

COMMISSION AGENDA:

5.8.12 #14

TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: James L. Bennett, County Attorney 

SUBJECT: Notice of New LawsUIT and Defense of the Same by the County Attorney
in the Case of Global Discoveries LTD., LLC v. Stacy M. Thompson,
Trustee of Trust No. 118 U/T/D 08/07/2002; Julie Stafford, Trustee of the
Julie Stafford Revocable Trust U/T/D 03/07/1997; Julie Stafford, Trustee
of the Harry B. Stafford Revocable Trust U/T/D 03/07/1997; Pinellas
County Clerk of Court; and Pinellas County
Circuit Civil Case No. 12-004416-CI-019

DISTRIBUTION: Ken Burke, Clerk of the Circuit Court

DATE: May 8, 2012

NOTICE: THIS IS TO ADVISE THE BOARD OF COUNTY COMMISSIONERS THAT THE
ABOVE-REFERENCED LAWSUIT WAS FILED AGAINST THE COUNTY AND THE
COUNTY ATTORNEY'S OFFICE WILL DEFEND THE SAME.

DISCUSSION: This is a civil action seeking to compel the distribution to the plaintiff of surplus
proceeds resulting from a tax deed sale conducted by the Clerk on March 23, 2011.

A copy of the Complaint (without attachments) is attached hereto.

JLB:JAP

Attachment

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GLOBAL DISCOVERIES LTD. LLC

Plaintiff,

vs.

STACY M. THOMPSON, TRUSTEE OF TRUST NO. 188 U/T/D/ 08/07/2002; JULIE STAFFORD, TRUSTEE OF THE JULIE STAFFORD REVOCABLE TRUST U/T/D 03/07/1997; JULIE STAFFORD, TRUSTEE OF THE HARRY B. STAFFORD REVOCABLE TRUST U/T/D 03/07/1997; PINELLAS COUNTY CLERK OF COURT; AND PINELLAS COUNTY

Defendants. /

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT IN AND FOR PINELLAS COUNTY, FLORIDA

CIVIL DIVISION

Case No: 12 - 4416 CI-19

COMPLAINT TO QUIET TITLE TO EXCESS PROCEEDS

The plaintiff sues the defendants and alleges:

JURISDICTION, PARTIES AND VENUE

1. This is an action to determine priorities to excess proceeds arising from the sale of real property, within the jurisdiction of the Circuit Court under § 26.012(2), Fla. Stat.
2. The plaintiff is a foreign company, duly authorized to conduct business in Florida.
3. Defendant Stacy M. Thompson, Trustee of Trust No. 188 u/t/d/ 08/07/2002 is a Florida resident.
4. Defendant Julie Stafford, Trustee of the Julie Stafford Revocable Trust u/t/d 03/07/1997 is a Florida resident.
5. Defendant Julie Stafford, Trustee of the Harry B. Stafford Revocable Trust u/t/d 03/07/1997 is a Florida resident
6. Defendant Pinellas County Clerk of Court ("Clerk") is a state constitutional officer.
7. Defendant Pinellas County ("County") is a subdivision of the state of Florida.
8. Venue is proper because the causes of action accrued in Pinellas County and because the excess proceeds at issue are located in Pinellas County.

STATEMENT OF FACTS

9. The plaintiff seeks clear title to the excess proceeds arising from the sale of real

property legally described as follows:

Lot 1, Block 4, Revised Map of Central Park, according to the map or plat thereof as recorded in Plat Book 1, Page 39, Public Records of Pinellas County, Florida.

that was sold in a tax deed sale under tax deed file no. 02364 on March 23, 2011 ("Property"). The excess proceeds were generated from the sale of the Property. The excess proceeds are currently held by the Clerk or the County.

10. The plaintiff is the assignee of the excess proceeds from JPMorgan Chase Bank, N.A. f/k/a Bank One, N.A., who is the lienholder with highest priority on the Property before it was sold. The mortgage, the plaintiff's assignment documents and statements of claim were submitted to the Clerk for reimbursement of the excess proceeds by the Clerk. A copy of the submission is attached as Exhibit A. The original submission remains with the Clerk.

11. The tax collector's title report generated pursuant to § 197.502(5)(a), Fla. Stat., attached as Exhibit B ("Title Report"), indicates the defendants may claim some interest in the excess proceeds. However, except as set forth below, each such claim is inferior to the plaintiff's claim.

