

IN THE CIRCUIT COURT IN AND FOR BAY COUNTY, FLORIDA

FILED

2013 MAY 22 A 11:52

**J & B, LLC,**  
**AN ALABAMA LIMITED LIABILITY COMPANY,**  
  
**PLAINTIFF,**

BILL KINSAUL  
CLERK OF COURT  
BAY COUNTY, FLORIDA

**V.**

**CASE NUMBER: 11-1796-CA**

**THERESA M. BENDER, TRUSTEE**  
**OF THE BANKRUPTCY ESTATE OF**  
**HENRY LAWRENCE PERRY;**  
**HENRY LAWRENCE PERRY;**  
**MICHAEL DOUGLAS PETWAY;**  
**SANCTUARY BEACH MASTER ASSOCIATION, INC.**  
**A FLORIDA NON-PROFIT CORPORATION;**  
**TRUSTMARK NATIONAL BANK;**  
**COASTAL BANK AND TRUST; AND,**  
**WILD HERON PROPERTY OWNERS ASSOCIATION, INC.,**  
**A FLORIDA NON-PROFIT CORPORATION.**

**DEFENDANTS.**

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### **FINAL JUDGMENT OF FORECLOSURE**

**THIS CAUSE** coming on for hearing upon the Plaintiff's Motion for Summary Judgment; and it appearing to the Court that that all parties have been properly served, and that notice has been given to the Defendant of this hearing, and the Court being fully advised in the premises and having considered the cause finds that the Plaintiff has sustained the allegations of the complaint against the Defendant and is entitled to the relief prayed for therein, and that the Court has jurisdiction to grant same; it is, therefore,

**ORDERED AND ADJUDGED:**

#### **COUNT I - FORECLOSURE**

1. That this Court has jurisdiction of the parties in this cause and the subject matter hereof and has jurisdiction to render this judgment; further, that the allegations

contained herein have been proved by competent evidence, and there are no material issues of fact or law.

2. That the equities of this cause are with the Plaintiff and against the Defendants.
3. The Court finds that the following hourly rates and hours are appropriate and reasonable, and that no enhancement or reduction of the fee is appropriate:

Paul A. Wilson:

33.1 Hours at \$250.00 per hour

Paralegals:

22.7 Hours at \$110.00 per hour

Florida Patients Compensation Fund v. Rowe, 472 So.2d 1145 (Fla. 1985).

Accordingly, attorneys' fees in the amount indicated below are awarded for the Plaintiff.

4. That there is due to the Plaintiff under the mortgage and Final Judgment sued upon, including foreclosure fees and costs, the following sums:

Principal Due on Judgment and mortgage .....	\$1,129,984.59
Interest from June 10, 2010 to April 23, 2013 .....	\$ 126,867.25
Late Charges .....	\$ 0.00

**Advances By Plaintiff:**

Unpaid Property Taxes .....	\$0.00
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<b>Total Advances</b> .....	<b>\$0.00</b>
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Judgment Subtotal .....	\$1,256,851.84
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**Foreclosure Costs:**

Filing Fees .....	\$ 1,969.00
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Service of Process .....	\$ 275.00
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Alias Summons Fee .....	\$ 10.00
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Cash Bond Filing Fee .....	\$ 108.00
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<b>Total Costs</b> .....	<b>\$2,364.50</b>
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Judgment Subtotal .....	\$1,259,214.34
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Attorney's Fees .....	\$11,772.00
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Judgment Total ..... \$1,270,986.34

That shall bear interest according to §55.03 Florida Statutes, for which let execution issue.

**Defendant Perry has discharged the debt of the judgment secured by the mortgage at issue in this action in Bankruptcy. This judgment provides only in rem relief to Plaintiff as to Defendant Perry and no monetary judgment is hereby awarded against Defendant Perry or Defendant Theresa M. Bender, Trustee.**

5. That the Plaintiff has a lien upon the property covered by the mortgage in this suit for the payment of the total sum specified in the preceding paragraph, and for the payment of the costs of this suit, prior, paramount and superior to all rights, claim, title, interest, liens, encumbrances and equities of the Defendant, and each of them, and all persons, firms or corporations claiming by, through or under them; and that if said total sum and costs are not prior paid, said property described in the complaint and in the mortgage herein sought to be foreclosed, situate, lying and being in Escambia County, Florida to-wit:

**Lot 1, Block D of SANCTUARY BEACH, according to the Plat thereof as recorded in Plat Book 21, Page(s) 35, of the Public Records of Bay County, Florida.**

**Lot 2, Block D of SANCTUARY BEACH, according to the Plat thereof as recorded in Plat Book 21, Page(s) 35, of the Public Records of Bay County, Florida.**

**Lot 3, Block D of SANCTUARY BEACH, according to the Plat thereof as recorded in Plat Book 21, Page(s) 35, of the Public Records of Bay County, Florida.**

**Lot 4 Block D of SANCTUARY BEACH, according to the Plat thereof as recorded in Plat Book 21, Page(s) 35, of the Public Records of Bay County, Florida.**

**Lot 5, Block D of SANCTUARY BEACH, according to the Plat thereof as recorded in Plat Book 21, Page(s) 35, of the Public Records of Bay County, Florida.**

be sold by the Clerk of this Court at public sale at 11:00 a.m. (Central) on the 9<sup>th</sup> day of July, 2013, to the highest and best bidder or bidders for cash, except as set forth hereinafter, online via the internet at [www.bay.realforeclose.com](http://www.bay.realforeclose.com), in Bay County, Panama City, Florida, in accordance with Section 45.031, Florida Statutes.

