

RECEIVED

IN THE CIRCUIT COURT OF THE STATE OF OREGON

JUN 04 2018

FOR THE COUNTY OF LINCOLN

LINCOLN COUNTY SHERIFF'S OFFICE  
NEWPORT, OR  
18-0807

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, AS TRUSTEE FOR  
HARBORVIEW MORTGAGE LOAN  
TRUST MORTGAGE LOAN PASS-  
THROUGH CERTIFICATES, SERIES 2006-  
9, its successors in interest and/or assigns,

Case No.: 16CV27555

WRIT OF EXECUTION IN  
FORECLOSURE

Plaintiff,

v.

UNKNOWN HEIRS OF DAMON  
BALSWICK AKA DAMON MARK  
BALSWICK; RICHARD DALE  
BALSWICK; BARBARA JOAN  
BALSWICK; DAKOTA PACIFIC, INC., A  
WYOMING CORPORATION; CORONADO  
SHORES BEACH CLUB, INC.; CIT BANK,  
NATIONAL ASSOCIATION, SUCCESSOR  
BY ACQUISITION OF INDYMAC BANK,  
F.S.B.; STATE OF OREGON; AND  
OCCUPANTS OF THE PREMISES,

Defendants.

**TO THE LINCOLN COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on October 11, 2017.

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

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR  
HARBORVIEW MORTGAGE LOAN TRUST MORTGAGE LOAN PASS-THROUGH  
CERTIFICATES, SERIES 2006-9  
c/o Brady Godbout  
Attorney for Plaintiff

1           McCarthy & Holthus, LLP  
2           920 SW 3rd Ave, 1st Floor  
              Portland, OR 97204

3 With the adjudicated amount due of \$727,790.63, plus post judgment interest at the statutory rate  
4 of 9.0% per annum from October 11, 2017 to May 31, 2018 in the amount of \$41,634.72, and  
5 continuing with a per diem of \$179.46, currently totaling \$769,425.35.

6           **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are  
7 hereby commanded to sell, in the manner prescribed by law for the sale of real property on  
8 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or  
9 about August 21, 2006, the date of the Deed of Trust, and also the interest that the Defendant had  
10 thereafter, in the real property described in the attached *Exhibit 1*, APN/Parcel #: R265254 and  
11 commonly known as: 360 Monterey Avenue, Gleneden Beach , OR 97388.

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

Signed: 5/31/2018 11:29 AM



*Tracey Becker*  
Circuit Court Clerk Tracey Becker

17  
18  
19 Dated: May 29, 2018 and submitted by:

20           **McCarthy & Holthus, LLP**

21           s/ Brady Godbout

22           \_\_\_\_\_  
23           Brady Godbout OSB No. 132708  
24           920 SW 3rd Ave, 1st Floor  
25           Portland, OR 97204  
26           Phone: (971) 201-3200  
27           Fax: (971) 201-3202  
28           **[bgodbout@mccarthyholthus.com](mailto:bgodbout@mccarthyholthus.com)**  
              Of Attorneys for Plaintiff

Exhibit 1

Lot 58, Block 5, CORONADO SHORES DIVISION NO. 1, in Lincoln County, Oregon.

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IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
IN AND FOR THE COUNTY OF LINCOLN

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, AS TRUSTEE FOR  
HARBORVIEW MORTGAGE LOAN TRUST  
MORTGAGE LOAN PASS-THROUGH  
CERTIFICATES, SERIES 2006-9, its successors  
in interest and/or assigns,

Plaintiff,

v.

UNKNOWN HEIRS OF DAMON BALSWICK  
AKA DAMON MARK BALSWICK;  
RICHARD DALE BALSWICK; BARBARA  
JOAN BALSWICK; DUTCH NESS, INC., A  
WYOMING CORPORATION; DAKOTA  
PACIFIC, INC., A WYOMING  
CORPORATION; CORONADO SHORES  
BEACH CLUB, INC.; CIT BANK, NATIONAL  
ASSOCIATION, SUCCESSOR BY  
ACQUISITION OF INDYMAC BANK, F.S.B.;  
STATE OF OREGON; AND OCCUPANTS OF  
THE PREMISES,

Defendants.

Case No. 16CV27555

GENERAL JUDGMENT OF  
FORECLOSURE AND SALE  
AGAINST:

- (1) UNKNOWN HEIRS OF DAMON BALSWICK AKA DAMON MARK BALSWICK;
- (2) RICHARD DALE BALSWICK;
- (3) BARBARA JOAN BALSWICK;
- (4) DUTCH NESS, INC., A WYOMING CORPORATION;
- (5) DAKOTA PACIFIC, INC., A WYOMING CORPORATION;
- (6) CORONADO SHORES BEACH CLUB, INC.;
- (7) CIT BANK, NATIONAL ASSOCIATION, SUCCESSOR BY ACQUISITION OF INDYMAC BANK, F.S.B.; AND
- (8) STATE OF OREGON

1.

