

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

COPY

WELLS FARGO BANK, N.A., AS TRUSTEE FOR
THE MLMI TRUST, SERIES 2006-WMCI,

Plaintiff,

Case No. 09-000145-CI-008

vs.

DANIEL CONAWAY, ET AL..

Defendants.

**ORDER GRANTING DANIEL AND PAMELA CONAWAY'S
EMERGENCY MOTION TO SET-ASIDE FINAL JUDGMENT**

THIS CAUSE having come before the Court on the Defendants', Daniel and Pamela Conaway (the "Conaways"), Emergency Motion to Set-Aside Final Judgment (the "Motion"), and the Court having reviewed the court file, pleadings and affidavits, having heard argument from counsel for the Plaintiff and the Conaways, at hearing on December 28, 2009, and being otherwise fully advised in the premises, it is therefore,

ORDERED and ADJUDGED as follows:

1. The Court file and affidavit filed on behalf of the Conaways establish that the Plaintiff did not file a Notice of Hearing with the Court and that the Conaways' were never notified of the Summary Judgment hearing held on November 18, 2009.
2. The Conaways have an inalienable Due Process right to notice of the Final Summary Judgment hearing. *See State Farm Fire and Casualty Co. v. Lezcano*, 34 Fla. L. Wkly D2105a (Fla. 3d DCA Oct. 14, 2009), *citing Greene v. Seigle*, 745 So. 2d 411 (Fla. 4th DCA 1999).

3. Pursuant to Rule 1.540, Fla. R. Civ. Pro., the Court has the authority to set aside a Final Judgment for mistake, excusable neglect, or where equity otherwise demands.

4. As such, the Conaways' Motion is granted, the Uniform Final Judgment of Foreclosure entered in this matter on November 18, 2009 is hereby set-aside, and the Clerk of Court is hereby directed to cancel the judicial sale of the Conaways' home set for January 12, 2009.

DONE AND ORDERED in Chambers, at Pinellas County, Florida, this _____ day of _____, 20____.

HONORABLE DAVID A. DEMERS
CIRCUIT COURT JUDGE

Copies Mailed to:
Brian Willis, Esq., Attorney for the Conaways
Michael Wild, Esq., Attorney for the Plaintiff

ACTIVE: 2837262_1

ORIGINAL SIGNED
TRUE COPY

JAN 11 2010

DAVID A. DEMERS
Circuit Judge