A. Defendant Stacy M. Thompson, Trustee of Trust No. 188 u/t/d/ 08/07/2002 may claim some interest in the excess proceeds as former owner of the Property. However, such interest is inferior to that of the plaintiff because valid recorded lienholders of the Property are entitled to the excess proceeds up to the amount of their indebtedness, before the former owner is entitled to receive any amount, and the amount of excess proceeds claimed by the plaintiff exceeds the amount available for distribution.

B. Defendant Julie Stafford, Trustee of the Julie Stafford Revocable Trust u/t/d 03/07/1997 may claim some interest in the excess proceeds as former mortgagee of the Property of a mortgage recorded at O.R. Book 12157, Page 1555. However, such interest is inferior to the plaintiff's interest because this mortgage has been satisfied or its lien invalidated by operation of law.

C. Defendant Julie Stafford, Trustee of the Harry B. Stafford Revocable Trust u/t/d 03/07/1997 may claim some interest in the excess proceeds as former mortgagee of the Property of a mortgage recorded at O.R. Book 12157, Page 1560. However, such interest is inferior to the plaintiff's interest because this mortgage has been satisfied or its lien invalidated by operation of law.

D. Either the Clerk or the County holds the excess proceeds. No cause of action is asserted against the Clerk or the County. The Clerk or the County has refused to release the excess proceeds to the plaintiff. The Clerk or the County deems the plaintiff's evidence of entitlement and priority to the excess proceeds to be insufficient. If the excess proceeds are deemed "unclaimed" by Clerk or the County, the excess proceeds will eventually escheat to Pinellas County.

12. This complaint, and this action, is a "claim" for the purpose of tolling the time limitation set forth in § 197.473, Fla. Stat. (2010).

13. All conditions precedent to the initiation of this action have been performed or waived.

COUNT ONE – QUIET TITLE

14. The plaintiff readopts and realleges its allegations in paragraphs 1 through 13 inclusive, as though fully set forth herein.

15. The claims and potential claims of the defendants cloud the plaintiff's title to the excess proceeds. The interest of each defendant is inferior to that of the plaintiff as a matter of law, since the plaintiff is entitled to disbursement of the excess proceeds up to the amount of its claim, which claim exceeds the amount of the excess proceeds.

WHEREFORE, the plaintiff demands judgment against the defendants removing the clouds from its title to the excess proceeds and quieting title to the excess proceeds in the plaintiff.

COUNT TWO – STATUTORY CLAIM TO THE EXCESS PROCEEDS

16. The plaintiff readopts and realleges its allegations in paragraphs 1 through 13 inclusive, as though fully set forth herein.

17. As assignee of the lienholder with the highest priority to the excess proceeds, the plaintiff has the right at law under Chapter 197, Florida Statutes, to the excess proceeds. Such interest is superior to the claim of any defendant.

WHEREFORE, the plaintiff demands judgment against the defendants and an order of distribution of the excess proceeds in favor of the plaintiff.

COUNT THREE – DEMAND FOR DECLARATORY RELIEF

18. The plaintiff readopts and realleges its allegations in paragraphs 1 through 13 inclusive, as though fully set forth herein.

19. This is an action at law for declaratory relief under Chapter 86, Florida Statutes ("declaration"). Presently a controversy exists as to the proper entitlement to the excess proceeds. The Clerk or the County refuses to release the excess proceeds despite the plaintiff's claims to the Clerk. The former owner may claim some right to the excess proceeds. There is a bona fide, actual, present practical need for the declaration in order to determine entitlement. Such declaration will deal with a present, ascertained or ascertainable state of facts or present controversy as to a state of facts, which is the entitlement to the excess proceeds as set forth in recorded documents and as applied by Chapter 197, Florida Statutes. The right of the plaintiff is dependent upon the facts and the law applicable to the facts, since its entitlement must be determined vis à vis the defendant parties in order to receive the excess proceeds. The defendants have an actual, present, adverse and antagonistic interest in the subject matter, in that they may claim some interest in the excess proceeds to the detriment of the plaintiff, and without the declaration, Pinellas County can eventually claim ownership of the excess proceeds by escheatment. All antagonistic and adverse interests are all or will be before the court by proper process in that all parties named on the Title Report who have a recorded lienhold interest are impleaded here. The relief sought is not merely the giving of legal advice or the answer to questions propounded from curiosity, but is an order directing the Clerk or the County to implead the excess proceeds into the Court Registry or disburse them to the plaintiff.

WHEREFORE, the plaintiff requests a declaration from the court awarding the excess proceeds to the plaintiff, and enjoining the defendants from asserting any right, title or interest in the excess proceeds, and such other relief as the Court deems just and proper.



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