THIS MATTER coming regularly before the Court on this day and it appearing from the record herein that plaintiff Deutsche Bank National Trust Company, as trustee for Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-9, its successors in interest and/or

1 assigns ("Plaintiff"), filed its First Amended Complaint for deed of trust foreclosure that defendants  
2 Unknown Heirs of Damon Balswick aka Damon Mark Balswick; Richard Dale Balswick; Barbara Joan  
3 Balswick; Dutch Ness, Inc., A Wyoming Corporation; Dakota Pacific, Inc., a Wyoming corporation;  
4 Coronado Shores Beach Club, Inc.; CIT Bank, National Association, successor by acquisition of  
5 Indymac Bank, F.S.B. and State of Oregon were duly served with the Summons and Complaint as  
6 required by law; that defendants Unknown Heirs of Damon Balswick aka Damon Mark Balswick;  
7 Richard Dale Balswick; Barbara Joan Balswick; Dutch Ness, Inc., A Wyoming Corporation; Dakota  
8 Pacific, Inc., a Wyoming corporation; Coronado Shores Beach Club, Inc.; CIT Bank, National  
9 Association, successor by acquisition of Indymac Bank, F.S.B. and State of Oregon failed to appear;  
10 and that an Order of Default has been entered against them on Plaintiff's Complaint and, consequently  
11 this General Judgment of foreclosure is submitted in accordance with UTCR 5.100 (3)(c).  
12

13  
14 2.

15 Plaintiff hereby requests this general judgment for foreclosure and sale be entered into the  
16 Court's register to accomplish the following: to foreclose any and all interest of defendants Unknown  
17 Heirs of Damon Balswick aka Damon Mark Balswick; Richard Dale Balswick; Barbara Joan Balswick;  
18 Dutch Ness, Inc., A Wyoming Corporation; Dakota Pacific, Inc., a Wyoming corporation; Coronado  
19 Shores Beach Club, Inc.; CIT Bank, National Association, successor by acquisition of Indymac Bank,  
20 F.S.B. and State of Oregon in the real property subject to this foreclosure action, located at 360  
21 Monterey Avenue, Gleneden Beach, Oregon 97388 (the "Property").  
22

23 3.

24 The court being fully advised in the Premise, finding good cause exists so this general judgment  
25 of foreclosure and sale may be entered in favor of Plaintiff and against defendants Unknown Heirs of  
26

1 Damon Balswick aka Damon Mark Balswick; Richard Dale Balswick; Barbara Joan Balswick; Dutch  
2 Ness, Inc., A Wyoming Corporation; Dakota Pacific, Inc., a Wyoming corporation; Coronado Shores  
3 Beach Club, Inc.; CIT Bank, National Association, successor by acquisition of Indymac Bank, F.S.B.  
4 and State of Oregon, all of them, it is hereby

5 ORDERED AND ADJUDGED:

6  
7 4.

8 That the Deed of Trust dated August 21, 2006, executed by Damon Balswick for the benefit of  
9 Mortgage Electronic Registration Systems, Inc., solely as nominee for SCME Mortgage Bankers, Inc., a  
10 California Corporation, its successors and assigns ("Deed of Trust"), recorded on August 29, 2006, as  
11 Instrument No. 2006-13300 in the official records of Lincoln County, Oregon, and subsequently  
12 assigned to Plaintiff by way of an assignment recorded on January 18, 2013, as Instrument No. 2013-  
13 00505, is a valid lien for the amount due and owing as set forth in Paragraph 13 herein, against the  
14 Property situated in Lincoln County, Oregon, and described as follows  
15

16 LOT 58, BLOCK 5, CORONADO SHORES DIVISION NO. 1, IN LINCOLN  
17 COUNTY, OREGON.

18 5.

19 That the lien of the Deed of Trust is superior to any interest, lien, or claim of defendants  
20 defendants Unknown Heirs of Damon Balswick aka Damon Mark Balswick; Richard Dale Balswick;  
21 Barbara Joan Balswick; Dutch Ness, Inc., A Wyoming Corporation; Dakota Pacific, Inc., a Wyoming  
22 corporation; Coronado Shores Beach Club, Inc.; CIT Bank, National Association, successor by  
23 acquisition of Indymac Bank, F.S.B. and State of Oregon in the Property, and that said Deed of Trust is  
24 hereby foreclosed by this Court on the Property.

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6.

