

Verified Correct Copy of Original 12/7/2017.



15CV19891

2017-23280
12/26/2017
1:15 PM

Mary Kelle
12-13-17

RECEIVED
LINN COUNTY
SHERIFF'S OFFICE
2018 JAN 10 PM 12:01

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

BANK OF AMERICA, N. A.,

CASE NUMBER: 15CV19891

Plaintiff,

WRIT OF EXECUTION IN FORECLOSURE

vs.

RONALD A. SIMPSON, an individual;
LYNN SIMPSON, an individual; OREGON
DEPARTMENT OF REVENUE, a
government entity; UNITED STATES OF
AMERICA, a government entity; FIRST
MUTUAL SAVINGS BANK, a corporation;
and all other persons, parties, or occupants
unknown claiming any legal or equitable
right, title, estate, lien, or interest in the real
property described in the complaint herein,
adverse to Plaintiff's title, or any cloud on
Plaintiff's title to the Property.

Defendants.

TO: THE SHERIFF OF LINN COUNTY, OREGON:

1.

WHEREAS, on March 7, 2017, in the above-entitled Court, a General Judgment of
Foreclosure ("Judgment") was entered and docketed in the above-entitled and numbered proceeding

2.

NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are hereby

1 commanded to sell, in the manner prescribed by law for the sale of real property upon (subject to
2 redemption, if applicable), all of the interest which the Defendants RONALD A. SIMPSON, LYNN
3 SIMPSON, OREGON DEPARTMENT OF REVENUE, UNITED STATES OF AMERICA, and
4 FIRST MUTUAL SAVINGS BANK ("Defendants") had on January 3, 2003, the date of the
5 foreclosed Deed of Trust which was recorded on February 3, 2003, as Instrument No. Vol 1382 Page
6 488 in the official records of the Linn County Recorder's Office, and/or all of the interest which
7 Defendants had thereafter, in the real property described in the Judgment to satisfy the Judgment as
8 follows:

9 **Lender's Principal Judgment:**

10 Unpaid Principal Balance:	\$57,619.56
11 Pre-Judgment Interest from January 25,	
12 2013 to August 31, 2016, the date set	
13 forth in the Judgment at 6.450%, per	
14 annum, (\$10.1542 per diem):	\$13,372.50
15 Lender's Fees and Costs:	\$25,296.81
16 Attorney's Fees and Costs:	\$3,046.50
17	
18 <i>Total Judgment Entered:</i>	<i>\$99,335.37</i>

20 **Additional Pre-Judgment Interest:**

21 Accrued Interest from September 1,	
22 2016, the day after the date set forth in	
23 the Judgment through March 7, 2017,	
24 the date of entry of the Judgment, at	
25 6.4500%, per annum (\$10.1542 per	
26 diem):	\$1,898.84
27	
28	

1 **Total Judgment Entered Including**

2 **Additional Pre-Judgment**

3 **Interest: \$101,234.21**

4 3.

5 Additionally, Plaintiff is entitled to the accrual of post-judgment interest on \$101,234.21 at
6 the legal rate of interest of 9% per annum, \$24.96 per diem, from March 8, 2017 to the date the real
7 property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus costs of
8 this Writ, Sherriff's fees and sale costs, and all other recovered costs pursuant to law.

9 4.

10 The real property subject to this writ of execution is commonly known as 1312 SITKA CT,
11 ALBANY, OR 97321 ("Property") and described in Exhibit "1" attached hereto.

12 5.

13 The Judgment Creditor's name and address is:

14 BANK OF AMERICA, N. A.

15 100 N. Tryon St.

16 Charlotte, North Carolina 28255

17 The Judgment Creditor's name and address for the purpose of this Writ is:

18 BANK OF AMERICA, N. A.

19 c/o Malcolm & Cisneros, ALC (Attention: Nathan F. Smith)

20 2112 Business Center Drive

21 Irvine, CA 92612

22 949-252-9400

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

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

THEREFORE, in the name of the State of Oregon, you are hereby commanded to seize and sell the Property, in the manner prescribed by law; or so much thereof as may be necessary to satisfy the Judgment, interest, fees, and costs.

MAKE RETURN HEREOF within 60 days after you receive this Writ.



Signed: 12/7/2017 08:09 AM

Cynthia Mitchell

Cynthia Mitchell, Administrative Authority

Submitted by:

A handwritten signature in black ink, appearing to be "Nathan F. Smith", is written over a horizontal line.

