

Filing # 147347819 E-Filed 04/08/2022 02:09:12 PM

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BAY COUNTY, FLORIDA

THE BANK OF NEW YORK MELLON FKA  
THE BANK OF NEW YORK, AS TRUSTEE FOR  
THE CERTIFICATEHOLDERS OF CWALT,  
INC. ALTERNATIVE LOAN TRUST 2005-49CB,  
MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2005-49CB,

CASE NO.: 2019CA000915

DIVISION:

Plaintiff,

vs.

T. NICOL LUX AKA THOMAS N. LUX AKA  
NICOL LUX AKA THOMAS NICOL LUX; ET  
AL.,

Defendants.

FINAL JUDGMENT OF FORECLOSURE  
(in rem)

**THIS ACTION** was heard before the Court on the Non-Jury Trial on April 5, 2022. On the evidence presented, **IT IS ORDERED AND ADJUDGED** that:

1. The Final Judgment of Foreclosure is **GRANTED**. Service of process has been duly and regularly obtained over Defendants T. NICOL LUX AKA THOMAS N. LUX AKA NICOL LUX AKA THOMAS NICOL LUX; UNKNOWN SPOUSE OF T. NICOL LUX AKA THOMAS N. LUX AKA NICOL LUX AKA THOMAS NICOL LUX; METROPOLIS HOLDINGS 4 TRUST; BAY POINT IMPROVEMENT ASSOCIATION, INC DBA BAY POINT COMMUNITY ASSOCIATION; UNKNOWN TENANT IN POSSESSION 1; UNKNOWN TENANT IN POSSESSION 2, UNKNOWN TENANT IN POSESSION 3

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

Principal due on the note secured by the mortgage foreclosed	\$274,514.84
Interest on the note and mortgage from 05/01/2014 to 04/05/2022	\$133,295.41
Escrow Balance	\$86,366.72

**SUBTOTAL**

**\$494,176.97**

**Additional Costs:**

Property Pres	\$176.00
Securing	\$685.00
Lawn Maintenance	\$10,394.70
Appraisal	\$1,336.00
Property Inspection	\$1,537.00
Winterization	\$100.00
BPO/Aprsl Cost	\$430.00
Complaint Filing Fees	\$1,981.50
TSI Legal	\$682.65
Publication Fees	\$471.16
Recording Costs	\$29.00
Court Reporter Fees	\$325.00

<b>SUBTOTAL</b>	<b>\$512,324.98</b>
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Attorney flat fee	\$3,690.00
Attorney fees based upon 87.4 hour at \$275.00 per hour	\$23,292.50

<b>GRAND TOTAL</b>	<b>\$539,307.48</b>
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3. **Interest.** The grand total amount referenced in Paragraph 2 shall bear interest from this date forward at the prevailing legal rate of interest **4.25%**.
4. **Lien on Property.** Plaintiff holds a lien for the grand total sum specified in Paragraph 2 herein. The lien of the plaintiff is superior in dignity to any right, title, interest or claim of the defendants and all persons, corporations, or other entities claiming by, through, or under the defendants or any of them and the property will be sold free and clear of all claims of the defendants, with the exception of any assessments that are superior pursuant to Florida Statutes, Section 718.116 and 720.3085. The plaintiff's lien is determined to be a first mortgage lien. The plaintiff's lien encumbers the subject property located in Bay County, Florida and described as:

**LOT 523, ACCORDING TO PLAT OF BAY POINT UNIT ONE ON FILE IN BAY COUNTY PLAT BOOK 11, PAGES 47 THROUGH 56; TOGETHER WITH PARCEL DESCRIBED AS FOLLOWS:**

**BEGIN AT THE SOUTHEAST CORNER OF LOT 523, BAY POINT UNIT ONE, ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 11, PAGES 47 THROUGH 56 IN THE PUBLIC RECORDS OF BAY COUNTY, FLORIDA. THENCE N27°15'38"W ALONG THE EAST LINE OF SAID LOT 523 FOR 130.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 523; THENCE N62°44'22"E FOR 15.00 FEET; THENCE S27°15'38"E PARALLEL WITH SAID EAST LINE OF LOT 523 FOR 130.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF WAHOO ROAD; THENCE S62°44'22"W ALONG SAID RIGHT-OF-WAY LINE FOR 15.00 FEET TO THE POINT OF BEGINNING**

