

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT,
IN AND FOR BREVARD COUNTY, FLORIDA**

**Case No.: 05-2017-DR-054881
Division: FAMILY**

In Re the Former Marriage of:

**PAIGE LOCKE,
Petitioner,**

and

**MICHAEL BASS LOCKE,
Respondent.**

**ORDER ON PETITIONER/FORMER WIFE'S RENEWED EMERGENCY MOTION
FOR CONTEMPT AND ENFORCEMENT
TO COMPEL SALE OF REAL PROPERTY**

THIS CAUSE came to be heard on April 22, 2022 and continued on May 25, 2022, on the Petitioner/Former Wife's Renewed Emergency Motion for Contempt and Enforcement. The hearing was conducted via Microsoft Teams. Present at the hearing were the Petitioner/Former Wife, represented by Deborah M. Smith, Esquire, and the Respondent/Former Husband, represented by Leslie Ferderigos, Esquire. After hearing testimony, reviewing the court file and being otherwise fully advised in the premises, the Court makes the following finding of fact:

1. The Supplemental Partial Final Judgment entered on 7/23/20, (**Doc. No. 145**), ratified a Marital Settlement Agreement (**Doc. No. 140**). Per that Judgment, Respondent is granted exclusive use, possession and ownership of real property known as 127 Del Valle Street, Melbourne Beach, Florida 32951, with the following legal description:

***Lot 1, Block SA, Floridana Beach First Addition,
according to the map or plat thereof, as recorded in Plat Book 10, Page(s) 42,
of the Public Records of Brevard County, Florida.***

2. Former Husband is required to maintain the monthly mortgage payments and indemnify and hold Former Wife harmless from the mortgage creditor's collection attempts.

3. Former Husband is required to pay an equalizing payment of \$50,500 in 63 monthly installments of \$800.

4. There is a pending foreclosure case (Case No. 05-2020-CA-047073) involving this property brought by Planet Home Lending. The loan is guaranteed by the VA. The Plaintiff's Motion for Summary Judgment is scheduled to be heard in that case on June 13, 2022.

5. An Affidavit of Indebtedness filed in the foreclosure case shows an outstanding balance of \$299,946.52. The market value of the property exceeds that amount.

6. Former Husband defaulted on the Planet Home Lending mortgage loan on or about 10/01/2019.

7. Former Husband submitted a loss mitigation package and qualified for a loan modification. Former Husband declined the loan modification offered.

8. The Delvalle property is in the final stages of foreclosure. If the property is sold at a foreclosure auction, the Former Wife's security for her equalizing payment will be lost.

9. Former Husband claimed he has not exhausted all avenues for loan modification, particularly with with the VA. Former Husband was given additional time by the court between the first and second hearing in which to provide some documentation that a VA loan modification was pending. He was unable to do so and only presented a non-specific screenshot indicating the VA had been notified of a request for modification..

10. On 12/2/2019, the VA was notified by Planet Home Lending that Former Husband had defaulted on the loan. This purpose of the notification is to provide the VA the opportunity to intervene. To date, Former Husband failed to show there was any modification offer pending and there is no evidence the VA intends to do so.

IT IS, therefore, ORDERED AND ADJUDGED:

A. The request to hold Respondent in contempt is ***DENIED***.

B. The request for enforcement is ***GRANTED***.

C. The property located at 127 Delvalle Street, Melbourne Beach, Florida, shall immediately be listed for sale with a licensed real estate agent which is agreeable to the parties. If the parties are unable to agree, the parties shall submit two names and the Court will select the listing realtor.

D. The parties are directed to communicate with each other on the transaction via OurFamilyWizard.

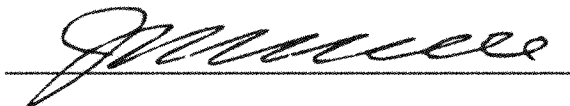
E. The parties are directed to cooperate in the sale. Should it be necessary to communicate via telephone, William Locke, Former Husband's Father, will participate on the call on behalf of Former Husband.

F. The parties are directed to present to each other documentation regarding their position on the equalizing payments which have been made to date and present their position on the remaining balance of the equalizing payment due Former Wife. Funds paid through the state disbursement unit are specifically categorized as child support and are not to be included in the equalizing payment calculation.

G. If the parties agree to the balance due, the Former Wife shall be paid directly from the closing proceeds after closing costs are satisfied. If the parties disagree on the balance of the equalizing payment, the closing proceeds shall be held in escrow until the Court can make a determination as to the correct amount.

DONE AND ORDERED in Sanford Florida, Seminole County on Monday, June 13, 2022.

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Jessica Recksiedler, Circuit Judge
05-2017-DR-054881 06/13/2022 12:42:06 PM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies have been furnished by U.S. Mail or via filing with the Florida Courts E-Filing Portal on Monday, June 13, 2022.

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