

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

BANKUNITED,

Plaintiff,

Case No. 10 47465

v.

SANDRA RUBIO A/K/A SANDRA M. RUBIO, *et. al.*

Defendant,

_____ /

EMERGENCY MOTION TO VACATE *EX PARTE*
FINAL JUDGMENT OF FORECLOSURE

Defendant, SANDRA RUBIO A/K/A SANDRA M. RUBIO, by and through his undersigned counsel, moves this Court for an Order vacating the Final Judgment entered by this Court *ex parte* and without hearing on July 27, 2011, and would show:

1. On July 27, 2011, this Court entered a Final Judgment of Foreclosure, *ex parte* and without hearing. On August 8, 2011, the undersigned received the Final Judgment via mail.

2. The Final Judgment reflects it was entered “on Plaintiff’s Motion for Summary Final Judgment on July 27, 2011.” However, there was no hearing on July 27, 2011 (on Plaintiff’s Motion for Summary Judgment or otherwise). The docket reflects no Notice of Hearing, and Plaintiff never coordinated such a hearing with the undersigned.

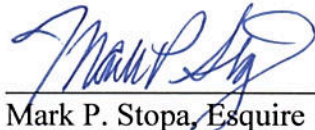
3. Clearly, the Final Judgment of Foreclosure cannot stand where it was entered *ex parte* and without notice. After all, if Defendant had been afforded the requisite notice, he would have defended the hearing and presented an affidavit reflecting factual issues that preclude summary judgment.

4. In light of the foregoing, this Court should vacate its July 27, 2011 Final Judgment of Foreclosure.

WHEREFORE Defendants respectfully request that this Court vacate its Final Judgment of Foreclosure entered on July 27, 2011.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail to Brian Robert Alvarez, Esq., Albertelli Law, P.O. Box 23028, Tampa, FL 33623 on this 8th day of August, 2011.



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