

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF KLAMATH

WELLS FARGO BANK, NATIONAL ASSOCIATION, SUCCESSOR BY MERGER TO WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION, F/K/A NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION, SOLELY IN ITS CAPACITY AS TRUSTEE FOR PROVIDENT BANK HOME EQUITY LOAN ASSET-BACKED CERTIFICATES, SERIES 1999-3,

Plaintiff,

v.

THE UNKNOWN HEIRS AND DEVISEES OF DONALD J. BLACK AKA DONALD JOSEPH BLACK; JENNIFER S. BLACK; DANIELLA ARIANNA BLACK; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV18003

WRIT OF EXECUTION IN FORECLOSURE

TO THE KLAMATH COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on April 14, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

WELLS FARGO BANK, NATIONAL ASSOCIATION, SUCCESSOR BY MERGER TO WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION, F/K/A NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION, SOLELY IN ITS CAPACITY AS TRUSTEE FOR PROVIDENT BANK HOME EQUITY LOAN ASSET-BACKED CERTIFICATES, SERIES 1999-3

c/o Jeremy Clifford
Attorney for Plaintiff

McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

1 With the adjudicated amount due of \$66,238.89, plus post judgment interest at the statutory rate
2 of 9.0% per annum from April 14, 2017 to May 17, 2017 in the amount of \$538.98, and
3 continuing with a per diem of \$16.33, currently totaling \$66,777.87.

4 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
5 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
6 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
7 about June 24, 1999, the date of the Deed of Trust, and also the interest that the Defendant had
8 thereafter, in the real property described in the attached Exhibit 1, APN/Parcel #: R515311
9 and commonly known as: 1995 Gettle St, Klamath Falls, OR 97603.

10 Sale of the property is to satisfy the sum listed above, plus the costs incurred in
11 performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under
12 the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.
13 You are to make the return within 60 days after you receive this Writ. Should the sale be
14 continued, the writ may be automatically extended for 30 days.

15
16
17 *June 6, 2017*



18
19 Dated: May 15, 2017 and submitted by:

20 **McCarthy & Holthus, LLP**

21 s/ Jeremy Clifford

22 Jeremy Clifford OSB No. 142987

23 920 SW 3rd Ave, 1st Floor

24 Portland, OR 97204

25 Phone: (971) 201-3200

26 Fax: (971) 201-3202

27 jclifford@mccarthyholthus.com

28 Of Attorneys for Plaintiff

EXHIBIT "1"

The Easterly 87 feet of Lot 82 of PLEASANT HOME TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF KLAMATH

WELLS FARGO BANK, NATIONAL
ASSOCIATION, SUCCESSOR BY MERGER
TO WELLS FARGO BANK MINNESOTA,
NATIONAL ASSOCIATION, F/K/A
NORWEST BANK MINNESOTA,
NATIONAL ASSOCIATION, SOLELY IN
ITS CAPACITY AS TRUSTEE FOR
PROVIDENT BANK HOME EQUITY LOAN
ASSET-BACKED CERTIFICATES, SERIES
1999-3,

Plaintiff,

v.

THE UNKNOWN HEIRS AND DEVISEES
OF DONALD J. BLACK AKA DONALD
JOSEPH BLACK; JENNIFER S. BLACK;
DANIELLA ARIANNA BLACK;
OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV18003

GENERAL JUDGMENT OF
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion.

All defendants ("Defaulted Defendants") were duly served with process and failed to appear; the default has been entered against Defaulted Defendants, and it appearing that Defaulted Defendants are not incapacitated, protected persons, respondents as defined in ORS 125.005, minors, or in the military service of the United States;

2.

IT IS HEREBY ADJUDGED that Plaintiff shall have judgment as follows:

1 a. The real property to which this judgment relates is located and situated in Klamath County,
2 Oregon, and is commonly known as 1995 Gettle St, Klamath Falls, OR 97603 (the "Subject
3 Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No.
4 R515311.

5 b. Plaintiff is entitled to enforce the note dated 6/24/1999 and made, delivered, and executed by
6 DONALD J. BLACK and JENNIFER S. BLACK to CAPSTONE MTG CORP DBA LENDER
7 DIRECT in the amount of \$44,000.00 (the "Note"). The Note was transferred to Plaintiff by
8 delivery of possession and by indorsement set forth on the Note.

