



**USFN CASE Files: A Virtual Workshop Series
Title Series**

Module 4: Protecting Interest: Interpleader & Surplus Issues

Scheduled for April 6, 2023 | Session: 1-1:30 p.m. CT

This session will review the post-sale disbursement of funds after a foreclosure sale results in surplus. It will focus on paying off all allowable costs of the sale and then satisfying the lien of the foreclosing lienholder, identifying any junior lienholders and their priority for payoff, locating and obtaining appropriate documentation, and finally locating the borrowers to forward any remaining proceeds. If funds cannot be disbursed to the proper party, then filing an interpleader with the court.

Following are sample topics to be covered in this session:

- Allowable costs of sale: What expenses of sale are approved costs to be deducted from the proceeds and approved at the audit?
 - Attorney fees
 - Recoverable vs. non-recoverable costs of sale
 - Trustee's fees
 - Proration of taxes, HOA/condo, other approved county/state liens
- Paying off the foreclosure lienholder: Determining foreclosing lien's full payoff vs. allowable expenses to be recouped
 - Calculating interest from bid to settlement
 - Obtaining client documentation, such as corporate advances, escrow advances, and chain of title
 - Recoverable vs. non-recoverable costs
- Tracking down lienholders
 - Reviewing title
 - Tracking down transfer of ownership of junior liens
 - Confirming judgments, lienholder representation, and balance of payoff
 - Following up on title clearance of release of liens
- Senior or junior liens
 - Standard senior lien sales follow first in time, first in right
 - Junior lien sales may/may not pay off the senior with the proceeds
 - Difference between deeds of trust vs. senior liens, such as IRS, HOA/condo liens, or tax sale
 - Is there a process for lienholders to submit claim for approval from court vs. trustee determining on own review?
- First in time, first in right distributions: Review of dates and recording sequences is crucial
 - Identifying recording dates and liber/folio, book/page, instruction number in recording of liens
 - Tracking down correct lienholder's contact information
 - Obtain tax documentation, incorporation documentation, and confirmation of good standing
 - Assignments, transfer of note, and potentially original note
 - Payoff through date of sale
 - Recoverable vs. non-recoverable costs



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- How to submit funds into the court registry: When and how to submit into court registry?
 - Judicial vs. non-judicial
 - Cannot locate the lienholder or borrower
 - If borrower is deceased and estate is no longer being represented
 - Borrowers do not agree on how to collectively split proceeds
 - Complying with court requirement to evidence due diligence to locate parties
 - Filing interpleaders, which provide how surplus should be distributed based upon title review and/or court audit and issues that arise which complicate compliance
 - Attending hearings
 - Requesting fees for time expended from proceeds