

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

The Bank of New York Mellon as Trustee
for CWABS, Inc. Asset-Backed
Certificates, Series 2005-11

Plaintiff

vs.

Michael T. Kelley and Diane E. Kelley

Defendants

Ford Motor Credit Company LLC
Internal Revenue Service

Parties-In-Interest

Case No. 2:22-cv-00007-LEW

JUDGMENT OF FORECLOSURE AND SALE

(380 Wottons Mill Road, Warren, ME; Book: 3462, Page 168)

This matter came before the Court for a testimonial hearing on Plaintiff's Motion for Default Judgment on November 1, 2022. Plaintiff, The Bank of New York Mellon as Trustee for CWABS, Inc. Asset-Backed Certificates, Series 2005-11, was present and represented by Reneau J. Longoria, Esq.; Defendant, Michael T. Kelley appeared by telephone; Defendant, Diane E. Kelley did not appear; Party-In-Interest, Ford Motor Credit Company LLC did not appear; Party-In-Interest, Internal Revenue Service appeared through counsel, John G. Osborn, Esq.

All persons interested having been duly notified in accordance with the law, and after hearing and with the consent of Defendant, Michael T. Kelley, the Plaintiff's Motion

for Default Judgment is GRANTED.

JUDGMENT on Count I - Foreclosure is hereby **ENTERED** as follows:

1. If the Defendants or their heirs or assigns pay The Bank of New York Mellon as Trustee for CWABS, Inc. Asset-Backed Certificates, Series 2005-11 (“BNYM”) the amount adjudged due and owing (\$319,883.26) within 90 days of the date of the Judgment, as that time period is calculated in accordance with 14 M.R.S. § 6322, BNYM shall forthwith discharge the Mortgage and file a dismissal of this action on the ECF Docket. The following is a breakdown of the amount due and owing:

<u>Description</u>	<u>Amount</u>
Principal Balance	\$273,350.30
Interest	\$26,594.95
Escrow Advance	\$13,672.47
Total Advances	\$6,108.26
Late Charges	\$111.87
Interest on Advances	\$45.41
Grand Total	\$319,883.26

2. If the Defendants or their heirs or assigns do not pay BNYM the amount adjudged due and owing (\$319,883.26) within 90 days of the judgment, as that time period is calculated in accordance with 14 M.R.S. § 6322, their remaining rights to possession of the Warren Property shall terminate, and BNYM shall conduct a public sale of the Warren Property in accordance with 14 M.R.S. § 6323, disbursing the proceeds first to itself in the amount of \$319,883.26 after deducting the expenses of the sale, with any surplus to be disbursed pursuant to Paragraph 5 of this Judgment, and in accordance with 14 M.R.S. § 6324.

BNYM **may not** seek a deficiency judgment against the Defendants pursuant to the Plaintiff's waiver of deficiency at trial.

3. In the event that the Defendant, and anyone occupying the premises, do not vacate the property upon termination of his/her right to possession, BNYM may reopen this matter to seek a Writ of Assistance and/or Writ of Possession to be served by the U.S. Marshals Service pursuant to Federal Rule of Civil Procedure 4.1(a) consistent with this Judgment.
4. Pursuant to 14 M.R.S. § 2401(3)(F), the Clerk, if requested, shall sign a certification after the appeal period has expired, certifying that the applicable period has expired without action or that the final judgment has been entered following appeal.
- 5 The amount due and owing is \$319,883.26.
- 6 The priority of interests is as follows:
 - The Bank of New York Mellon as Trustee for CWABS, Inc. Asset-Backed Certificates, Series 2005-11 has first priority, in the amount of \$319,883.26, pursuant to the subject Note and Mortgage.
 - Internal Revenue Service has the second priority behind the Plaintiff pursuant to a Writ of Tax Lien dated October 26, 2010, in the amount of \$4,145.38, and recorded in the Knox County Registry of Deeds in Book 4305, Page 85.
 - Ford Motor Credit Company LLC has the third priority behind the Plaintiff pursuant to a Writ of Execution dated October 14, 2010, in the

amount of \$8,091.05, and recorded in the Knox County Registry of Deeds in Book 4333, Page 31.

● Michael T. Kelley and Diane E. Kelley have the fourth priority behind the Plaintiff.

9. The prejudgment interest rate is 3.50000%, *see* 14 M.R.S. § 1602-B, and the post-judgment interest rate is .15%, *see* 28 U.S.C. § 1961.

10 The following information is included in this Judgment pursuant to 14 M.R.S. § 2401(3):

	PARTIES	COUNSEL
PLAINTIFF	The Bank of New York Mellon as Trustee for CWABS, Inc. Asset-Backed Certificates, Series 2005-11 240 Greenwich Street New York, NY 10286	Reneau J. Longoria, Esq. Doonan, Graves & Longoria, LLC 100 Cummings Center Suite 303C Beverly, MA 01915
DEFENDANTS	Michael T. Kelley Diane E. Kelley 2894 Atlantic Hwy Warren, ME 04864	Pro Se
PARTIES-IN-INTEREST	Ford Motor Credit Company, LLC c/o CT Corporation System 128 State Street, #3 Augusta, ME 04330	Pro Se
	Internal Revenue Service c/o US Attorney General 10 Middle Street East Tower, 6th Floor Portland, ME 04101	John G. Osborn, Esq. US Attorney General 100 Middle Street East Tower, 6th Floor Portland, ME 04101

a) The docket number of this case is No. 2:22-cv-00007-LEW.

b) All parties to these proceedings received notice of the proceedings in

accordance with the applicable provisions of the Federal Rules of Civil Procedure.

- c) A description of the real estate involved, 380 Wottons Mill Road, Warren, ME 04864, is set forth in Exhibit A to the Judgment herein.
- d) The street address of the real estate involved is 380 Wottons Mill Road, Warren, ME 04864. The Mortgage was executed by the Defendants, Diane E. Kelley and Michael T. Kelley on July 15, 2005. The book and page number of the Mortgage in the Knox County Registry of Deeds is Book 3462, Page 168.
- e) This judgment shall not create any personal liability on the part of the Defendants but shall act solely as an in rem judgment against the property, 380 Wottons Mill Road, Warren, ME 04864.

SO ORDERED.

Dated this 21st day of November, 2022.

/s/ Lance E. Walker
UNITED STATES DISTRICT JUDGE