Property Address: 326 Wahoo Road, Panama City, FL 32411

5. **Sale of Property.** If the grand total amount with interest at the rate described in Paragraph 3 and all costs accrued subsequent to this judgment are not paid, the Clerk of Court shall sell the subject property at public sale on June 8, 2022, at 11:00 A.M. to the highest bidder for cash, except as prescribed in Paragraph 6, at [www.bay.realforeclose.com](http://www.bay.realforeclose.com) after having first given notice as required by Section 45.031, Florida Statutes.
6. **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. 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. The Clerk shall receive the service charged imposed in Section 45.031, Florida Statutes, for services in making, recording, and certifying the sale and title that shall be assessed as costs.
7. **Right of Redemption.** On filing of the Certificate of Sale, Defendant's right of redemption as proscribed by Florida Statutes, Section 45.0315 shall be terminated. 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 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, subject to the rights of a tenant occupying residential premises pursuant to section 83.561, 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 2 from this date to the date of the sale. During the sixty (60) days after the Clerk issues the certificate of disbursements, the Clerk shall hold the surplus pending further Order of this Court. Plaintiff without further order of the Court shall be permitted to file an Assignment of Bid prior to the sale in the instant action.

9. **Right of Possession.** Upon filing of the Certificate of Title, 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 the purchaser at sale shall be let into possession of the property.
10. **Attorney Fees.** The Court finds, based upon testimony presented and upon inquiry of counsel for the plaintiff, that 87.4 hour was reasonably expended by plaintiff's counsel and that an hourly rate of \$275.00 and flat fee of \$3,690.00 are appropriate that the attorney's fee sought by Plaintiff's counsel in this matter is reasonable based on the number of hours worked and the customary hourly rate for such services in this jurisdiction. PLAINTIFF'S COUNSEL REPRESENTS THAT THE ATTORNEY FEE AWARDED DOES NOT EXCEED ITS CONTRACT FEE WITH THE PLAINTIFF. The Court finds that there are no reduction or enhancement factors for consideration by the Court pursuant to *Florida Patient's Compensation Fund v. Rowe*, 472 So.2d 1145 (Fla. 1985).

11. **NOTICE PURSUANT TO AMENDMENT TO SECTION, 45.031, FLA. ST. (2006)**

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.

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, 300 EAST 4<sup>TH</sup> STREET, PANAMA CITY, FLORIDA 32401 (TELEPHONE: (850) 763-9061), 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 TRANSFERING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER

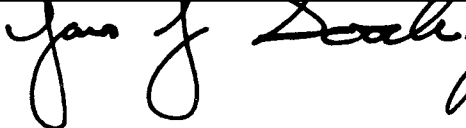
INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT LEGAL SERVICE OF NORTH FLORIDA, 211 EAST 11<sup>TH</sup> STREET, PANAMA CITY, FLORIDA 32401 (TELEPHONE: (850) 769-3581), TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT THE CHARLOTTE LEGAL AID, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

12. **Jurisdiction.** The Court retains jurisdiction of this action to enter further orders that are proper, including, without limitation, writs of possession and supplemental complaints, and re-foreclosures.
13. **In rem Final Judgment.** This Final Judgment is *in rem* as to Defendant T. NICOL LUX AKA THOMAS N. LUX AKA NICOL LUX AKA THOMAS NICOL LUX.

The party who submitted this proposed order to the Court for approval is required to serve a copy of the signed order upon any person(s) not registered to receive service via the e-portal.

**DONE AND ORDERED** in Bay County, Florida on Friday, April 8, 2022.

03-2019-CA-000915-CA 04/08/2022 01:09:02



James J. Goodman, Judge  
03-2019-CA-000915-CA 04/08/2022 01:09:02

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