9 c. A deed of trust was made, executed, and delivered by Borrowers DONALD J. BLACK and
10 JENNIFER S. BLACK on or about 6/24/1999 (the "Deed of Trust"). The Deed of Trust was
11 recorded on 6/29/1999 as Vol. M99 Page 25894 in the official records of Klamath County,
12 Oregon. The Deed of Trust is a valid and perfected lien against all of the Property for and
13 securing the Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim
14 of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.

15 d. The Borrower failed to make the payment that was due for 1/29/2014 and has not cured the
16 default. The amount of debt secured by the Deed of Trust that is now due and owing is
17 comprised of the following amounts (the "Amount Due");

18	a) Unpaid principal balance:	\$34,276.38
19	b) Prejudgment interest accruing from	
20	12/29/2013 through 4/11/2017 and	
21	continuing until the entry of judgment	
	at the current Note rate of 9.5%:	\$10,691.21
22	c) Additional amounts due under the	\$16,057.96
23	terms of the loan:	
24	d) Attorney fees and costs:	\$5,128.34
25	e) Prevailing party fee (ORS 20.190	\$85.00
	(1)(b)):	
26	Total:	\$66,238.89

1 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the
2 date of entry of this judgment through the sale of the Subject Property at the rate of 9.00%
3 per annum.

4 e. The interest of the Defendants and any successor in interest in the Subject Property is
5 foreclosed and terminated excepting only any statutory right of redemption as provided by
6 Oregon law.

7 f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.

8 g. All right, title and interest in the Subject Property that Defendants THE UNKNOWN HEIRS
9 AND DEVISEES OF DONALD J. BLACK and JENNIFER S. BLACK had as of the date of
10 the Deed of Trust or thereafter acquired is hereby ordered to be sold by the Klamath County
11 Sheriff's Office in accordance with the process for sale upon execution, and the proceeds of
12 sale shall be applied:

13 1) First, to the costs of sale not incurred by Plaintiff;

14 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
15 entry of judgment through the date of the sale and any incurred costs of sale;

16 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
17 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
18 such party or parties as they may establish their right thereto.

19 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
20 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
21 the date of entry of judgment through the date of the sale and any incurred costs of sale.

22 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
23 Property from and after the date of the sale and is entitled to such remedies as are available at
24 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
25 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
26 possession to the purchaser immediately upon the purchaser's demand for possession.
27

- 1 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
2 entitled to any further or other judgment, including a judgment for the deficiency.
- 3 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
4 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
5 terminated.

6
7 Signed: 4/13/2017 03:05 PM

8
9 
10 **Circuit Court Judge Roxanne Osborne**

11
12 I hereby certify that the requirements of UTCR 5.100 have been satisfied.

13 This proposed General Judgment of Foreclosure is ready for judicial signature because:

14 Each opposing party affected by this order or judgment has stipulated to the order or
15 judgment, as shown by each opposing party's signature on the document being
submitted.

16 Each opposing party affected by this order or judgment has approved the order or
17 judgment, as shown by signature on the document being submitted or by written
confirmation of approval sent to me.

18 I have served a copy of this order or judgment on all parties entitled to service and:

19 No objection has been served on me.

20 I received objections that I could not resolve with the opposing party despite
reasonable efforts to do so. I have filed a copy of the objections I received and
indicated which objections remain unresolved.

21 After conferring about objections, _____ agreed to independently file
any remaining objection.

22 The relief sought is against an opposing party who has been found in default.

23 An order of default is being requested with this proposed judgment.

24 Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or
25 otherwise.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (4) of this rule.

Other: _____

Presented by:

McCarthy & Holthus, LLP

s/ Olga Groat 4/13/17

Jeremy Clifford, OSB No. 142987

Olga Groat, OSB No. 170174

920 SW 3rd Ave, 1st Floor

Portland, OR 97204

Phone: (971) 201-3200

Fax: (971) 201-3202

jclifford@mccarthyholthus.com

Of Attorneys for Plaintiff

EXHIBIT "1"

The Easterly 87 feet of Lot 82 of PLEASANT HOME TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.