephens, Jr., As Trustee of The Stephens Family Revocable Living Trust
2045 17th Street
Vero Beach, FL 32960

Unknown Tenant #1
2045 17th Street
Vero Beach, FL 32960

Unknown Tenant #2
2045 17th Street
Vero Beach, FL 32960

GHIDOTTI | BERGER LLP
Attorney for Plaintiff
1031 North Miami Beach Blvd
North Miami Beach, FL 33162
fcpleadings@ghidottiberger.com