

**FORM 4**

**STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE  
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2018CP2303124**

Clear Skies Restoration LLC		Ivan Martinez	Paula A Martinez
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**PLAINTIFF(S)** **DEFENDANT(S)**

<b>Submitted by:</b>	<b>Attorney for:</b> <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
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**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  
 Rule 43(k), SCRPC (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j) SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other: \_\_\_\_\_
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order; (formal order to follow)  Statement of Judgment by the Court:

**ORDER INFORMATION**

The matter is before the court based upon the Motion to Reconsider by Clear Skies and the Martinez's filed April 10, 2023. The motion is denied.

Admittedly there was a conflict between the Order and the Notice of Sale. The Order (which was signed by the master) states the sales proceeds would first be used to satisfy existing senior mortgages and the Notice (which was not signed by the master) states the sale is subject to said existing senior mortgages. And, admittedly, at the time of the foreclosure sale, the sales officer (who also was the master in equity who heard the underlying foreclosure action) announced that the Notice of Sale stated that the property was being sold subject to existing mortgages. Of critical importance is that the Notice of Sale and the announcement at the sale cannot alter or amend the clear and express terms of the Order itself. In other words, it is the law in South Carolina that a ministerial act, such as conducting a sale, cannot alter or change the terms of the Order. See *Federal National Mortgage Association v. Brooks*, 405 S.E. 2d 604 (SC Ct. App. 1991) As such, while the 3<sup>rd</sup> party purchasers were aware of the conflict, they necessarily and appropriately relied upon the clear language of the Order. The result reached herein is further buttressed by the fact the Plaintiff bid far in excess of its actual judgment amount, indicating a reasonable basis to conclude at the sale that the senior mortgage liens were included in its bid.

Finally, the Motion to Reconsider filed April 10, 2023 seeks to vacate the sale. To the extent this issue has been timely raised relative to the deed from the court to the 3<sup>rd</sup> party purchasers that was recorded June 11, 2019, the Motion is denied in light of the above.

It is so Ordered.

**This order**  ends  does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

**INFORMATION FOR THE JUDGMENT INDEX**

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

<b>Judgment in Favor of (List name(s) below)</b>	<b>Judgment Against (List name(s) below)</b>	<b>Judgment Amount To be Enrolled (List amount(s) below)</b>
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If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

**Note: Title abstractors and researchers should refer to the official court order for judgment details.**

**E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.**

	3023	4/11/2023
Circuit Court Judge	Judge Code	Date

**For Clerk of Court Office Use Only**

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

M. Stokely Holder PO Box 1804 Greenville, SC 29602

Michael Dodd

\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)

\_\_\_\_\_  
Court Reporter

\_\_\_\_\_  
- Clerk of Court

**Court Reporter:**

**E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.**

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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Greenville Common Pleas

**Case Caption:** Clear Skies Restoration LLC , plaintiff, et al vs. Ivan Martinez ,  
defendant, et al  
**Case Number:** 2018CP2303124  
**Type:** Master/Order/Form 4

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)