

**STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON**

Richard Young and Jason Greene

Plaintiffs,
v.

John W. Beasley a/k/a John W. Beasley, Sr.
and Lillian Beasley in their individual
capacities and as Trustees or as successors in
trust under the Beasley Living Trust dated
August 14, 2018 and any amendments thereto,
Bob Hollow Investments, LLC, Anna Pruitt,
Seaside Plantation Property Owners
Association, Inc., South Carolina Department
of Revenue, and the United States of America
by and through its agency the Internal Revenue
Service,

Defendants.

**IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT**

CASE NO.: 2022-CP-10-03510

RECEIVED

Nov 06 2023

SC Court of Appeals

**AMENDED ORDER AND
JUDGMENT
OF FORECLOSURE AND
SALE**

**John W. Beasley a/k/a John W. Beasley,
Sr. and Lillian Beasley in their
individual capacities and as Trustees or
as successors in trust under the Beasley
Living Trust dated August 14, 2018 and
any amendments thereto pursuant to
S.C. Code §29-3-650**

(Deficiency Waived)

Pursuant to Rule 53 SCRPC, the above-entitled matter was referred to the undersigned to make appropriate findings of fact and conclusions of law with authority to enter a final judgment. Any appeal from the final judgment entered by the Master in Equity shall be directly to the South Carolina Supreme Court or South Carolina Court of Appeals, as provided in the South Carolina Appellate Court Rules.

Pursuant to the said Order of Reference, a hearing was held on September 27, 2023. Present at said hearing were Ian D. McVey and Joey Floyd for Plaintiffs, as well as the Plaintiffs themselves. Cheryl D. Shoun, R. Markley Dennis, Jr., Rhett Ricard, John C. Johnston and Victoria W. Kurtz appeared for the Beasley Defendants, none of whom were present at the hearing. This Court has previously determined that Plaintiffs are entitled to Summary Judgment on all issues

contested by Defendants. *See Order Granting Plaintiffs Motion for Summary Judgment entered on August 23 ,2023.* Plaintiffs' initial Motion for Summary Judgment was properly supported by an Affidavit of Plaintiffs' attesting to the Debt due and owing by the Beasley Defendants. Plaintiffs filed a Motion for Foreclosure Hearing and Award of Attorney's Fees and Costs. Said motion was supported by an Updated Affidavit of Debt as well as Affidavits of Attorney's Fees and Costs from counsel for Plaintiff. Based on the evidence presented to this Court, I find and conclude as follows:

FINDINGS OF FACT

1. The Lis Pendens was filed on August 4, 2022 and the Amended Lis Pendens was filed on August 22, 2022.
2. The Summons and Complaint were filed on August 4, 2022 and the Amended Summons and Amended Complaint were filed on August 22, 2022.
3. Service was made upon the Defendants named in this Report as is shown by the Affidavits of Service filed herein.
4. The Defendants John W. Beasley a/k/a John W. Beasley, Sr. and Lillian Beasley in their individual capacities and as Trustees or as successors in trust under the Beasley Living Trust dated August 14, 2018 and any amendments thereto (collectively referred to herein as "Beasley Defendants" or "the Beasley Defendants") were served and an Answer to the Amended Complaint was timely filed on their behalf on August 26, 2022, along with Counterclaims. The Counterclaims have been dismissed pursuant to an order entered by the undersigned on October 6, 2023.
5. The Defendant The United States of America, by and through its agency, the Internal Revenue Service filed an Answer through their attorney George J. Conits. The United

States of America has also filed a Disclaimer of Interest in this civil action (filed on October 14, 2022), wherein the Internal Revenue Service disclaimed its interest in the real property that is the subject of this civil action. Defendant the United States of America was dismissed pursuant to an Order Granting Partial Summary Judgment on August 23, 2023.

6. The Defendant South Carolina Department of Revenue was served and an Answer was filed by the South Carolina Department of Revenue on October 7, 2022.

