

Filing # 206572965 E-Filed 09/10/2024 02:44:49 PM

**IN THE COUNTY COURT OF THE
FOURTH JUDICIAL CIRCUIT, IN AND
FOR DUVAL COUNTY, FLORIDA
CASE NUMBER: 16-2024-CC-007098-AXXX-MA
DIVISION: CC-E**

FUNICK, LLC, a Florida limited liability company,

Plaintiff,

v.

ABPAYMAR, LLC,

Defendant.

UNIFORM FINAL JUDGMENT OF FORECLOSURE

THIS CAUSE, having come before the Court on August 22, 2024 on the Motion for Summary Judgment (“the Motion”) of Plaintiff, FUNICK, LLC, a Florida limited liability company, it is, upon consideration thereof:

ORDERED AND ADJUDGED:

1. Defendant, ABPAYMAR, LLC (“Defendant”), did not respond to the Complaint after personal service, resulting in a clerk’s default. Defendant was duly noticed for the hearing but did not attend, nor did it file any type of opposition to the Motion.

2. The Motion be and is hereby GRANTED.

3. There are no disputed issues of material fact and Plaintiff is entitled to judgment as a matter of law. Indeed,

4. **VALUE OF CLAIM.** At the initiation of this action, in accordance with section 28.241(1)(a)2.b., Florida Statutes (effective for actions filed on and after June 1, 2009), plaintiff estimated the amount in controversy of the claim to be under **\$30,000.00**. In accordance with section 28.241(1)(a)2.c., Florida Statutes, the court identifies the actual value of the claim to be **\$19,319.94**. 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 following graduated filing fee scale in section 28.241(1)(a)2.d., Florida Statutes, controls:

- \$400 Value of claim less than or equal to \$50,000 with 5 defendants or less
- \$905 Value of claim greater than \$50,000 but less than \$250,000 with 5 defendants or less
- \$1,905 Value of claim \$250,000 or greater with 5 defendants or less

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 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.

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

Principal due on the note secured by the mortgage foreclosed:	\$ 18,125.00
Interest due on the note and mortgage from inception thru 08/22/24	\$ 261.19
Court costs:	
• Filing Fee:	\$ 300.00
• Service of process:	\$ 80.00
• Issuance of Summons:	\$ 10.00
Attorney's Fees:	\$ 543.75*
TOTAL SUM:	\$ 19,319.94

* This attorney's fee is 3% of the principal due on the note.

6. Interest. The total sum in paragraph 3 shall bear interest from this date forward at the rate set forth in section 55.03, Florida Statutes.

7. Plaintiff, whose address is 12307 SW 143rd Ln, Miami, FL 33186, holds a lien for the sum specified in paragraph 3 herein. The lien of the Plaintiff is superior in dignity to any right, title, interest, or claim of Defendant and all persons, corporations, or other entities claiming by through, or under Defendant or any of them and the property will be sold free and clear of all

claims of Defendant, with the exception of any assessments that are superior pursuant to sections 718.116 or 720.3085, Florida Statutes. Plaintiff's lien encumbers the subject property in Duval County, Florida and described as:

Lot 18, Queens Harbour Yacht and Country Club, Unit Seventeen, According to the Plat thereof, as recorded in Plat Book 51, Pages 78, 78A, 78B, 78C, of the Public Records of Duval County, Florida.
a.k.a. 13850 Windsor Crown St, Jacksonville, FL 32225

8. **Sale of Property.** If the total sum with interest at the rate prescribed in Paragraph 4 and all costs accrued subsequent to this Final Judgment are not paid, the Clerk of this Court shall sell the subject property to the highest bidder for cash at public sale on Thursday, November 14, 2024, at 11:00 A.M. after having first given notice required by section 45.031, Florida Statutes. The judicial sale will be conducted electronically at the following website: www.duval.realforeclose.com. At least three (3) days prior to the sale, Plaintiff must pay the costs associated with the Notice of Publication. The party or their attorney shall be responsible for preparing, in accordance with section 45.031(2), Florida Statutes, and submitting the Notice of Sale to a legal publication. The original Notice of Sale and Proof of Publication must be filed with the Clerk of the Circuit Court at least 24 hours prior to the scheduled sale date.

9. **Court 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.