That on January 11, 2010 the grantor of the Note and Deed of Trust passed away. This suit constitutes an attempt to execute upon the Property as security for the Amount Due to Plaintiff under the terms of the Deed of Trust.

7.

That defendants Unknown Heirs of Damon Balswick aka Damon Mark Balswick; Richard Dale Balswick; Barbara Joan Balswick; Dutch Ness, Inc., A Wyoming Corporation; Dakota Pacific, Inc., a Wyoming corporation; Coronado Shores Beach Club, Inc.; CIT Bank, National Association, successor by acquisition of Indymac Bank, F.S.B. and State of Oregon, each of them, and all parties claiming by, through, or under them as purchasers, encumbrances, or otherwise, are forever barred and foreclosed of all interests, liens, or claims in the Property, and every portion thereof, excepting only the statutory right of redemption provided by the laws of the State of Oregon.

8.

That defendants Unknown Heirs of Damon Balswick aka Damon Mark Balswick; Richard Dale Balswick; Barbara Joan Balswick; Dutch Ness, Inc., A Wyoming Corporation; Dakota Pacific, Inc., a Wyoming corporation; Coronado Shores Beach Club, Inc.; CIT Bank, National Association, successor by acquisition of Indymac Bank, F.S.B. and State of Oregon, all of them, are not entitled to a homestead exemption as against Plaintiff's Deed of Trust.

9.

That all of the right, title and interest which Damon Balswick had on August 21, 2006, the date of the Deed of Trust, and all of the right, title and interest defendants Unknown Heirs of Damon Balswick aka Damon Mark Balswick; Richard Dale Balswick; Barbara Joan Balswick; Dutch Ness,

1 Inc., A Wyoming Corporation; Dakota Pacific, Inc., a Wyoming corporation; Coronado Shores Beach  
2 Club, Inc.; CIT Bank, National Association, successor by acquisition of Indymac Bank, F.S.B. and State  
3 of Oregon and any successor thereafter had in and to the real Property is hereby ordered to be sold by  
4 law, and the proceeds of sale shall be applied first toward the sheriff's fees and costs of sale, then  
5 toward the satisfaction of the amount due and owing set forth in Paragraph 13 herein; and the surplus, if  
6 any, to the Clerk of the Court to be disbursed to such party or parties as may establish their right thereto.  
7

8 10.

9 That Plaintiff may become purchaser at the sheriff's sale of the Property and may bid up to the  
10 aggregate amount due and owing set forth in Paragraph 13 herein, plus interest from the date of this  
11 Judgment until sale without advancing any cash except money required for the sheriff's sale.  
12

13 11.

14 That the Plaintiff, if the successful purchaser of the Property at the sheriff's sale, reserves the  
15 right to motion the court after sale for exclusive and immediate possession of the Property through the  
16 issuance and enforcement of a writ of assistance, should defendants Unknown Heirs of Damon  
17 Balswick aka Damon Mark Balswick; Richard Dale Balswick; Barbara Joan Balswick; Dutch Ness,  
18 Inc., A Wyoming Corporation; Dakota Pacific, Inc., a Wyoming corporation; Coronado Shores Beach  
19 Club, Inc.; CIT Bank, National Association, successor by acquisition of Indymac Bank, F.S.B. and State  
20 of Oregon refuse to surrender possession of the Property immediately upon the purchaser's demand for  
21 possession.  
22

23 12.

24 That Plaintiff is entitled to, and is hereby awarded its attorney fees and costs incurred in this  
25 action, and that Plaintiff's attorney fees in the amount of \$3,050.00 and its litigation costs in the amount  
26



1 of \$4,823.33, shall be, and is hereby declared additional amounts secured by and hereinafter shall be  
2 made part of the amount of the debt secured by Plaintiff's Deed of Trust.

3 **DECLARATION OF DEBT SECURED BY DEED OF TRUST**

4 **(Pursuant to Senate Bill 368)**

5 13.

6  
7 Under the terms of the Deed of Trust and the promissory note dated August 21, 2006, in the  
8 principal amount of \$420,000.00, there is now due and owing the following amounts, to be hereinafter  
9 described as the Amount Due:

10 **Attorneys' Fees and Costs**

11 Attorneys' Fees		\$3,050.00
12 Title Fees – Date Down Endorsements	\$200.00	
13 Filing Fee - Complaint	\$531.00	
14 Recording Fee - Lis Pendens	\$67.00	
15 Process Service Fees	\$2,545.00	
16 Publication Costs	\$1,394.40	
17 Death Certificate	\$40.00	
18 Mailing Costs	\$45.93	
	Total Costs	\$4,823.33
	<b>Total Attorneys' Fees and Costs</b>	<b>\$7,873.33</b>