Dated:

12/7/17

Nathan F. Smith, OSB #120112
Attorney for Plaintiff
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: nathan@mclaw.org

EXHIBIT 1

Verified Correct Copy of Original 12/7/2017

Lot 4, CREEKSIDE TERRACE, Linn County, Oregon.



2017-23284
12/27/2017
1:17 pm

Please refer any copy to be a
true and correct copy of the
original now on file in my office.
Erin Kelly
12-13-17

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 LINN**

BANK OF AMERICA, N. A.,

Plaintiff,

vs.

**RONALD A. SIMPSON, an individual;
LYNN SIMPSON, an individual; OREGON
DEPARTMENT OF REVENUE, a
government entity; UNITED STATES OF
AMERICA, a government entity; FIRST
MUTUAL SAVINGS BANK, a corporation;
and all other persons, parties, or occupants
unknown claiming any legal or equitable
right, title, estate, lien, or interest in the real
property described in the complaint herein,
adverse to Plaintiff's title, or any cloud on
Plaintiff's title to the Property.**

Defendants.

CASE NUMBER: 15CV19891

**GENERAL JUDGMENT OF
FORECLOSURE AGAINST:**

- 1. RONALD A. SIMPSON**
- 2. LYNN SIMPSON**
- 3. OREGON DEPARTMENT OF
REVENUE**
- 4. UNITED STATES OF AMERICA**
- 5. FIRST MUTUAL SAVINGS
BANK**

1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff, BANK OF AMERICA, N. A. ("Plaintiff"), filed its Complaint for Foreclosure of Deed of Trust; that Defendants Ronald A. Simpson, Lynn Simpson, Oregon Department of Revenue, United States of America and First Mutual Savings Bank ("Defendants") were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, that the ORDERS FOR ENTRY OF DEFAULT AGAINST DEFENDANTS RONALD A. SIMPSON,

1 LYNN SIMPSON, UNITED STATES OF AMERICA, AND FIRST MUTUAL SAVINGS BANK
2 and ORDER FOR ENTRY OF DEFAULT AGAINST DEFENDANT OREGON DEPARTMENT
3 OF REVENUE have been entered against them on Plaintiff's Complaint, and that Plaintiff is entitled
4 to entry of a General Judgment foreclosing Plaintiff's deed of trust against the property commonly
5 known as 1312 SITKA CT, ALBANY, OREGON 97321 aka 1312 SITKA CT SW, ALBANY, OR
6 97321 ("Property") and extinguishing any and all interest of the Defendants in the Property.

7 2.

8 The Court being fully advised; it is hereby
9 ORDERED AND ADJUDGED that:

10 3.

11 Plaintiff is the holder of that certain promissory note ("Note"), dated December 30, 2002 in
12 the amount of \$88,527.88, and executed by Ronald A. Simpson and Lynn Simpson. On or about
13 October 31, 2012, Bank of America, N.A. determined that the note was lost. A lost note affidavit
14 was executed to this regard on October 31, 2012. Plaintiff directly has possession of the lost note
15 affidavit and held the lost note affidavit at the time of filing the foreclosure complaint.

16 4.

17 The Note is secured by that certain deed of trust ("Deed of Trust") executed on or about
18 January 3, 2003, by Ronald A. Simpson and Lynn Simpson. The Deed of Trust was recorded on
19 February 3, 2003 under the recording number Vol 1382 Page 488 of the Official Records of Linn
20 County, Oregon, against the Property, which is legally described in Exhibit "1" attached hereto
21 ("Property") and constitutes a valid lien against the Property.

22 5.

23 Defendants Ronald A. Simpson and Lynn Simpson failed to comply with the terms of the
24 Note and Deed of Trust by failing to make the payments required by the terms of the Note and Deed
25 of Trust. Pursuant to the terms of the Note and Deed of Trust, Plaintiff declared all sums due and
26 owing under the Note and Deed of Trust immediately due and payable.

27 ///

28 ///

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

6.

The Deed of Trust is a valid first priority lien encumbering the Property, is superior to any interest, lien, or claim of the Defendants and any other party in the Property, which are hereby foreclosed and terminated, excepting only any statutory right of redemption to which the Defendants may be entitled under Oregon law.

7.

