

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 MARION**

WELLS FARGO BANK, N.A.,

Plaintiff,

v.

AUDREY L. CARLOZZI, AS AFFIANT FOR
THE SMALL INTESTATE ESTATE OF
JOHN WAYNE BAKER AND AS AN
INDIVIDUAL; VERA I. MCKIBBEN;
JACQUELINE A. NEWMAN; LINDA J.
BROWN; LANCASTER SQUARE HOMES
ASSOCIATION; AND ALL OTHER
PERSONS OR PARTIES UNKNOWN
CLAIMING ANY RIGHT, TITLE, LIEN, OR
INTEREST IN THE REAL PROPERTY
COMMONLY KNOWN AS 3824 AUBURN
ROAD NE, SALEM, OR 97301,

Defendant.

Case No. 16CV35212

WRIT OF EXECUTION

TO THE MARION COUNTY SHERIFF:

On August 3, 2017, a General Judgment of Foreclosure and Declaration of Amount Due by Default was entered by the MARION 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: WELLS FARGO BANK, N.A. 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 3824 AUBURN ROAD NE, SALEM, OR 97301 ("Subject Property"), and legally described as:

1 UNIT 29, BUILDING 7, LANCASTER SQUARE PHASE I, TOGETHER WITH AN
2 UNDIVIDED INTEREST IN AND TO THE COMMON ELEMENTS APPERTAINING TO
3 SAID UNIT, AS SET FORTH IN DECLARATION OF UNIT OWNERSHIP RECORDED
4 JUNE 30, 1989, IN THE OFFICE OF THE COUNTY CLERK OF MARION COUNTY, IN
5 REEL 130, PAGE 186, MARION COUNTY RECORDS.

6 The total amount due and owing on the Judgment as of August 30, 2017;

7	Judgment:	Principal	\$113,680.19
8	Pre-Judgment:	Interest(3.125%, \$10.10/day)	\$272.70 (7/8/17 through 8/3/17)
9		Attorney Fees	\$1,537.50
10		Costs	\$2,047.42
11		Prevailing Party Fee	\$300.00
12	Post-Judgment:	Interest(3.125%, \$10.10/day)	\$272.70 (8/4/17 through 8/30/17)
13		Attorney Fees	\$512.50

14 **TOTAL: \$118,623.01**

15 In the name of the State of Oregon, you are hereby directed to proceed to notice for sale
16 and sell the Subject Property.

17 //
18 //
19 //
20 //
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

After the sale, you are directed to issue a certificate of sale to the purchaser and file a return on the writ of execution, depositing the sale proceeds with the Court. Further, you are directed to execute, after the time for redemption has elapsed, a deed to the holder of the certificate of sale.

COURT ADMINISTRATOR FOR
MARION COUNTY CIRCUIT COURT

Signed: 10/11/2017 10:46 AM

By: *Christen Ballenger*

, Court Clerk



Presented by:
ALDRIDGE PITE, LLP

Christina Andreoni

Christina Andreoni, OSB #160875
(858) 750-7600
(503) 222-2260 (Facsimile)
candreoni@aldridgepite.com

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 MARION**

WELLS FARGO BANK, N.A.,

Plaintiff,

v.

AUDREY L. CARLOZZI, AS AFFIANT FOR THE SMALL INTESTATE ESTATE OF JOHN WAYNE BAKER AND AS AN INDIVIDUAL; VERA I. MCKIBBEN; JACQUELINE A. NEWMAN; LINDA J. BROWN; LANCASTER SQUARE HOMES ASSOCIATION; AND ALL OTHER PERSONS OR PARTIES UNKNOWN CLAIMING ANY RIGHT, TITLE, LIEN, OR INTEREST IN THE REAL PROPERTY COMMONLY KNOWN AS 3824 AUBURN ROAD NE, SALEM, OR 97301,

Defendants.

Case No. 16CV35212

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 AUDREY L. CARLOZZI, AS AFFIANT FOR THE SMALL INTESTATE ESTATE OF JOHN WAYNE BAKER AND AS AN INDIVIDUAL; VERA I. MCKIBBEN; JACQUELINE A. NEWMAN; LINDA J. BROWN; LANCASTER SQUARE HOMES ASSOCIATION; AND ALL OTHER PERSONS OR PARTIES UNKNOWN CLAIMING ANY RIGHT, TITLE, LIEN, OR INTEREST IN THE REAL PROPERTY COMMONLY KNOWN AS 3824 AUBURN ROAD NE, SALEM, OR 97301, the records on file herein, and pursuant to the Motion for General Judgment and Declaration of Amount Due by Default by Plaintiff WELLS FARGO BANK, N.A. (“Plaintiff”),

IT IS HEREBY ADJUDGED:

1 1. Plaintiff's security interest in the real property located at 3824 AUBURN ROAD
2 NE, SALEM, OR 97301 ("Subject Property"), as evidenced by the Deed of Trust recorded
3 October 17, 2006 in the official records of MARION County as instrument number REEL:2720
4 PAGE:455 ("Deed of Trust"), is a viable first priority lien, superior to the interests of all the
5 Defendants. All rights, claims, ownerships, liens, titles and demands of all Defendants are
6 subsequent to Plaintiff's lien as created by the Note and Deed of Trust. The Subject Property is
7 legally described as follows:

8 UNIT 29, BUILDING 7, LANCASTER SQUARE PHASE I, TOGETHER WITH AN
9 UNDIVIDED INTEREST IN AND TO THE COMMON ELEMENTS APPERTAINING
10 TO SAID UNIT, AS SET FORTH IN DECLARATION OF UNIT OWNERSHIP
11 RECORDED JUNE 30, 1989, IN THE OFFICE OF THE COUNTY CLERK OF
12 MARION COUNTY, IN REEL 130, PAGE 186, MARION COUNTY RECORDS.

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

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 **DECLARATION OF AMOUNT DUE BY DEFAULT**

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

- 24 1. The amount of the judgment is \$113,680.19.
25 2. Simple interest at the variable rate currently at 3.125% after July 7th, 2017,
26

1 through the date of sale.

- 2 3. Attorney fees of \$1,537.50, plus \$512.50, through the date of sale.
- 3 4. Costs of \$2,047.42, plus costs accrued through the date of sale.
- 4 5. Prevailing party fee: \$300.00.

5

6 **IT IS SO ADJUDGED**

Signed: 8/3/2017 10:06 AM

7 

8

9 **Circuit Court Judge Channing Bennett**

10

11

12

CERTIFICATE OF READINESS

13

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

14

15

16

17

18

19

20

21

22

23

24

25

26

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:
- 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.

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

- 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: 7/28/2017

Christina Andreoni, OSB #160875
(858) 750-7600
(503) 222-2260 (Facsimile)
candreoni@aldridgepite.com

111 SW Columbia Street, Suite 950
Portland, OR 97201

Of Attorneys for Plaintiff