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

U.S. BANK TRUST, N.A., AS TRUSTEE
FOR LSF9 MASTER PARTICIPATION
TRUST,

Plaintiff,

vs.

RAFAEL ORTEGA A.K.A. RAFAEL
ORTEGA-VARGAS; ALMA ORTEGA;
STATE OF OREGON; OCCUPANTS OF
THE PROPERTY,

Defendants.

Case No.: 15CV15892

WRIT OF EXECUTION IN
FORECLOSURE

TO THE KLAMATH COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on June 6, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF9 MASTER PARTICIPATION TRUST

c/o Bryan Kidder
Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

With the adjudicated amount due of \$117,038.42, plus post judgment interest at the statutory rate of 9.0% per annum from June 6, 2017 to July 5, 2017 in the amount of \$836.90, and continuing with a per diem of \$28.86, currently totaling \$117,875.32.

1 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
2 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
3 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
4 about October 29, 2007, the date of the Deed of Trust, and also the interest that the Defendant
5 had thereafter, in the real property described in the attached *Exhibit 1*, APN/Parcel #: R418284
6 and commonly known as: 307 Division Street, Klamath Falls, OR 97601.

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

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15 7/5/17

16 
17 John M. Powell, TCA
18 Amy Hamm, clerk

19 Dated: July 3, 2017 and submitted by:

20 **McCarthy & Holthus, LLP**

21 s/ Bryan Kidder

22 Bryan Kidder, OSB No. 140459
23 920 SW 3rd Ave, 1st Floor
24 Portland, OR 97204
25 Phone: (971) 201-3200
26 Fax: (971) 201-3202
27 **bkidder@mccarthyholthus.com**
28 Of Attorneys for Plaintiff

Exhibit 1

LOTS 25 AND 26 IN BLOCK 24 OF INDUSTRIAL ADDITION TO THE CITY OF KLAMATH FALLS, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

APN/Parcel: R418284

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

U.S. BANK TRUST, N.A., AS TRUSTEE
FOR LSF9 MASTER PARTICIPATION
TRUST,

Plaintiff,

vs.

RAFAEL ORTEGA A.K.A. RAFAEL
ORTEGA-VARGAS; ALMA ORTEGA;
STATE OF OREGON; OCCUPANTS OF
THE PROPERTY,

Defendants.

Case No.: 15CV15892

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:

- a. The real property to which this judgment relates is located and situated in Klamath County, Oregon, and is commonly known as 307 Division Street, Klamath Falls, OR 97601, APN/Parcel: R418284 (the "Subject Property"). The legal description of the Subject Property is attached hereto as *Exhibit 1*.

1 b. Plaintiff is entitled to enforce the note dated 10/17/2007 and made, delivered, and executed
2 by Rafael Ortega to Washington Mutual Bank, FA in the amount of \$105,000.00 (the
3 "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement
4 set forth on the Note.

5 c. A deed of trust was made, executed, and delivered by Defendants Rafael Ortega and Alma
6 Ortega on or about 10/19/2007 (the "Deed of Trust"). The Deed of Trust was recorded on
7 11/7/2007 as Instrument No. 2007-019083 in the official records of Klamath County,
8 Oregon. The Deed of Trust is a valid and perfected lien against all of the Property for and
9 securing the Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim
10 of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.

11 d. The Borrower failed to make the payment that was due for 3/1/2014 and has not cured the
12 default. The amount of debt secured by the Deed of Trust that is now due and owing is
13 comprised of the following amounts (the "Amount Due"):

14	a) Unpaid principal balance:	\$96,321.86
15	b) Prejudgment interest accruing from	\$9,678.23
16	2/1/2014 through 6/10/2017 and	
17	continuing until the entry of judgment	
	at the current Note rate of 2.00 %:	
18	c) Additional amounts due under the	\$4,517.80
19	terms of the loan:	
20	d) Attorney fees and costs:	\$6,435.53
21	e) Prevailing party fee (ORS 20.190	\$85.00
	(1)(b)):	
22	Total:	\$ 117,038.42

23
24 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the
25 date of entry of this judgment through the sale of the Subject Property at the rate of 9.00%
26 per annum.
27
28

- 1 e. The interest of the Defendants and any successor in interest in the Subject Property is
2 foreclosed and terminated excepting only any statutory right of redemption as provided by
3 Oregon law.
- 4 f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.
- 5 g. All right, title and interest in the Subject Property that Defendant(s) Alma Ortega, Rafael
6 Ortega had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be
7 sold by the Klamath County Sheriff's Office in accordance with the process for sale upon
8 execution, and the proceeds of sale shall be applied:
- 9 1) First, to the costs of sale not incurred by Plaintiff;
- 10 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
11 entry of judgment through the date of the sale and any incurred costs of sale;
- 12 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
13 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
14 such party or parties as they may establish their right thereto.
- 15 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
16 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
17 the date of entry of judgment through the date of the sale and any incurred costs of sale.
- 18 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
19 Property from and after the date of the sale and is entitled to such remedies as are available at
20 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
21 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
22 possession to the purchaser immediately upon the purchaser's demand for possession.
- 23 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
24 entitled to any further or other judgment, including a judgment for the deficiency.
- 25 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
26 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
27 terminated.
- 28

1 I. Pursuant to ORS 88.050, the apparent priority of liens subsequent and inferior to the Deed of
2 Trust are as follows:

- 3 1) STATE OF OREGON may claim an interest in Subject Property by virtue of a
4 Warrant and Writ of Execution recorded 05/07/2013 as Instrument No. 2013-004928
5 in the official records of Klamath County in the amount of \$354.60.
- 6 2) STATE OF OREGON may claim an interest in Subject Property by virtue of a
7 Warrant and Writ of Execution recorded 02/25/2014 as Instrument No. 2014-001590
8 in the official records of Klamath County in the amount of \$792.40.
- 9 3) STATE OF OREGON may claim an interest in Subject Property by virtue of a
10 judgment entered 05/13/2014 in the Circuit Court of Klamath County, Case No.
11 1401020CR, in the amount of \$670.00.
- 12 4) STATE OF OREGON may claim an interest in Subject Property by virtue of a
13 judgment entered on 09/25/2014 in the Circuit Court of Klamath County, Case No.
14 1401020CR, in the amount of \$125,000.00

Signed: 6/6/2017 02:46 PM



**Rodger J. Isaacson, Senior Pro Tem
Circuit Court Judge**

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

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

24 [] Each opposing party affected by this order or judgment has stipulated to the order or
25 judgment, as shown by each opposing party's signature on the document being
26 submitted.

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

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

5 [] No objection has been served on me.

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

9 [] After conferring about objections, _____ agreed to independently file
10 any remaining objection.

11 [x] The relief sought is against an opposing party who has been found in default.

12 [] An order of default is being requested with this proposed judgment.

13 [] Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or
14 otherwise.

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

18 [] Other: _____

19 Presented by:

20 **McCarthy & Holthus, LLP**

21 s/Olga Groat 6/5/17

22 _____
23 Olga Groat OSB No 170174
24 920 SW 3rd Ave, 1st Floor
25 Portland, OR 97204
26 Phone: (971) 201-3200
27 Fax: (971) 201-3202
28 ogroat@mccarthyholthus.com
Of Attorneys for Plaintiff

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LOTS 25 AND 26 IN BLOCK 24 OF INDUSTRIAL ADDITION TO THE CITY OF KLAMATH FALLS, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

APN/Parcel: R418284