6. 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, except as indicated otherwise. If Plaintiff is the purchaser, the clerk shall credit Plaintiff's bid with the total sum with interest and cost accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full. If prior to or after the sale, Plaintiff shall be required to advance any monies pursuant to the provisions hereof, then Plaintiff or its attorneys shall so certify to the Clerk of this Court by affidavit, and the amount due to Plaintiff as set forth above shall be increased by the amount of such advances without further order of the Court. If Plaintiff is the successful bidder at the sale, Plaintiff's rights as such may be assigned to a third party and, in that event, the Clerk of this Court is hereby ordered and directed to issue the Certificate of Title to Plaintiff's assignee upon notice to the Clerk by Plaintiff of said Assignments and without further order of this court. At the time of sale, the successful high bidder, other than plaintiff, shall post with the Clerk a deposit equal to five percent (5%) of the final bid. The balance of the final bid shall be paid to the

Clerk within twenty-four (24) hours after the sale. The successful high bid shall be exclusive of the Clerk's registry fee. In the event of a third party successful bid, the third party successful bidder shall pay, in addition to the bid amount, the Clerk's registry fee and any and all documentary stamps on the Certificate of Title. Should all said sums not be paid by that high bidder within twenty-four (24) hours after the sale, then the property shall be sold to the second highest bidder without the necessity of conducting another sale or further order of this court.

7. On filing the Certificate of Title the clerk shall, except as otherwise indicated, distribute the proceeds of the sale as follows:
- (a.) For all costs and expenses of this sale, including the Clerk's fee for making the sale;
  - (b.) For costs of Court as hereinabove set forth;
  - (c.) For attorney's fees as hereinabove set forth;
  - (d.) For sums advanced by Plaintiff as hereinabove set forth, and advanced in the future to protect Plaintiff's interests herein;
  - (e.) For amounts due Plaintiff for principal and interest on the mortgage debt as hereinabove set forth; plus interest from the date hereof to the date of issuance of Certificate of Title;

and shall pay any surplus remaining after payment of the above into the Registry of the Court to await further order of distribution.

8. On filing the Certificate of Title, Defendants, and all persons claiming under or against them since the filing of the Notice of Lis Pendens shall be forever barred and

foreclosed of any and all equity or right of redemption in and to the above described property, and the sale shall stand confirmed.

9. Defendants are hereby ordered to remove themselves, family members or agents and any and all personal property owned by them from the above described property no later than three (3) days from the date of the Certificate of Title. Upon the failure of said Defendant to comply herewith and upon the filing of an affidavit by the purchaser of the property involved herein, affirmatively showing that possession of the premises has not been delivered to said purchaser within the time stated herein the Clerk of the Court shall, without further order, issue a Writ of Possession, upon application for same by Purchaser or Plaintiff for the premises, commanding the Sheriff of said County, to remove said Defendant, family members or agents and personal belongings from the above described property and then put the purchaser named on the Certificate of Title in immediate possession of the said premises as conveyed.
10. Jurisdiction over this action is retained to enter such further orders as are proper, including, without limitation, Writs of Assistance, Possession and Deficiency Judgments; and Defendants are enjoined and restrained from damaging, molesting, vandalizing or otherwise harming the improvements located on the real property described in this Final Judgment, or from removing from said property anything affixed to the property in such fashion that it has become part of the realty or

improvements, and the Court cautions said Defendants that any violation of this provision by them or anyone could subject them to contempt powers of this Court.

11. 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 the office of Litvak, Beasley & Wilson, LLP, 226 East Government Street, Pensacola, Florida 32502; Telephone: (850) 432-9818, within two (2) working days of your receipt of this Final Judgment of Foreclosure; if you are hearing or voice impaired, call 1-800-955-8771.
12. Should the sale be confirmed into the high bidder, the United States of America, on behalf of its agency, the Internal Revenue Service, shall have a period of one hundred twenty (120) days from the date of the foreclosure sale to redeem the property under the provisions of 28 U.S.C. § 2410.

**DONE AND ORDERED**, Panama City, Bay County, Florida this 21 day of May, 2013.

  
THOMAS R. ELLINOR  
CIRCUIT COURT JUDGE

**CONFORMED COPIES TO:**

**PAUL A. WILSON, ESQUIRE**

Litvak, Beasley & Wilson, LLP, 226 East Government Street, Pensacola, Florida 32502

**THERESA M. BENDER**

Theresa M. Bender, P.A., P.O. Box 14557, Tallahassee, Florida 32317

**A. WAYNE WILLIAMSON**

Williamson Law Firm, LLC, 1414 County Highway 283, Unit B, Santa Rosa Beach, Florida 32459

**JACK G. WILLIAMS, ESQUIRE**

502 Harmon Avenue, Post Office Box 2176, Panama City Beach, Florida 32402

**TIMOTHY J. SLOAN, ESQUIRE**

Timothy J. Sloan, P.A. 427 McKenzie Avenue, P.O. Box 2327, Panama City, Florida 32402