7. The Defendants Bob Hollow Investments, LLC, Seaside Plantation Property Owners Association, Inc. and Anna Pruitt are in default as more particularly described in the Order Granting Partial Summary Judgment which resolved certain issues related to title, filed on August 23, 2023.

8. The Defendants were notified of the time, date, and place of the hearing in this matter and Counsel for the Defendants appeared at said hearing.

9. With the formal discontinuance of the Home Affordable Modification Program (HMP) on December 31, 2016, South Carolina Administrative Order 2009-05-22-01 has expired by operation of law and is no longer applicable.

AS TO THE SECOND CAUSES OF ACTION

10. For value received, the Beasley Defendants made, executed and delivered to the Plaintiffs Ricky Young and Jason Greene (collectively referred to herein as "Plaintiffs") a promissory note dated November 20, 2017, promising thereby to pay the sum of Six Hundred Forty-Seven Thousand and Five Hundred Dollars and 00/100 (\$647,500.00), with interest thereon, the terms of which are more fully explained by reference thereto ("Note"). Other terms and conditions are stated in the Note, which is of record in this civil action (electronically filed with the Plaintiffs' initial pleadings, as an exhibit to the original Complaint and the Amended Complaint

and/or filed numerous times with this Court in connection with the various motion hearings).

11. To better secure the payment of the Note described above, the Beasley Defendants made, executed and delivered to Plaintiffs a Mortgage in writing, dated November 20, 2017, covering real property in Charleston County, which is the same as that described in the Complaint, with an address of 1050 Sea Eagle Watch, Charleston, SC 29412. The Mortgage was recorded on December 8, 2017 and is of record in the Office of Register of Deeds for Charleston County in Mortgage Book 0684 at Page 902.

12. Said Mortgage constitutes a second priority lien on the Subject Property subordinate only to that certain mortgage to Community First Bank of Charleston dated December 28, 2006 and recorded on January 2, 2007 in the office of the Register of Mesne Conveyances for Charleston County in Book 610 at page 484.

13. Payment due on the Note was not, and has not been, made as provided for therein, and the Plaintiffs, as the holder thereof, have elected to require immediate payment of the entire amount due thereon and has placed the Note and Mortgage in the hands of the attorney herein for collection.

14. In accordance with the terms of the Note, the Beasley Defendants are responsible for the costs and attorneys fees in the amount of fifteen (15%) percent of the outstanding balance due as attorney fees for Plaintiffs' attorney for services performed and anticipated to be performed until final adjudication of the within action under the terms of the Note and Mortgage. See *West v. Gladney*, 341 S.C. 127, 533 S.E.2d 334. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond the normal time. The outstanding balance due, as of September 5, 2023, is Nine Hundred Thirty One Thousand Ninety Seven dollars and 41/100 (\$931,097.41). As such, the attorneys fee for services rendered by

Plaintiffs' counsel is \$139,541.61, which I find to be reasonable having given due consideration to the factors set forth in *Dedes v. Strickland*, 307 S.C. 155, 414 S.E.2d 134 (1992).¹ This case is a contested foreclosure action and includes some issues related to title clean-up / quiet title. The Plaintiffs' actions in this foreclosure matter have been contested from day one in this litigation. Counsel for the Plaintiffs' (both of them/their firms) have devoted a significant amount of time in connection with their pursuit of this foreclosure on the part of the Plaintiffs. The Plaintiffs have conducted written discovery, filed a motion to compel, filed and defended numerous motions, attended multiple motion hearing dates (with numerous motion hearings), filed memoranda in support and in opposition to various motions. Both attorneys for the Plaintiffs have been practicing for approximately twenty years and both attorneys are well respected for their practices. The Promissory Note at issue in this civil action expressly provides that the attorneys' fee is fifteen percent (15%) of the outstanding balance due. A fifteen percent (15%) fee is at, or below, the fee that would be customarily charged in this locality for similar legal services, particularly in light of the litigious fight in this lawsuit (coupled with the likelihood of an appeal). Without question, Plaintiffs' Counsel have achieved the most beneficial result possible at this point in time, since an award of Summary Judgment in favor of the Plaintiffs has been issued. In light of these factors, duly considered by this Court, the fee being requested by Plaintiffs in this matter is indeed reasonable.