10. **Additional Expenses, Fees and Costs.** If, subsequent to the entry of this final judgment, but prior to the actual sale date of the property, Plaintiff incurs additional expenses, fees or costs to protect its interest in the property after entry of this judgment including, but not

limited to, real estate taxes, hazard insurance, property preservation, or other necessary costs, Plaintiff may, by written motion served on all parties, seek to amend this final judgment to include such additional expenses, fees and costs. Such additional expenses, fees and costs shall be added to the “total sum due” in Paragraph 3 and shall be paid from the distribution of proceeds of the sale. A motion to amend the final judgment to include additional expenses, fees and costs must be filed not later than 15 days after entry of the judgment, pursuant to Florida Rule of Civil Procedure 1.530(g).

11. **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 in Paragraph 3, less the items paid, plus interest at the rate prescribed in Paragraph 4 from this date to the date of the sale; and by retaining any remaining amount— the “surplus proceeds”—pending further Order of this Court.

12. **Right of Redemption / Right of Possession.** On filing 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 and Defendant’s right of redemption as prescribed by section 45.0315, Florida Statutes, shall be terminated, except as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any. Upon the filing of the Certificate of Title, the person named on the Certificate of Title shall be let into possession of the property.

13. **Attorneys’ Fees.** Because a default judgment has been entered against the mortgagor and because the fees requested do not exceed 3% of the principal amount owed at the

time the complaint was filed, it is not necessary for the court to hold a hearing or adjudge the requested attorneys' fees to be reasonable.

14. **Claims to Surplus Funds/Proceeds.**

A. **Generally.** 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. The funds remaining after payment of all disbursements required by Paragraph 3 and Paragraph 7 of this final judgment and shown on the certificate of disbursement are "surplus funds."

B. **Claim by Subordinate Lienholder.** 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. A subordinate lienholder is the holder of a subordinate lien as shown on the face of the pleadings as an encumbrance on the property. A subordinate lienholder includes, but is not limited to, a subordinate mortgage, judgment, tax warrant, assessment lien, or construction lien. A subordinate lienholder not shown on the face of the pleadings is not entitled to the surplus if it did not intervene in the action within 30 days after the recording of the notice of lis pendens. If your lien was paid in full from the proceeds of the sale, you have no claim to the surplus. One year after the sale, any surplus remaining with the Clerk of the Court must be remitted to the Department of Financial Services, as provided in section 45.032(3)(c), Florida Statutes.

C. **Claim by Owner of Record.** 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 AT 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. The property owner is the owner of record who appears to be the owner(s) of the foreclosed property on the date of the filing of the lis pendens. To make a claim to the surplus, an owner of record may use the form provided at section 45.032(3)(a), Florida Statutes. One year after the sale, any surplus remaining with the Clerk of the Court must be remitted to the Department of Financial Services, as provided in section 45.032(3)(c), Florida Statutes. After the surplus has been remitted to the Department of Financial Services, the owner of record, or the beneficiary of a deceased owner of record, must make a claim with the Department for the surplus pursuant to section 717.124, Florida Statutes.

D. **Claim by Grantee or Assignee of Property Owner.** If you are an assignee of the rights of the owner of record, you must prove entitlement to the surplus funds in accordance with section 45.033, Florida Statutes.

E. **Claim by Plaintiff.** Plaintiff/Mortgagee is not entitled to surplus funds/proceeds. Any additional expenses, fees and costs incurred subsequent to entry of the final judgment, but

prior to the sale, must be added to the “total sum due” pursuant to Paragraph 8, and are not payable from the surplus proceeds. STATUTORY REQUIRED LANGUAGE ABOVE, IN ACCORDANCE WITH SECTION 45.031, FLORIDA STATUTES, IS IN ALL CAPITAL LETTERS.

15. **Assignment.** Plaintiff may assign this Final Judgment and the credit bid by the filing of an assignment prior to the issuance of the certificate of title without further order of this Court.

DONE AND ORDERED in Chambers, at Jacksonville, Duval County, Florida, on Tuesday, September 10, 2024.

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James Nealis, County Judge

James Nealis, Judge
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cc: Vestalia Aylsworth, Esq. (via E-Portal)*

* Via entry of this Final Judgment, this Court directs Plaintiff’s counsel to serve a conformed copy of this Final Judgment upon Defendant, Abpaymar, LLC, 18167 US Highway 19 N, Suite 250, Clearwater, FL 33764 and to file a Certificate of Service in the Court file so reflecting.