

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

**IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF JOSEPHINE**

MTGLQ INVESTORS, L.P.,

Plaintiff,

v.

TRACEY LEE; CONAL K. MORAN; ROSS  
J. CUNNINGHAM; LAURIE  
CUNNINGHAM; and ALL OTHER  
PERSONS OR PARTIES UNKNOWN  
CLAIMING ANY RIGHT, TITLE, LIEN, OR  
INTEREST IN THE REAL PROPERTY  
COMMONLY KNOWN AS 92 LOWER  
WOLF CREEK RD, WOLF CREEK, OR  
97497,

Defendant.

Case No. 16CV42092

**WRIT OF EXECUTION**

TO THE JOSEPHINE COUNTY SHERIFF:

On November 15, 2017, a General Judgment of Foreclosure and Declaration of Amount Due by Default was entered by the JOSEPHINE 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.

//  
//  
//

1 The real property to be sold at public auction is commonly known as 92 LOWER WOLF  
2 CREEK RD, WOLF CREEK, OR 97497 ("Subject Property"), and legally described as:

3 PARCEL 1:

4 TRACT 73, WOLF CREEK ORCHARD TRACTS IN JOSEPHINE COUNTY,  
5 OREGON. LESS AND EXCEPT: BEGINNING AT THE NORTHWEST CORNER OF  
6 TRACT 70 OF SAID WOLF CREEK ORCHARD TRACTS, AND RUNNING THENCE  
7 NORTH 13°54' WEST 225 FEET TO A POINT; THENCE NORTH 76°06' EAST TO THE  
8 WESTERLY LINE OF TRACT 67 OF SAID WOLF CREEK ORCHARD TRACTS; THENCE  
9 SOUTHERLY ALONG THE WESTERLY LINE OF SAID TRACT 67 TO THE NORTHEAST  
10 CORNER OF TRACT 68 OF SAID WOLF CREEK ORCHARD TRACTS; THENCE  
11 WESTERLY ALONG THE NORTHERLY LINE OF TRACTS 68, 69 AND 70 OF WOLF  
12 CREEK ORCHARD TRACTS TO THE POINT OF BEGINNING. ALSO LESS AND EXCEPT  
13 THAT PORTION OF THE FOLLOWING DESCRIBED TRACT LYING IN SAID TRACT 73:  
14 BEGINNING AT THE POINT OF INTERSECTION OF THE CENTER LINE OF THE  
15 TUNNEL CREEK CULVERT WITH THE NORTHERLY RIGHT OF WAY LINE OF THE  
16 SOUTHERN PACIFIC RAILROAD, AND RUN NORTH 76°06' EAST 101.1 FEET TO  
17 RAILROAD PROPERTY MARKER; THENCE NORTH 19°38' WEST 100 FEET TO A  
18 RAILROAD PROPERTY MARKER; THENCE NORTH 9°27' EAST 300.2 FEET TO THE  
19 LINE BETWEEN TRACTS 72 AND 73 OF WOLF CREEK ORCHARD TRACTS; THENCE  
20 NORTH 76°06' EAST 155.0 FEET; THENCE NORTH 13°54' WEST 1103 FEET TO THE  
21 CENTER LINE OF TUNNEL CREEK; THENCE FOLLOWING THE THREAD OF THE  
22 STREAM SOUTHERLY TO THE POINT OF BEGINNING. LESS AND EXCEPTING THAT  
23 PORTION OF THE ABOVE DESCRIBED TRACT CONTAINED WITHIN THE  
24 PRESENTLY ESTABLISHED ROADWAYS. ALSO EXCEPTING THEREFROM: THE  
25 NORTHERLY 110 FEET OF TRACT 73, WOLF CREEK ORCHARD TRACTS WHEN  
26 MEASURED PERPENDICULAR WITH THE NORTH LINE OF SAID TRACT. ALSO THE

1 EASTERLY 20 FEET OF TRACT 71, WOLF CREEK ORCHARD TRACTS, JOSEPHINE  
2 COUNTY, OREGON.

3 PARCEL2:

4 EASEMENT FOR THE BENEFIT OF PARCEL NO. 1, AS CREATED BY  
5 INSTRUMENT RECORDED: APRIL 14, 1947, VOLUME 129, PAGE 107, AND JULY 17,  
6 1972, VOLUME 283, PAGE 483, RECORDS OF JOSEPHINE COUNTY, OREGON, FOR  
7 INGRESS AND EGRESS.  
8  
9

10 The total amount due and owing on the Judgment as of December 15, 2017;

|    |                |                              |   |
|----|----------------|------------------------------|---|
| 11 | Judgment:      | Principal                    | \$88,346.27   |
| 12 | Pre-Judgment:  | Interest(4.375%, \$9.05/day) | \$687.80 (September 30, 2017 through<br>13 November 15, 2017) |
| 14 |                | Attorney Fees                | \$3,945.00  |
| 15 |                | Costs                        | \$2,410.91  |
| 16 |                | Prevailing Party Fee         | \$300.00  |
| 17 | Post-Judgment: | Interest(4.375%, \$9.05/day) | \$271.50 (November 16, 2017 through<br>18 December 15, 2017)  |
| 19 |                | Attorney Fees                | \$305.00  |
| 20 |                | Costs                        | \$0.00  |

