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LINN COUNTY
SHERIFFS OFFICE

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF LINN

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,

Case No.: 17CV11584

Plaintiff,

WRIT OF EXECUTION IN FORECLOSURE

vs.

THE UNKNOWN HEIRS AND DEVISEES OF DOREEN H. COOK; JAYNE WAGNER, AS CLAIMING SUCCESSOR TO THE ESTATE OF DOREEN H. COOK; HEIDI MARIE BOYCE; OCCUPANTS OF THE PROPERTY,

Defendants

TO THE LINN COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on January 2, 2018. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION
c/o Robert Hakari, Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

With the adjudicated amount due of \$71,214.68, plus post judgment interest at the statutory rate of 9.0% per annum from January 2, 2018 to January 24, 2018 in the amount of \$386.32, and continuing with a per diem of \$17.56, currently totaling \$71,601.00.

NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are hereby commanded to sell, in the manner prescribed by law for the sale of real property on execution (subject to redemption of 180 days), all of the interest that the Defendant had on or about October 31, 2001, the date of the Deed of Trust, and also the interest that the Defendant

1 had thereafter, in the real property described as shown in *Exhibit 1*, having APN/Parcel #
2 683942, and commonly known as: 1913 Spicer Wayside SE, Albany, OR 97321.

3 Sale of the property is to satisfy the sum listed above, plus the costs incurred in
4 performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under
5 the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.
6 You are to make the return within 60 days after you receive this Writ. Should the sale be
7 continued, the writ may be automatically extended for 30 days.

Signed: 1/22/2018 10:58 AM

Cynthia Mitchell

Cynthia Mitchell, Administrative Authority

11
12 **McCarthy & Holthus, LLP**

13 s/ Robert B. Hakari 1/17/18
14 Robert Hakari OSB No. 114082
15 920 SW 3rd Ave, 1st Floor
16 Portland, OR 97204
17 Phone: (971) 201-3200
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19 rhakari@mccarthyholthus.com
20 Of Attorneys for Plaintiff
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EXHIBIT 1

LOT 13, BLOCK 5, LAWNDALE, A SUBDIVISION AND REPLAT OF A PORTION OF SPICER
WAYSIDE IN THE EDWARD N. WHITE DONATION LAND CLAIM NO . 48, TOWNSHIP 11 SOUTH,
RANGE 3 WEST, WILLAMETTE MERIDIAN, IN THE COUNTY OF LINN AND STATE OF OREGON

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

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES OF DOREEN H. COOK; JAYNE WAGNER, AS CLAIMING SUCCESSOR TO THE ESTATE OF DOREEN H. COOK; HEIDI MARIE BOYCE; OCCUPANTS OF THE PROPERTY;

Defendants.

Case No.: 17CV11584

GENERAL JUDGMENT OF FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion. All Defendants were duly served with process and failed to appear; the default has been entered against Defendants, and it appearing that 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 Linn County, Oregon, and is commonly known as 1913 Spicer Wayside SE, Albany, OR 97321 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 683942.
- b. Plaintiff is entitled to enforce the note dated October 31, 2001 and made, delivered, and executed by Doreen H. Cook ("Borrower") to Washington Mutual Bank in the amount of \$60,000.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and

- 1 by indorsement set forth on the Note.
- 2 c. A deed of trust was made, executed, and delivered by Borrower on or about October 31,
3 2001 (the "Deed of Trust"). The Deed of Trust was recorded on November 1, 2001 as Vol.
4 1230 Page 616 in the official records of Linn County, Oregon. The Deed of Trust is a valid
5 and perfected lien against all of the Property for and securing the Amount Due. The lien of
6 the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in
7 effect until issuance of a Sheriff's Deed.
- 8 d. The Borrower failed to make the payment that was due for October 11, 2015 and has not
9 cured the default. The amount of debt secured by the Deed of Trust that is now due and
10 owing is comprised of the following amounts (the "Amount Due"):
- | | |
|--|--------------------|
| 11 a) Unpaid principal balance: | \$59,004.50 |
| 12 b) Prejudgment interest accruing from
13 9/11/2015 through 12/26/2017 and
14 continuing until the entry of
judgment at the rate of 5%: | \$6,980.25 |
| 15 c) Attorney fees and costs: | \$5,144.93 |
| 16 d) Prevailing party fee (ORS 20.190
17 (1)(a)): | \$85.00 |
| 18 Total: | \$71,214.68 |
- 19 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the
20 date of entry of this judgment through the sale of the Subject Property at the rate of 9.00%
21 per annum.
- 22 e. The interest of the Defendants and any successor in interest in the Subject Property is
23 foreclosed and terminated excepting only any statutory right of redemption as provided by
24 Oregon law.
- 25 f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.
- 26 g. All right, title and interest in the Subject Property that Borrower had as of the date of the
27 Deed of Trust or thereafter acquired is hereby ordered to be sold by the Linn County Sheriff's
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1 Office in accordance with the process for sale upon execution, and the proceeds of sale shall
2 be applied:

- 3 1) First, to the costs of sale not incurred by Plaintiff;
- 4 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of
5 entry of judgment through the date of the sale and any incurred costs of sale;
- 6 3) Third, the surplus, if any, to the Defendants in the priority as their interest may
7 appear, described *infra*, or to the clerk of the court to be distributed by the Court to
8 such party or parties as they may establish their right thereto.

9 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
10 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
11 the date of entry of judgment through the date of the sale and any incurred costs of sale.

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

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

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

Signed: 12/29/2017 09:45 AM



Circuit Court Judge, DeAnn L. Novotny

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

This proposed Judgment Of Foreclosure is ready for judicial signature because:

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.

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.

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

No objection has been served on me.

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.

After conferring about objections, _____ agreed to independently file any remaining objection.

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

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

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: _____

McCarthy & Holthus, LLP

s/ Robert B. Hakari 12/26/17

_ John Thomas OSB No. 024691
x Robert Hakari OSB No. 114082
920 SW 3rd Ave, 1st Floor
Portland, OR 97204
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rhakari@mccarthyholthus.com
Of Attorneys for Plaintiff

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