15. The amount due and owing on the Note, secured by the above-referenced Mortgage, with interest at the rate provided in the Note and other costs and expenses of collection,

¹ See *Dedes V. Strickland*, 307 S.C. at 160, 414 S.E.2d at 137 (1992) ("Where a contract provides for reasonable attorney's fees without specifying a rate or amount, the issue of attorney's fees is left to the discretion of the trial judge and will not be reversed on appeal unless there is a showing of an abuse of discretion. Factors to consider by the trial court in making a determination as to attorneys' fees are: 1) The nature, extent and difficulty of the legal services rendered; 2) the time and labor necessarily devoted to the case; 3) the professional standing of counsel; 4) the contingency of compensation; 5) the fee customarily charged in the locality for similar legal services; and 6) the beneficial result obtained.")

including an attorney's fee, is as follows:

(A)	Principal Due	\$572,500.00
(B)	Interest to Sept. 5, 2023, @ 12%, Per Diem: \$205.01	\$358,597.41
	(thru 9/27/22, 22 days * \$205.01)	\$4,510.22
(C)	Cost of Collection prior to hearing (service, filing, etc.)	\$4,487.92
(D)	Attorney's Fee	\$139,541.61
Total debt secured by Note and Mortgage, including interest to September 27, 2023		<u>\$1,079,637.16</u>

**** Plus interest accruing thereon at \$205.01/day**

Interest for the period from the date shown in (B) above through the date of this judgment at above stated rate to be added to the above stated "Total Debt" to comprise the amount of the judgment debt entered herein and interest after the date of judgment at the rate (per the terms of the Note) of 12.0% per annum on the judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's debt secured by the Mortgage through the date to which such interest is computed.

16. The following Defendants claim, or may claim, a lien upon or interest in the subject Property, and in the event there is a surplus from the sale of the subject property, the validity, priority and amount of any such lien claim will be determined at a hearing subsequent to the sale, in accordance with Rule 71(c), SCRCF. The said Defendants and such claims or liens are as follows:

- a. The South Carolina Department of Revenue due to various liens filed by the South Carolina Department of Revenue. Plaintiff alleges that the liens are against a different John W. Beasley than the John W. Beasley that is the owner

of the Property at issue in this civil action and the Court finds the liens do not attach to the Property.

17. Anna Pruitt was named as a defendant herein by virtue of any claim she may have to the Property by virtue of the Deeds to her from Dr. A. Bert Pruitt, Jr., recorded April 1, 2002 in Book R401 at Page 216 and May 29, 2003 in Book S450 at Page 717. I find it was the intent that Anna Pruitt be deeded Lot 6 as shown on the Plat recorded in Book DD at Page 586 and find that Anna Pruitt has no interest or claim to the Property to be foreclosed herein. The Court craves reference and incorporates herein that certain Order Granting Partial Summary Judgment entered on August 23, 2023.

CONCLUSIONS OF LAW

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. With the formal discontinuance of the Home Affordable Modification Program (HMP) on December 31, 2016, South Carolina Administrative Order 2009-05-22-01 has expired by operation of law and is no longer applicable.

2. Plaintiffs' Mortgage is declared a valid second priority lien on the Subject Property as affected by the Order Granting Partial Summary Judgment subordinate only to the mortgage lien of First Community Bank of Charleston dated December 28, 2006 and recorded on January 2, 2007 in the office of the Register of Mesne Conveyances for Charleston County in Mortgage Book 610 at page 484, and Plaintiffs should have judgment of foreclosure of their Mortgage and the mortgaged property should be ordered sold at public auction after due advertisement.