21 **TOTAL: \$96,266.48**

22 //  
23 //  
24 //  
25 //  
26 //

1 In the name of the State of Oregon, you are hereby directed to proceed to notice for sale  
2 and sell the Subject Property. After the sale, you are directed to issue a certificate of sale to the  
3 purchaser and file a return on the writ of execution, depositing the sale proceeds with the Court.  
4 Further, you are directed to execute, after the time for redemption has elapsed, a deed to the  
5 holder of the certificate of sale.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Presented by:  
ALDRIDGE PITE, LLP



Hunter Zook, OSB #095578  
Katie Riggs, OSB #095861  
Sarah Mathenia, OSB #120681  
Shannon K. Calt, OSB #121855  
Christina Andreoni, OSB #160875

of Attorneys for Plaintiff  
(858) 750-7600  
(503) 222-2260 (facsimile)  
orecourtnotices@aldridgepite.com

  
Court Clerk



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

**IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF JOSEPHINE**

MTGLQ INVESTORS, L.P.,

Plaintiff,

v.

TRACEY LEE; CONAL K. MORAN; ROSS J. CUNNINGHAM; LAURIE CUNNINGHAM; and ALL OTHER PERSONS OR PARTIES UNKNOWN CLAIMING ANY RIGHT, TITLE, LIEN, OR INTEREST IN THE REAL PROPERTY COMMONLY KNOWN AS 92 LOWER WOLF CREEK RD, WOLF CREEK, OR 97497,

Defendants.

Case No. 16CV42092

**GENERAL JUDGMENT OF FORECLOSURE AND DECLARATION OF AMOUNT DUE BY DEFAULT**

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 TRACEY LEE; CONAL K. MORAN; ROSS J. CUNNINGHAM; LAURIE CUNNINGHAM; and ALL OTHER PERSONS OR PARTIES UNKNOWN CLAIMING ANY RIGHT, TITLE, LIEN, OR INTEREST IN THE REAL PROPERTY COMMONLY KNOWN AS 92 LOWER WOLF CREEK RD, WOLF CREEK, OR 97497, the records on file herein, and pursuant to the Motion for General Judgment and Declaration of Amount Due by Default by Plaintiff MTGLQ INVESTORS, L.P. (“Plaintiff”),

**IT IS HEREBY ADJUDGED:**

1. Plaintiff’s security interest in the real property located at 92 LOWER WOLF CREEK RD, WOLF CREEK, OR 97497 (“Subject Property”), as evidenced by the Deed of Trust recorded May 22, 2003 in the official records of JOSEPHINE County as instrument

1 number 2003-012196 ("Deed of Trust"), is a viable first priority lien, superior to the interests of  
2 all the Defendants. All rights, claims, ownerships, liens, titles and demands of all Defendants are  
3 subsequent to Plaintiff's lien as created by the Note and Deed of Trust. The Subject Property is  
4 legally described as follows:

5 PARCEL 1:

6 TRACT 73, WOLF CREEK ORCHARD TRACTS IN JOSEPHINE COUNTY,  
7 OREGON. LESS AND EXCEPT: BEGINNING AT THE NORTHWEST CORNER OF  
8 TRACT 70 OF SAID WOLF CREEK ORCHARD TRACTS, AND RUNNING  
9 THENCE NORTH 13°54' WEST 225 FEET TO A POINT; THENCE NORTH 76°06'  
10 EAST TO THE WESTERLY LINE OF TRACT 67 OF SAID WOLF CREEK  
11 ORCHARD TRACTS; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF  
12 SAID TRACT 67 TO THE NORTHEAST CORNER OF TRACT 68 OF SAID WOLF  
13 CREEK ORCHARD TRACTS; THENCE WESTERLY ALONG THE NORTHERLY  
14 LINE OF TRACTS 68, 69 AND 70 OF WOLF CREEK ORCHARD TRACTS TO THE  
15 POINT OF BEGINNING. ALSO LESS AND EXCEPT THAT PORTION OF THE  
16 FOLLOWING DESCRIBED TRACT LYING IN SAID TRACT 73: BEGINNING AT  
17 THE POINT OF INTERSECTION OF THE CENTER LINE OF THE TUNNEL CREEK  
18 CULVERT WITH THE NORTHERLY RIGHT OF WAY LINE OF THE SOUTHERN  
19 PACIFIC RAILROAD, AND RUN NORTH 76°06' EAST 101.1 FEET TO RAILROAD  
20 PROPERTY MARKER; THENCE NORTH 19°38' WEST 100 FEET TO A RAILROAD  
21 PROPERTY MARKER; THENCE NORTH 9°27' EAST 300.2 FEET TO THE LINE  
22 BETWEEN TRACTS 72 AND 73 OF  
23 WOLF CREEK ORCHARD TRACTS; THENCE NORTH 76°06' EAST 155.0 FEET;  
24 THENCE NORTH 13°54' WEST 1103 FEET TO THE CENTER LINE OF TUNNEL  
25 CREEK; THENCE FOLLOWING THE THREAD OF THE STREAM SOUTHERLY  
26 TO THE POINT OF BEGINNING. LESS AND EXCEPTING THAT PORTION OF

