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

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION ("FANNIE MAE"), A  
CORPORATION ORGANIZED AND  
EXISTING UNDER THE LAWS OF THE  
UNITED STATES OF AMERICA,

Plaintiff,

v.

BENJAMIN G. LAWRENCE; MARY  
ELIZABETH LAWRENCE; CAPITAL ONE  
BANK (U.S.A.), N.A.; OCCUPANTS OF  
THE PROPERTY,

Defendants.

Case No.: 17CV21995

WRIT OF EXECUTION IN  
FORECLOSURE

**TO THE UMATILLA COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on September 28, 2017.

A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the  
Plaintiff:

FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"), A  
CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE  
UNITED STATES OF AMERICA  
c/o Bryan Kidder  
Attorney for Plaintiff  
McCarthy & Holthus, LLP  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204

1 With the adjudicated amount due of \$77,414.71, plus post judgment interest at the statutory rate  
2 of 9.0% per annum from September 28, 2017 to November 18, 2017 in the amount of \$973.52,  
3 and accruing at \$19.09 *per diem*, currently totaling \$78,388.23.

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 January 3, 2006, the date of the Deed of Trust, and also the interest that the Defendant had  
8 thereafter, in the real property described as follows in attached Exhibit 1, APN/Parcel # 109310,  
9 and commonly known as: 1103 Parallel Street, Milton-Freewater, OR 97862.

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 dated: Nov. 13th, 2017

17  
18 *Johnson*  
19 *Court clerk*

20 Dated: November 8, 2017 and submitted by:

21 **McCarthy & Holthus, LLP**

22 s/ Bryan Kidder

23 Bryan Kidder OSB No. 140459

24 920 SW 3rd Ave, 1st Floor

25 Portland, OR 97204

26 Phone: (971) 201-3200

27 Fax: (971) 201-3202

28 [bkidder@mccarthyholthus.com](mailto:bkidder@mccarthyholthus.com)

Of Attorneys for Plaintiff

# **EXHIBIT “1”**

**EAST HALF OF LOTS 4 AND 5, BLOCK 32, ORIGINAL TOWN OF FREEWATER, NOW CITY OF MILTON-FREEWATER, UMATILLA COUNTY, OREGON;**

**ALSO THAT VACATED PORTION OF PARALLEL STREET ADJOINING LOTS 4 AND 5, AND DESCRIBED AS FOLLOWS:**

**BEGINNING AT NORTHEAST CORNER OF SAID LOT 4; THENCE SOUTH ALONG EAST LINE OF LOTS 4 AND 5 TO SOUTHEAST CORNER OF LOT 5; THENCE EASTERLY ALONG EASTERLY EXTENDED SOUTH LINE OF LOT 5 A DISTANCE OF 10 FEET; THENCE NORTHERLY AND PARALLEL TO EASTERLY LINE OF BLOCK 32, TO A POINT ON EASTERLY EXTENDED NORTH LINE OF LOT 4; THENCE WESTERLY ALONG SUCH EXTENDED LINE 10 FEET TO THE POINT OF BEGINNING.**

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

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION (“FANNIE MAE”), A  
CORPORATION ORGANIZED AND  
EXISTING UNDER THE LAWS OF THE  
UNITED STATES OF AMERICA,

Plaintiff,

v.

BENJAMIN G. LAWRENCE; MARY  
ELIZABETH LAWRENCE; CAPITAL  
ONE BANK (U.S.A.), N.A.; OCCUPANTS  
OF THE PROPERTY,

Defendants.

Case No.: 17CV21995

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 Umatilla County, Oregon, and is commonly known as 1103 Parallel St., Milton-Freewater, OR 97862 (the “Subject Property”), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 109310.

1 b. Plaintiff is entitled to enforce the note dated January 3, 2006 and made, delivered, and  
2 executed by BENJAMIN G. LAWRENCE and MARY ELIZABETH LAWRENCE to  
3 BANK OF AMERICA, N.A. in the amount of \$80,000.00 (the "Note"). The Note was  
4 transferred to Plaintiff by delivery of possession and by indorsement set forth on the Note.

5 c. A deed of trust was made, executed, and delivered by Defendants BENJAMIN G.  
6 LAWRENCE and MARY ELIZABETH LAWRENCE on or about January 3, 2006 (the  
7 "Deed of Trust"). The Deed of Trust was recorded on January 4, 2006 as Instrument No.  
8 2006-4940192 in the official records of Umatilla County, Oregon. The Deed of Trust is a  
9 valid and perfected lien against all of the Property for and securing the Amount Due. The  
10 lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall  
11 remain in effect until issuance of a Sheriff's Deed.

12 d. The Borrower failed to make the payment that was due for March 6, 2017 and has not cured  
13 the default. The amount of debt secured by the Deed of Trust that is now due and owing is  
14 comprised of the following amounts (the "Amount Due"):

15	a) Unpaid principal balance:	\$67,973.82
16	b) Prejudgment interest accruing from	
17	10/1/2016 through 9/25/2017 and	
18	continuing until the entry of	
	judgment at the current Note rate of	
	6.125%:	\$4,097.04
19	c) Additional amounts due under the	\$1,914.51
20	terms of the loan:	
21	d) Attorney fees and costs:	\$3,344.34
22	e) Prevailing party fee (ORS 20.190	\$85.00
	(1)(b)):	
23	<b>Total:</b>	<b>\$77,414.71</b>

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

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 Defendants BENJAMIN G.  
6 LAWRENCE and MARY ELIZABETH LAWRENCE had as of the date of the Deed of  
7 Trust or thereafter acquired is hereby ordered to be sold by the Umatilla County Sheriff's  
8 Office in accordance with the process for sale upon execution, and the proceeds of sale shall  
9 be applied:

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

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

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

16 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS  
17 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from  
18 the date of entry of judgment through the date of the sale and any incurred costs of sale.

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

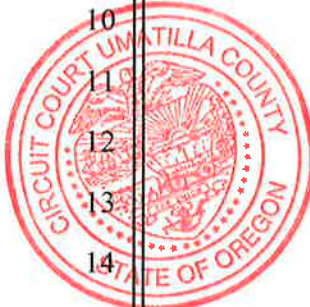
24 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be  
25 entitled to any further or other judgment, including a judgment for the deficiency.

1 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,  
2 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be  
3 terminated.

4 l. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the  
5 Deed of Trust are as follows:

6 1) Defendant CAPITAL ONE BANK (U.S.A.), N.A. may claim a junior interest in  
7 Subject Property by virtue of a judgment entered on January 10, 2017 as Case No.  
8 17CV00833 in the official records of Umatilla County, Oregon.

Signed: 9/28/2017 02:05 PM



CERTIFIED TO BE A TRUE AND  
CORRECT COPY OF THE ORIGINAL  
Dated Nov. 13th, 2017  
TRIAL COURT ADMINISTRATOR  
By [Signature]

**Christopher R. Brauer, Circuit Court Judge**

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

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

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

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

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

- 22  No objection has been served on me.
- 23  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.
- 24  After conferring about objections, \_\_\_\_\_ agreed to independently file  
any remaining objection.

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

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

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

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: \_\_\_\_\_

DATED September 25, 2017 and submitted by:

**McCarthy & Holthus, LLP**

s/ Bryan Kidder  
Bryan Kidder, OSB No. 140459  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204  
Phone: (971) 201-3200  
Fax: (971) 201-3202  
bkidder@mccarthyholthus.com  
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