3. That there is due to the Plaintiffs on the Note and Mortgage set forth in the Amended Complaint the sum of One Million Seventy-Nine Thousand Six Hundred Thirty-Seven Dollars and 16/100 (\$1,079,637.16), as of September 27, 2023, with per diem interest accruing thereon at \$205.01 per day, representing the Total Debt due Plaintiffs as set out in paragraph fifteen

supra, together with interest at the rate provided therein on the balance of principal from the date aforesaid to the date hereof.

4. The amount due in the preceding paragraphs (the “Total Debt” as set forth in paragraph twenty-five *supra* and later accrued interest on the principal) shall constitute the total judgment debt against the Beasley Defendants and shall bear interest hereafter at the rate of 12.0% per annum.

5. That the Beasley Defendants liable for the aforesaid debt on the Mortgage shall, on or before the date of sale of the property hereinafter described, pay to the Plaintiffs, or Plaintiffs’ attorneys the amount of Plaintiffs’ debt as aforesaid, together with the costs and disbursements of this action.

6. That on default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint, as hereinafter set forth, be sold by the undersigned Master in Equity at public auction, at Charleston County and State aforesaid, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on day following such holiday), on the following terms, that is to say:

A. FOR CASH: The Master-in-Equity will require a deposit of 5% on the amount of the bid (in cash or equivalent) at time of bid, same to be applied on the purchase price only upon compliance with the bid, but in the case of non-compliance within thirty (30) days, same to be forfeited and applied to the costs and Plaintiff’s debt.

B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 12.00% per annum per the Note.

C. The sale shall be subject to real property taxes and assessments, existing

easements and restrictions of record.

D. The purchaser is to pay for deed stamps and costs of recording the deed.

7. A personal or deficiency judgment having been waived, bidding shall not remain open for thirty (30) days after the date of sale, and shall be final upon that date.

8. Should the Plaintiffs or Plaintiffs' agent fail to appear at the time of the sale, the within property shall be withdrawn from sale and sold at the next available sales day upon the terms and conditions as set forth in this Judgment of Foreclosure and Sale.

7. If Plaintiffs are the successful bidder at the said sale, for a sum not exceeding the amount of costs, expenses and the indebtedness of Plaintiff in full, Plaintiff may pay to the undersigned Master in Equity only the amount of the costs and expenses crediting the balance of the bid on Plaintiffs' indebtedness.

8. That the undersigned Master in Equity will, by advertisement according to law, give notice of the time and place of sale and the terms thereof, and will execute to the Purchaser, or Purchasers, a deed to the premises sold. The Plaintiffs, or any other party to this action, may become a purchaser at such sale, and that if upon such sale being made, the Purchaser, or Purchasers, should fail to comply with the terms thereof within thirty (30) days after date of sale, then the undersigned Master in Equity may advertise the said premises for sale on the next, or some other subsequent sales day, at the risk of the highest bidder and so from time to time thereafter until a full compliance shall be secured.

9. That the undersigned Master in Equity will apply the proceeds of the sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this action,

NEXT: To the payment to the Plaintiffs or Plaintiffs' attorney, of the amount of Plaintiff's debt and interest or so much thereof as the purchase money will pay on the same;

NEXT: Any surplus will be held pending further Order of this Court.

10. IT IS FURTHER ORDERED that in the event the successful bidder to whom the deed of conveyance has been issued subsequent to the sale is other than the Defendants holding record title and in possession herein, the Sheriff of Charleston County is hereby ordered and directed to eject and remove from the premises the named Defendants holding record title to the property sold, together with all personal property located thereon, and put the successful bidder to whom the deed of conveyance has been issued or his assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession.

11. IT IS FURTHER ORDERED that in the event the successful bidder to whom the deed of conveyance has been issued subsequent to the sale is other than the Defendants holding record title and in possession herein, and the property remains occupied by a person or persons holding or claiming to hold the property under lease from the record title holders, or who otherwise may have rights or protections under Federal or State statutes protecting such lessees, the Sheriff of Charleston County shall only be ordered and directed to eject and remove from the premises those occupants under the terms stated above, after a hearing as directed by this court and under such order or writ as may be issued by this court as deemed equitable under the circumstances.