1 THE ABOVE DESCRIBED TRACT CONTAINED WITHIN THE PRESENTLY  
2 ESTABLISHED ROADWAYS. ALSO EXCEPTING THEREFROM: THE  
3 NORTHERLY 110 FEET OF TRACT 73, WOLF CREEK ORCHARD TRACTS  
4 WHEN MEASURED PERPENDICULAR WITH THE NORTH LINE OF SAID  
5 TRACT. ALSO THE EASTERLY 20 FEET OF TRACT 71, WOLF CREEK  
6 ORCHARD TRACTS, JOSEPHINE COUNTY, OREGON.

7  
8 PARCEL2:

9 EASEMENT FOR THE BENEFIT OF PARCEL NO. 1, AS CREATED BY  
10 INSTRUMENT RECORDED: APRIL 14, 1947, VOLUME 129, PAGE 107, AND JULY  
11 17, 1972, VOLUME 283, PAGE 483, RECORDS OF JOSEPHINE COUNTY,  
12 OREGON, FOR INGRESS AND EGRESS.

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

16 3. Plaintiff has submitted a Declaration of Amount Due and is owed the total amount  
17 due under the Note and Deed of Trust and any future advances and/or fees that may be made or  
18 incurred pursuant to the terms of the Note and Deed of Trust up to the date of the execution sale.  
19 This amount is to be satisfied by sale of the Subject Property as directed under this Judgment;

20 4. Plaintiff is owed reasonable attorney fees plus the remaining flat rate fees for an  
21 uncontested execution on the Judgment, pursuant to the Note and Deed of Trust and ORCP Rule  
22 68(C), which amount may be added to the outstanding obligation due and owing under the Note  
23 and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant to the Deed of  
24 Trust, these fees continue to accrue to the date of the execution sale. This amount to be satisfied  
25 by sale of the Subject Property as directed under this Judgment;

26 5. Plaintiff is owed costs of suit pursuant to the Note and Deed of Trust, ORCP Rule

Page 3 – GENERAL JUDGMENT AND DECLARATION OF AMOUNT DUE BY DEFAULT

1 68(A)(2) and ORS 20.115(4), which may be added to the outstanding obligation due and owing  
2 under the Note and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant  
3 to the Deed of Trust, these costs continue to accrue to the date of the execution sale. This  
4 amount to be satisfied by sale of the Subject Property as directed under this Judgment;

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

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

16 8. Plaintiff or any other party to this action may become a purchaser at the  
17 foreclosure sale, and such purchaser shall be immediately let into possession of the subject  
18 property, until redemption of the property, if any. The purchaser at the foreclosure sale or any  
19 successor in interest may apply to this Court for a writ of assistance to gain possession of the  
20 subject property if Defendants or any other party or person refuses to surrender possession;

21 ///  
22 ///  
23 ///  
24 ///  
25 ///  
26 ///



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

DECLARATION OF AMOUNT DUE BY DEFAULT

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

1. The amount of the judgment is \$88,346.27.
2. Simple interest at the variable rate currently at 4.37500% (\$9.05 *per diem*) after September 29, 2017, through the date of sale.
3. Attorney fees of \$3,945.00, plus \$305.00, through the date of sale.
4. Costs of \$2,410.91, plus costs accrued through the date of sale.
5. Prevailing party fee: \$300.00.

**IT IS SO ADJUDGED**

Signed: 11/14/2017 04:18 PM




---

Circuit Court Judge Pat Wolke

CERTIFICATE OF READINESS

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

1.  Each opposing party affected by this Order or Judgment has stipulated to the Order or Judgment, as shown by each opposing party's signature on the document being submitted.
2.  Each opposing party affected by this Order or Judgment has approved the Order or Judgment, as shown by signature on the document being submitted or by written confirmation of approval sent to me.
3.  I have served a copy of this Order or Judgment on all parties entitled to service and:

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

- a.  No objections have been served on me within that time frame;
  - 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



Date: 11/3/17

---

Shannon K. Calt, OSB#121855  
WSBA # 44472 | AK # 1212137  
(858) 750-7600  
(503) 222-2260 (Facsimile)  
[scalt@aldridgepite.com](mailto:scalt@aldridgepite.com)

Of Attorneys for Plaintiff  
MTGLQ INVESTORS, L.P.