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

WELLS FARGO BANK, N.A. AS TRUSTEE  
FOR WAMU MORTGAGE PASS-  
THROUGH CERTIFICATES, SERIES 2005-  
PR4 TRUST

Plaintiff,

vs.

ROLLIE E. KEARNS AKA ROLLIE  
EUGENE KEARNS; MARCI J. KEARNS  
AKA MARCI JOY KEARNS; AMERICAN  
EXPRESS CENTURION BANK;  
OCCUPANTS OF THE PROPERTY

Defendants.

Case No.: 16CV33824  
Judge: Courtland Geyer

WRIT OF EXECUTION IN  
FORECLOSURE

**TO THE MARION COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on April 18, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Judgment Creditor:

WELLS FARGO BANK, N.A. AS TRUSTEE FOR WAMU MORTGAGE  
PASS- THROUGH CERTIFICATES, SERIES 2005-PR4 TRUST

Submitted By:  
Robert Hakari  
Attorney for Plaintiff

McCarthy & Holthus, LLP  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204

1 With the adjudicated amount due of \$142,594.14, plus post judgment interest at the statutory rate  
2 of 9.0% per annum from 4/18/2017 to 5/11/2017 in the amount of \$808.68, and continuing with  
3 a per diem of \$35.16, currently totaling **\$143,402.82**.

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 May 11, 2005, the date of the Deed of Trust, and also the interest that the Defendant had  
8 thereafter, in the real property legally described in the attached *Exhibit 1* having APN/Parcel #  
9 R107187 and commonly known as: 1256 Kotka Street, Woodburn, OR 97071.

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.

Signed: 6/2/2017 02:06 PM

  
J. Tolman, Court Clerk



17 Dated: 5/11/17 and submitted by:

18 **McCarthy & Holthus, LLP**

19 s/Robert Hakari

20 Robert Hakari OSB No. 114082

21 920 SW 3rd Ave, 1st Floor

22 Portland, OR 97204

23 Phone: (971) 201-3200

24 Fax: (971) 201-3202

25 [rhakari@mccarthyholthus.com](mailto:rhakari@mccarthyholthus.com)

26 Of Attorneys for Plaintiff

# EXHIBIT 1

LOT 2, BLOCK 1, M. KRIVOSHEIN SUBIDIVISION, IN THE CITY OF WOODBURN, MARION COUNTY AND STATE OF OREGON (PLAT VOLUME 37, PAGE 20)

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

WELLS FARGO BANK, N.A. AS  
TRUSTEE FOR WAMU MORTGAGE  
PASS-THROUGH CERTIFICATES,  
SERIES 2005-PR4 TRUST,

Plaintiff,

v.

ROLLIE E. KEARNS AKA ROLLIE  
EUGENE KEARNS; MARCI J. KEARNS  
AKA MARCI JOY KEARNS; AMERICAN  
EXPRESS CENTURION BANK;  
OCCUPANTS OF THE PROPERTY

Defendants.

Case No.: 16CV33824  
Judge: Courtland Geyer

GENERAL JUDGMENT OF  
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion.

Defendants ROLLIE E. KEARNS AKA ROLLIE EUGENE KEARNS; MARCI J.  
KEARNS AKA MARCI JOY KEARNS; AMERICAN EXPRESS CENTURION BANK; and  
OCCUPANTS OF THE PROPERTY ("Defaulted Defendants") were duly served with process  
and failed to appear; the default has been applied for 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; now therefore,

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 Marion County, Oregon, and is commonly known as 1256 Kotka Street, Woodburn, OR 97071 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. R107187.
- b. Plaintiff is entitled to enforce the note dated 5/11/2005 and made, delivered, and executed by Marci Kearns and Rollie Kearns to Washington Mutual Bank in the amount of \$124,000.00 (the "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement set forth on the Note.
- c. A deed of trust was made, executed, and delivered by Defendants Marci J. Kearns and Rollie E. Kearns on or about 5/11/2005 (the "Deed of Trust"). The Deed of Trust was recorded on 5/18/2005 as Instrument No. 140908 in the official records of Marion County, Oregon. The Deed of Trust is a valid and perfected lien against all of the Property for and securing the Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.
- d. The Borrower failed to make the payment that was due for 3/1/2013 and has not cured the default. The amount of debt secured by the Deed of Trust that is now due and owing is comprised of the following amounts (the "Amount Due"):

- a) Unpaid principal balance: \$116,445.93
- b) Prejudgment interest accruing from 2/1/2013 through 4/12/2017 and continuing until the entry of judgment at the current Note rate of 2.51400%: \$10,505.63
- c) Additional amounts due under the terms of the loan: \$11,923.58
- d) Attorney fees and costs: \$3,634.00

1  
2 e) Prevailing party fee (ORS 20.190): \$85.00  
3 **Total:** \$142,594.14  
4

5 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the  
6 date of entry of this judgment through the sale of the Subject Property at the rate of 9.00%  
7 per annum.

8 e. The interest of the Defendants and any successor in interest in the Subject Property is  
9 foreclosed and terminated excepting only any statutory right of redemption as provided by  
10 Oregon law.

11 f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.

12 g. All right, title and interest in the Subject Property that Defendants Marci J. Kearns and Rollie  
13 E. Kearns had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to  
14 be sold by the Marion County Sheriff's Office in accordance with the process for sale upon  
15 execution, and the proceeds of sale shall be applied:

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

22 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS  
23 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from  
24 the date of entry of judgment through the date of the sale and any incurred costs of sale.

25 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject  
26 Property from and after the date of the sale and is entitled to such remedies as are available at  
27

1 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a  
2 writ of assistance if any Defendant, other party, or other person shall refuse to surrender  
3 possession to the purchaser immediately upon the purchaser's demand for possession.

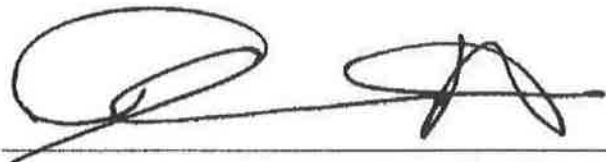
4 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be  
5 entitled to any further or other judgment, including a judgment for the deficiency.

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

9 l. Pursuant to ORS 88.050, the apparent priority of liens subsequent and inferior to the Deed of  
10 Trust are as follows:

- 11 1. Defendant American Express Centurion Bank may claim an interest in Subject  
12 Property by virtue of a judgment entered on 01/30/2013 in the Circuit Court of  
13 Marion County, Case No. 12C23602, in the amount of \$11,396.58.

Signed: 4/18/2017 10:56 AM

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**Circuit Court Judge Channing Bennett**

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

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

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

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

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

27  No objection has been served on me.

28  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.

1                   [ ] After conferring about objections, \_\_\_\_\_ agreed to independently file  
any remaining objection.

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

3                   [x] An order of default is being requested with this proposed judgment.

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

6                   [ ] 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  
7                   by subsection (4) of this rule.

8                   [ ] Other: \_\_\_\_\_

9 Presented by:

10 **McCarthy & Holthus, LLP**

11 s/ Bryan Kidder 4/12/2017

12 \_\_\_\_\_  
Bryan Kidder, OSB No. 140459

13 920 SW 3rd Ave, 1st Floor

14 Portland, OR 97204

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18 Of Attorneys for Plaintiff



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