12. And it is further ORDERED, ADJUDGED AND DECREED that the Beasley Defendants named herein and all other Defendants named herein, and all persons

whosoever claiming under them or it, be forever barred and foreclosed of all right, title, interest, and equity of redemption in the said mortgaged premises so sold, or any part thereof.

13. IT IS FURTHER ORDERED that, pursuant to S.C. Code Ann. § 30-9-31 (Supp. 1987), the deed of conveyance made pursuant to said sale shall contain the names of only the first-named Plaintiff and the first-named Defendant, and the Defendant who was the titleholder of the mortgaged property at the time of the filing of the notice of pendency of the within action, and the name of the grantee. Said deed of conveyance shall be indexed in the grantor index by the Charleston County Register of Deeds in the name of the owner of record of subject property immediately prior to execution of the deed, as well as in the name of the undersigned Master in Equity who executes such deed as grantor.

14. The undersigned Master in Equity will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance, any issues concerning the appraisal statutes, and disposing of any surplus funds pursuant to Rule 71(c), SCRPC.

15. This case was referred to a Master-in-Equity for Charleston County to direct entry of final judgment in this action under Rule 53, SCRPC. Any appeal from the final judgment entered by the Master-in-Equity shall be directly to the South Carolina Court of Appeals.

16. The following is a description of the premises herein ordered to be sold:

ALL that certain piece, parcel, or lot of land, lying and being on James Island, in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as New Lot 4, measuring and containing 5.139 acres on a plat entitled "RESUBDIVISION LOTS 4, 4A, & 6 INTO NEW LOT 4 & NEW LOT 6, TMS NUMBER 427-00-00-066, 102, AND 109, SEASIDE PLANTATION" by Absolute Surveying, Inc., dated January 15, 2003, revised February 13, 2003 and recorded February 28, 2003 in the ROD Office for Charleston County in Plat Book DD at Page 586.

Said lot having such, size shape, dimensions, and boundaries as will be reference to said plat more fully appear, together with that certain fifty (50') foot ingress/egress easement

for access to the lot conveyed herein, said easement being shown on the aforementioned plat recorded in Plat book DD at page 586.

ALL of my right, title and interest in and to the marsh located along new Lot 4 conveyed herein and abutting Seaside Creek as shown on the aforesaid Plat; Subject to any and all rights reserved to the State of South Carolina to that marsh lying between the low water mark and the high water mark of Seaside Creek and the areas referred to as "marshland" and further subject to the authority of the South Carolina Coastal Council, now known as the Office of the Ocean and Coastal Resource Management, in "critical areas" as defined in §49-39-10 et seq., 1976 S.C. Code of Laws, as amended and Rules and Regulations promulgated pursuant thereto.

BEING the same property conveyed to John W. Beasley and Lillian J. Beasley by deed of Dr. A. Bert Pruitt, Jr., dated November 10, 2003 and recorded in the ROD Office for Charleston County in Book H475 at page 025. Thereafter John W. Beasley and Lillian J. Beasley conveyed the property to John W. Beasley and Lillian J. Beasley, Trustees, or their successors in trust, under the Beasley Living Trust, dated August 14, 2018, by quit claim deed recorded August 29, 2018 in Book 0743 at Page 826.

Tax Map #427-00-00-102

Property Address: 1050 Sea Eagle Watch, Charleston, SC 29412

[Electronic Signature of the Master in Equity to follow.]



Charleston Common Pleas

Case Caption: Richard Young , plaintiff, et al VS John W Beasley , defendant, et al

Case Number: 2022CP1003510

Type: Master/Order/Foreclosure & Sale and Form 4

So Ordered

s/Mikell R. Scarborough 3062