A judgment of foreclosure in the amount of \$99,335.37 shall be granted in favor of Plaintiff, and its successors and/or assigns, as further described below in the Declaration of Amount Owed – Not a Money Award (“Amount Owed”).

8.

The Property is hereby ordered to be sold by law and the proceeds of sale applied toward the satisfaction of Plaintiff’s Amount Owed herein; and the surplus, if any to the Clerk of the Court to be disbursed to such party or parties as may establish their right thereto.

9.

Plaintiff is entitled to recover its reasonable attorney’s fees and all reasonable and necessary costs and expenses incurred to enforcing the Note and Deed of Trust.

10.

Any increased interest or any such additional amounts as Plaintiff may advance for taxes, assessments, municipal charges, and such other items as may constitute liens on the Property, together with insurance and repairs necessary to prevent the impairment of the Property, together with interest thereon from the date of payment may also be added to the Amount Owed and paid from the proceeds from the sale of the Property.

11.

Defendants and all parties claiming an interest in the Property as purchasers, encumbrancers, or otherwise, are forever barred and foreclosed of all interests, liens, or claims in the Property and every portion thereof, excepting only any statutory right of redemption provided by the laws of the State of 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

12.

Defendants Ronald A. Simpson and Lynn Simpson are not entitled to a homestead exemption in the Property.

13.

Plaintiff may become purchaser at the Sheriff's Sale of the Property and may bid up to the aggregate amount of its Amount Owed, plus any additional interest and reasonable costs until sale.

14.

The purchaser of the Property at the Sheriff's Sale is entitled to exclusive and immediate possession of the Property from and after the date of the sale, and is entitled to such remedies as are available at law to secure possession of the Property, and may apply to the Clerk of the Court for a writ of assistance, if Defendants, any of them, or any other party or person shall refuse to surrender possession of the Property to the purchaser immediately on the purchaser's demand for possession.

15.

This Court shall retain jurisdiction to enforce all provisions of this General Judgment and to enter such additional order, judgment, or decree necessary for the purchaser at the foreclosure sale to obtain possession of the Property.

16.

Under the Note, there is now due and owing to Plaintiff, the following amounts, to be hereinafter described as the Amount Owed.

17.

This suit does not constitute an attempt to collect the debt against Defendants Ronald A. Simpson, Lynn Simpson, Oregon Department of Revenue, United States of America and First Mutual Savings Bank. Rather, it is a suit to execute upon the Property as security for the Amount Owed.

///
///
///
///

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

DECLARATION OF DEBT SECURED BY DEED OF TRUST

(Pursuant to Senate Bill 368)

18.

Under the terms of the Deed of Trust dated January 3, 2003, and the Note dated December 30, 2002, in the original principal amount of \$88,527.88, there is now due and owing the following amounts, to be hereinafter described as the Amount Due:

DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD

1. Judgment Creditor:

BANK OF AMERICA, N. A.

Address:

c/o MALCOLM ♦ CISNEROS,

A Law Corporation

2112 Business Center Drive, 2nd Floor

Irvine, California 92612

Judgment Attorney:

Nathan F. Smith

Address:

MALCOLM ♦ CISNEROS, A Law Corporation

2112 Business Center Drive, 2nd Floor

Irvine, California 92612

Telephone Number:

(949) 252-9400

2. Persons or Public Bodies Entitled to

a Portion the Judgment:

N/A

3. Judgment Amount:

\$96,288.87

4. Pre-Judgment Interest:

Simple interest to accrue on \$57,619.56 from September 1, 2016 to the date the Judgment is entered into the Court's register at 6.4500% per annum, \$10.1542 per diem.

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

5. Post-Judgment Interest:

Simple interest to accrue on \$99,335.37 plus Pre-Judgment Interest from the day after the General Judgment is entered to the date upon which the Writ of Execution in Foreclosure is levied at the legal rate of interest or 9% per annum, whichever is greater.

6. Periodic accrual:

N/A

7. Attorney's Fees and Costs:

An award of \$3,046.50 in attorney's fees and costs is made.

Signed: 3/7/2017 08:33 AM



Circuit Court Judge, Thomas A. McHill

Submitted by



Dated:

3/1/17

Nathan F. Smith, OSB #120112
Attorney for Plaintiff
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: nathan@mclaw.org

EXHIBIT 1

Lot 4, CREEKSIDE TERRACE, Linn County, Oregon.