19 **Lenders' Principal and Interest**

20 Principal Balance	\$440,820.78	
21 Accrued Interest from December 1, 2007, to July 13, 2017, the date calculated by the declarant in the declaration in support of judgment @ .04125 per annum	\$173,069.06	
	<b>Total Principal &amp; Interest</b>	<b>\$613,889.84</b>

22 **Lenders' Fees and Costs**

23 Escrow Advance	\$76,624.03	
24 Property Inspections	\$1,350.00	
25 BPO	\$125.00	

1	Property Preservation	\$4,979.17
2	Title Examination / Prior FCL Fees	\$1,357.00
	<b>Total Lenders' Fees and Costs:</b>	<b>\$84,435.20</b>
3	<b>Total Lenders' Principal, Interest, Fees, and Costs:</b>	<b>\$698,325.04</b>

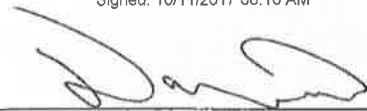
4 Additional pre-judgment interest pursuant to ORS  
5 18.042 from July 13, 2017, to the date entry of  
6 judgment at the variable contract rate as defined by  
7 Section 2 of the Note

8 Post-Judgment interest thereafter on the Total  
9 Amount Due at the variable contract rate as defined  
10 by Section 2 of the note, or 9.000% per annum,  
11 whichever is greater.

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**Total Amount Due** **\$706,198.37**

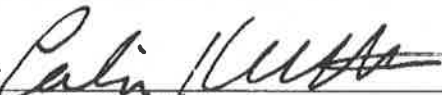
Signed: 10/11/2017 08:10 AM



**Circuit Court Judge David V. Cramer**

Presented by:

**RCO LEGAL, P.C.**

By  DATED 10/6/2017  
Calvin Knickerbocker, OSB # 050110  
Attorneys for Plaintiff  
511 SW 10<sup>th</sup> Ave., Ste. 400  
Portland, OR 97205  
Telephone (503) 977-7840 Facsimile (503) 977-7963  
cknickerbocker@rcolegal.com

1 **CERTIFICATE OF UTCR 5.100 COMPLIANCE**

2 This Proposed order or judgment is ready for judicial signature because:

- 3 A. [ ] The order or judgment was served on the opposing counsel not less than 3 days prior to  
4 submission to the court, or mailed to a self-represented party at the party's last known  
5 address not less than 7 days prior to submission to the court with a notice of the time period  
6 to object.
- 7 B. [ ] The order or judgment is accompanied by a stipulation by opposing counsel that no objection  
8 exits as to the judgment or order.
- 9 C.  The judgment or order is exempt from UTCR 5.100(1) because:  
10 a. [ ] The judgment or order is a proposed order or judgment presented in open court with  
11 the parties present.  
12 b. [ ] The judgment or order is of a kind that may be presented *ex parte* and has been  
13 submitted either in person or by mail *ex parte*.  
14 c.  The judgment is a proposed judgment after an order for default has already been  
15 entered or is being simultaneously requested against the opposing party.  
16 d. [ ] The proposed judgment is subject to UTCR 10.0099  
17 e. [ ] The proposed judgment or order is an uncontested probate and protective proceeding.  
18 f. [ ] This matter is certified to the court under ORS 416.422, 416.430, 416.435, or  
19 416.448.
- 20 D. In compliance with UTCR 5.100(2)(b), the drafting party certifies the following as to why  
21 the proposed judgment or order is ready for a judicial signature:
- 22 1. [ ] Each opposing party affected by this order or judgment has stipulated to the order or  
23 judgment, as shown by each opposing party's signature on the document being submitted.
- 24 2. [ ] Each opposing party affected by this order or judgment has approved the order or judgment,  
25 as shown by signature on the document being submitted or by written confirmation of  
26 approval sent to me.
3. [ ] I have served a copy of this order or judgment on all parties entitled to service and:  
a. [ ] No objection has been served on me.  
b. [ ] 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.  
c. [ ] After conferring about objections, [role and name of opposing party] agreed to  
independently file any remaining objection.
4. [ ] The relief sought is against an opposing party who has been found to be in default.

- 1 5. [ ] An order of default is being requested with this proposed judgment.
- 2 6. [ ] Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise
- 3 noted.
- 4 7. [ ] This is a proposed judgment that includes an award of punitive damages and notice has been
- 5 served on the Director of the Crime Victims' Assistance Section as required by subsection
- 6 (4) of this rule.

Dated this 10 day of October, 2017

By, Calvin Knickerbocker

Calvin Knickerbocker OSB#050110  
Attorney for Plaintiff

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