

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

LANE COUNTY S.O. CIVIL
12.05.17
BJS/LL

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

MTGLQ INVESTORS, L.P.,

Case No. 16CV02215

Plaintiff,

WRIT OF EXECUTION

v.

MICHELLE S. DILWORTH aka MICHELLE
SUE DILWORTH; FRANK A. DILWORTH
aka FRANK ALLEN DILWORTH; STATE
OF OREGON, ACTING THROUGH THE
OREGON DEPARTMENT OF REVENUE;
NACM-OREGON SERVICE COMPANY;
EMPIRE RUBBER & SUPPLY CO.;
BELTSERVICE CORPORATION; and ALL
OTHER PERSONS OR PARTIES
UNKNOWN CLAIMING ANY RIGHT,
TITLE, LIEN, OR INTEREST IN THE REAL
PROPERTY COMMONLY KNOWN AS
87880 LA PORTE DR, EUGENE, OREGON
97402,

Defendant.

TO THE LANE COUNTY SHERIFF:

On October 19, 2017, a General Judgment of Foreclosure and Declaration of Amount Due by Default was entered by the LANE County Circuit Court, foreclosing Plaintiff's Deed of Trust and directing that the property subject to the Deed of Trust be sold to satisfy the unpaid debt due to Plaintiff.

The mailing address for the judgment creditor is: MTGLQ INVESTORS, L.P. c/o Aldridge Pite, LLP, 111 SW Columbia St., Ste. 950, Portland, OR 97201.

The real property to be sold at public auction is commonly known as 87880 LA PORTE

1 DR, EUGENE, OREGON 97402 ("Subject Property"), and legally described as:

2 BEGINNING AT THE SOUTH 1/4 SECTION CORNER OF SECTION 32,
3 TOWNSHIP 17 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN; THENCE
4 NORTH 88° 52' WEST 427.52 FEET; THENCE NORTH 00° 17' WEST 1732.44 FEET TO
5 THE TRUE POINT OF BEGINNING; THENCE NORTH 00° 17' WEST 196.86 FEET;
6 THENCE SOUTH 88° 52' EAST 221.27 FEET TO THE CENTER OF A ROAD 40 FEET
7 WIDE; THENCE ALONG THE CENTERLINE OF SAID ROAD SOUTH 00° 17' EAST
8 196.86 FEET; THENCE NORTH 88° 52' WEST 221.27 FEET TO THE TRUE POINT OF
9 BEGINNING, IN LANE COUNTY, OREGON. EXCEPT THE EAST 25 FEET THEREOF.

10

11

The total amount due and owing on the Judgment as of October 19, 2017;

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

Judgment:	Principal	\$557,337.73
Pre-Judgment:	Interest(5.125%, \$55.77/day)	\$6,357.78 (June 28, 2017 through October 19, 2017)
	Attorney Fees	\$5,924.50
	Costs	\$2,415.30
	Prevailing Party Fee	\$300.00
Post-Judgment:	Interest(5.125%, \$55.77/day)	\$1226.94 (October 20, 2017 through November 10, 2017)
	Attorney Fees	\$305.00
	Costs	\$0.00

TOTAL: \$573,867.25

24 In the name of the State of Oregon, you are hereby directed to proceed to notice for sale
25 and sell the Subject Property. After the sale, you are directed to issue a certificate of sale to the
26 purchaser and file a return on the writ of execution, depositing the sale proceeds with the Court.

//

Page 2 – WRIT OF EXECUTION

Aldridge Pite, LLP
111 SW Columbia Street, Suite 950
Portland, OR 97201
(858) 750-7600

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

Further, you are directed to execute, after the time for redemption has elapsed, a deed to the holder of the certificate of sale.

NOV 14 2017

By: Angie Jones
court clerk

Presented by:
ALDRIDGE PITE, LLP

S Mathenia
Sarah M. Mathenia, OSB #120681
(858) 750-7600
(503) 222-2260 (facsimile)
smathenia@aldridgepite.com



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

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

MTGLQ INVESTORS, L.P.,

Plaintiff,

v.

MICHELLE S. DILWORTH aka MICHELLE
SUE DILWORTH; FRANK A. DILWORTH
aka FRANK ALLEN DILWORTH; STATE
OF OREGON, ACTING THROUGH THE
OREGON DEPARTMENT OF REVENUE;
NACM-OREGON SERVICE COMPANY;
EMPIRE RUBBER & SUPPLY CO.;
BELTSERVICE CORPORATION; and ALL
OTHER PERSONS OR PARTIES
UNKNOWN CLAIMING ANY RIGHT,
TITLE, LIEN, OR INTEREST IN THE REAL
PROPERTY COMMONLY KNOWN AS
87880 LA PORTE DR, EUGENE, OREGON
97402,

Defendants.

Case No. 16CV02215

**GENERAL JUDGMENT OF
FORECLOSURE AND DECLARATION OF
AMOUNT DUE BY DEFAULT AND ORDER
GRANTING SUMMARY JUDGMENT**

ORCP Rule 69

PURSUANT TO SB368, THIS IS A
JUDGMENT OF FORECLOSURE AND DOES
NOT CONSTITUTE A MONEY AWARD
AGAINST ANY DEFENDANT

Based upon the Court's Order of Default against defendants FRANK A. DILWORTH
aka FRANK ALLEN DILWORTH; STATE OF OREGON, ACTING THROUGH THE
OREGON DEPARTMENT OF REVENUE; NACM-OREGON SERVICE COMPANY;
EMPIRE RUBBER & SUPPLY CO.; BELTSERVICE CORPORATION; and ALL OTHER
PERSONS OR PARTIES UNKNOWN CLAIMING ANY RIGHT, TITLE, LIEN, OR
INTEREST IN THE REAL PROPERTY COMMONLY KNOWN AS 87880 LA PORTE DR,
EUGENE, OREGON 97402, the records on file herein, and pursuant to the Motion for General
Judgment and Declaration of Amount Due by Default and Order Granting Summary Judgment

1 by Plaintiff MTGLQ INVESTORS, L.P. ("Plaintiff"),

2 **IT IS HEREBY ADJUDGED:**

3 1. Plaintiff's security interest in the real property located at 87880 LA PORTE DR,
4 EUGENE, OREGON 97402 ("Subject Property"), as evidenced by the Deed of Trust recorded
5 February 2, 2009 in the official records of LANE County as instrument number 2009-004916
6 ("Deed of Trust"), is a viable first priority lien, superior to the interests of all the Defendants. All
7 rights, claims, ownerships, liens, titles and demands of all Defendants are subsequent to
8 Plaintiff's lien as created by the Note and Deed of Trust. The Subject Property is legally
9 described as follows:

10 BEGINNING AT THE SOUTH 1/4 SECTION CORNER OF SECTION 32,
11 TOWNSHIP 17 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN;
12 THENCE NORTH 88° 52' WEST 427.52 FEET; THENCE NORTH 00° 17' WEST
13 1732.44 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 00° 17'
14 WEST 196.86 FEET; THENCE SOUTH 88° 52' EAST 221.27 FEET TO THE CENTER
15 OF A ROAD 40 FEET WIDE; THENCE ALONG THE CENTERLINE OF SAID
16 ROAD SOUTH 00° 17' EAST 196.86 FEET; THENCE NORTH 88° 52' WEST 221.27
17 FEET TO THE TRUE POINT OF BEGINNING, IN LANE COUNTY, OREGON.

18
19 EXCEPT THE EAST 25 FEET THEREOF.

20
21 2. The Deed of Trust is foreclosed and upon entry of this Judgment the court
22 administrator shall upon request of Plaintiff issue a writ of execution for the sale, by the Sheriff,
23 in the manner provided by law;

24 3. Plaintiff has submitted a Declaration of Amount Due and is owed the total amount
25 due under the Note and Deed of Trust and any future advances and/or fees that may be made or
26 incurred pursuant to the terms of the Note and Deed of Trust up to the date of the execution sale.

1 This amount is to be satisfied by sale of the Subject Property as directed under this Judgment;

2 4. Plaintiff is owed reasonable attorney fees plus the remaining flat rate fees for an
3 uncontested execution on the Judgment, pursuant to the Note and Deed of Trust and ORCP Rule
4 68(C), which amount may be added to the outstanding obligation due and owing under the Note
5 and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant to the Deed of
6 Trust, these fees continue to accrue to the date of the execution sale. This amount to be satisfied
7 by sale of the Subject Property as directed under this Judgment;

8 5. Plaintiff is owed costs of suit pursuant to the Note and Deed of Trust, ORCP Rule
9 68(A)(2) and ORS 20.115(4), which may be added to the outstanding obligation due and owing
10 under the Note and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant
11 to the Deed of Trust, these costs continue to accrue to the date of the execution sale. This
12 amount to be satisfied by sale of the Subject Property as directed under this Judgment;

13 6. Plaintiff is owed the prevailing party fee of \$300.00, this amount to be satisfied by
14 sale of the Subject Property as directed under this Judgment.

15 7. The Sheriff shall make a return on the writ of execution to the court administrator
16 along with the proceeds of the sale, if any. The proceeds of the sale, if any, shall be applied first
17 toward the costs of the sale; then toward the satisfaction of Plaintiff's Judgment of Foreclosure
18 awarded herein; and the surplus, if any, to the clerk of the court to be distributed to such party or
19 parties as may establish their right thereto. The Defendants and all persons claiming through or
20 under Defendants, whether lien claimants, judgment creditors, claimants arising under junior
21 mortgages or deeds of trust, purchasers, encumbrances or otherwise, shall be barred and
22 foreclosed from all rights, claims, interest or equity of redemption in the Subject Property and
23 every part of the Subject Property when the time for redemption has elapsed;

24 8. Plaintiff or any other party to this action may become a purchaser at the
25 foreclosure sale, and such purchaser shall be immediately let into possession of the subject
26 property, until redemption of the property, if any. The purchaser at the foreclosure sale or any

1 successor in interest may apply to this Court for a writ of assistance to gain possession of the
2 subject property if Defendants or any other party or person refuses to surrender possession;

3 DECLARATION OF AMOUNT DUE BY DEFAULT

4 (PURSUANT TO SB 368, THIS IS A JUDGMENT OF FORECLOSURE AND DOES NOT
5 CONSTITUTE A MONEY AWARD AGAINST ANY DEFENDANT)

- 6
- 7 1. The amount of the judgment is \$557,337.73.
 - 8 2. Simple interest at the variable rate currently at 5.125% (\$55.77 *per diem*) after
9 June 27th, 2017, through the date of sale.
 - 10 3. Attorney fees of \$5,924.50, plus \$305.00, through the date of sale.
 - 11 4. Costs of \$2,415.30, plus costs accrued through the date of sale.
 - 12 5. Prevailing party fee: \$300.00.

13 **IT IS SO ADJUDGED**

14 Signed: 10/17/2017 04:41 PM

15 

16 **Charles D. Carlson, Circuit Court Judge**

17 CERTIFICATE OF READINESS

18 This proposed Order or Judgment is ready for judicial signature because:

- 19
- 20 1. Each opposing party affected by this Order or Judgment has stipulated to the Order
21 or Judgment, as shown by each opposing party's signature on the document being
22 submitted.
 - 23 2. Each opposing party affected by this Order or Judgment has approved the Order or
24 Judgment, as shown by signature on the document being submitted or by written
confirmation of approval sent to me.
 - 25 3. I have served a copy of this Order or Judgment on all parties entitled to service and:
26 a. No objections have been served on me within that time frame;

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

- b. I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed with the Court a copy of the objections I received and indicated which objections remain unresolved;
- c. After conferring about objections, [Opposing Party] agreed to independently file any remaining objection with the Court.
- 4. The relief sought is against an opposing party who has been found in default.
- 5. An order of default is being requested with this proposed judgment.
- 6. Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
- 7. 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.

Presented By:
ALDRIDGE PITE, LLP

Smathenia

Date: 9/18/17

Sarah M. Mathenia, OSB #120681
(503) 345-9888
(503) 222-2260 (Facsimile)
smathenia@aldridgepite.com

111 SW Columbia Street, Suite 950
Portland, OR 97201

Of Attorneys for Plaintiff