

Form 1.944(d) Order To Show Cause

ORDER TO SHOW CAUSE

THIS CAUSE has come before the court onplaintiff's/lien holder's..... motion for order to show cause for entry of final judgment of mortgage foreclosure and the court having reviewed the motion and the verified complaint, and being otherwise fully advised in the circumstances, finds and it is

ORDERED AND ADJUDGED that:

1. The defendant(s) shall appear at a hearing on foreclosure on(date)..... at(time)..... before the undersigned judge, in the(county)..... Courthouse at(address)....., to show cause why the attached final judgment of foreclosure should not be entered against the defendant(s) in this cause. This hearing referred to in this order is a "show cause hearing."

2. This ORDER TO SHOW CAUSE shall be served on the defendant(s) in accordance with the Florida Rules of Civil Procedure and applicable law as follows:

a. If the defendant(s) has/have been served under Chapter 48, Florida Statutes, with the verified complaint and original process has already been effectuated, service of this order may be made in the manner provided in the Florida Rules of Civil Procedure; or, if the other party is a plaintiff in the action, service of the order to show cause on that party may be made in the manner provided in the Florida Rules of Civil Procedure.

b. If the defendant(s) has/have not been served under Chapter 48, Florida Statutes, with the verified complaint and original process, the order to show cause, together with the summons and a copy of the verified complaint, shall be served on the party in the same manner as provided by law for original process.

3. The filing of defenses by a motion or verified answer at or before the show cause hearing constitutes cause for which the court may not enter the attached final judgment.

4. Defendant(s) has/have the right to file affidavits or other papers at the time of the show cause

hearing and may appear at the hearing personally or by an attorney.

5. If defendant(s) file(s) motions, they may be considered at the time of the show cause hearing.

6. Defendant(s)' failure to appear either in person or by an attorney at the show cause hearing or to file defenses by motion or by a verified or sworn answer, affidavits, or other papers which raise a genuine issue of material fact which would preclude entry of summary judgment or which would otherwise constitute a legal defense to foreclosure, after being served as provided by law with the order to show cause, will be deemed presumptively a waiver of the right to a hearing. In such case, the court may enter a final judgment of foreclosure ordering the clerk of the court to conduct a foreclosure sale. An order requiring defendant(s) to vacate the premises may also be entered.

7. If the mortgage provides for reasonable attorneys' fees and the requested fee does not exceed 3% of the principal amount owed at the time the complaint is filed, the court may not need to hold a hearing to adjudge the requested fee to be reasonable.

8. Any final judgment of foreclosure entered under section 702.10(1) Florida Statutes, shall be only for in rem relief; however, entry of such final judgment of foreclosure shall not preclude entry of an in personam money damages judgment or deficiency judgment where otherwise allowed by law.

9. A copy of the proposed final judgment is attached and will be entered by the court if defendant(s) waive(s) the right to be heard at the show cause hearing.

DONE AND ORDERED at(county)....., Florida(date).....

CIRCUIT JUDGE

Copies to: