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

WELLS FARGO BANK, N.A.,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES  
OF ERNEST L. LOFFER; SHIRLEY ANN  
EWERS, KRISHNA ROMERO, STATE OF  
OREGON, SOUTHERN OREGON CREDIT  
SERVICE, INC., OCCUPANTS OF THE  
PROPERTY,

Defendants.

Case No.: 17CV53322

WRIT OF EXECUTION IN  
FORECLOSURE

**TO THE JOSEPHINE COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on 10/19/2018. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

WELLS FARGO BANK, N.A.  
c/o Andreanna Smith  
Attorney for Plaintiff  
McCarthy & Holthus, LLP  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204

With the adjudicated amount due of \$256,182.90, plus pre-judgment interest at the Note rate of 3.5%, \$22.58 per diem, from 10/17/2018 through 10/18/2018 in the amount of \$22.58, plus post-

1 judgment interest at the statutory rate of 9.0% per annum from 10/19/2018 to 11/28/2018 in the  
2 amount of \$2,527.60, continuing with a per diem of \$63.17, currently totaling \$259,300.81.

3 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are  
4 hereby commanded to sell, in the manner prescribed by law for the sale of real property on  
5 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or  
6 about May 2, 2013, the date of the Deed of Trust, and also the interest that the Defendant had  
7 thereafter, in the real property described as attached as Exhibit 1 and commonly known as: 489  
8 Barbara Drive, Grants Pass, OR 97526.

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

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18 DEC 05 2018

*B. [Signature]*  
Court Clerk



19 Dated: 12/5/2018 and submitted by:

20 **McCarthy & Holthus, LLP**

21 s/ Andreanna Smith

22 

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Andreanna Smith OSB No. 131336  
23 920 SW 3rd Ave, 1st Floor  
24 Portland, OR 97204  
25 Phone: (971) 201-3200  
26 Fax: (971) 201-3202  
27 ansmith@mccarthyholthus.com  
28 Of Attorneys for Plaintiff

# Exhibit 1

A parcel of land in the West Half of the Southeast Quarter of Section 9, Township 36 South, Range 6 West of the Willamette Meridian, Josephine County, Oregon, more particularly described as follows: Commencing at the Northeast corner of the Northwest Quarter of the Southeast Quarter of said Section 9; thence South  $0^{\circ}12'30''$  East 521.00 feet along the East line of the Northwest Quarter of the Southeast Quarter of said Section 9 to an iron rod, which is the true point of beginning; thence South  $89^{\circ}37'50''$  West 835.78 feet to an iron rod on the Easterly right of way line of Barbara Drive; thence along said right of way line South  $0^{\circ}14'40''$  East 260.79 feet to an iron rod; thence North  $89^{\circ}37'50''$  East 835.61 feet to an iron rod on the East line of the Northwest Quarter of the Southeast Quarter of said Section 9; thence North  $0^{\circ}12'30''$  West 260.80 feet along the East line of the Northwest Quarter of the Southeast Quarter of said Section 9 to the true point of beginning.

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

WELLS FARGO BANK, N.A.,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES  
OF ERNEST L. LOFFER; SHIRLEY ANN  
EWERS, KRISHNA ROMERO, STATE OF  
OREGON, SOUTHERN OREGON CREDIT  
SERVICE, INC., OCCUPANTS OF THE  
PROPERTY,

Defendants.

Case No.: 17CV53322

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 Josephine County, Oregon, and is commonly known as 489 Barbara Drive, Grants Pass, OR 97526 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. R317841.

1 b. Plaintiff is entitled to enforce the note dated May 2, 2013 and made, delivered, and executed  
2 by ERNEST LOFFER to Pacific Trust Bank DBA Mission Hills Mortgage Bankers in the  
3 amount of \$256,000.00 (the "Note"). The Note was transferred to Plaintiff by delivery of  
4 possession and by indorsement set forth on the Note.

5 c. A deed of trust was made, executed, and delivered by Defendant ERNEST L. LOFFER on or  
6 about May 2, 2013 (the "Deed of Trust"). The Deed of Trust was recorded on May 9, 2013  
7 as Instrument No. 2013-006315 in the official records of Josephine County, Oregon. The  
8 Deed of Trust is a valid and perfected lien against all of the Property for and securing the  
9 Amount Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the  
10 Defendants and shall remain in effect until issuance of a Sheriff's Deed.

11 d. The Borrower failed to make the payment that was due for June 1, 2017 and has not cured  
12 the default. The amount of debt secured by the Deed of Trust that is now due and owing is  
13 comprised of the following amounts (the "Amount Due"):

14	a) Unpaid principal balance:	\$235,521.41
15	b) Prejudgment interest accruing from	\$11,984.60
16	5/1/2017 through 10/15/2018 and	
17	continuing until the entry of	
	judgment at the current Note rate of	
	3.5%	
18	c) Additional amounts due under the	\$3,364.88
19	terms of the loan:	
20	d) Attorney fees and costs:	\$5,227.01
21	e) Prevailing party fee (ORS 20.190	\$85.00
	(1)(a)):	
22	<b>Total:</b>	<b>\$256,182.90</b>

23 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the  
24 date of entry of this judgment through the sale of the Subject Property at the rate of 9.00%  
25 per annum.  
26  
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- 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 Defendant is not entitled to a homestead exception as against Plaintiff's judgment.
- 5 g. All right, title and interest in the Subject Property that Defendant ERNEST L. LOFFER had  
6 as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the  
7 Josephine County Sheriff's Office in accordance with the process for sale upon execution,  
8 and the proceeds of sale shall be applied:
- 9 1) First, to the costs of sale not incurred by Plaintiff;
  - 10 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of  
11 entry of judgment through the date of the sale and any incurred costs of sale;
  - 12 3) Third, the surplus, if any, to the Defendants in the priority as their interest may  
13 appear, described *infra*, or to the clerk of the court to be distributed by the Court to  
14 such party or parties as they may establish their right thereto.
- 15 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS  
16 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from  
17 the date of entry of judgment through the date of the sale and any incurred costs of sale.
- 18 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject  
19 Property from and after the date of the sale and is entitled to such remedies as are available at  
20 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a  
21 writ of assistance if any Defendant, other party, or other person shall refuse to surrender  
22 possession to the purchaser immediately upon the purchaser's demand for possession.
- 23 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be  
24 entitled to any further or other judgment, including a judgment for the deficiency.
- 25 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,  
26 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be  
27 terminated.
- 28

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

- 3 1. Defendant KRISHNA ROMERO and STATE OF OREGON. may claim a junior  
4 interest in Subject Property by virtue of a Child support judgment entered on  
5 12/19/2008 in Case No. 07DR0116 in the circuit court of Josephine County,  
6 Oregon;
- 7 2. Defendant SOUTHERN OREGON CREDIT SERVICE, INC. may claim a junior  
8 interest in Subject Property by virtue of a judgment entered on 10/10/2016 as  
9 Case No. 062002SC in the circuit court of Josephine County, Oregon.

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11  
12 Signed: 10/18/2018 11:25 AM

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15 **Circuit Court Judge Robert S. Bain**

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

17  
18 This proposed Judgment Of Foreclosure is ready for judicial signature because:

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

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

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

24  No objection has been served on me.

25  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.

26  After conferring about objections, \_\_\_\_\_ agreed to independently file  
27 any remaining objection.

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

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

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

5            This is a proposed judgment that includes an award of punitive damages and notice  
6           has been served on the Director of the Crime Victims' Assistance Section as required  
7           by subsection (4) of this rule.

8            Other: \_\_\_\_\_

9 Dated: 10/17/2018 and submitted by:

10 **McCarthy & Holthus, LLP**

11 s/ Andreanna C. Smith

12 Andreanna Smith OSB No. 131336

13 920 SW 3rd Ave, 1st Floor

14 Portland, OR 97204

15 Phone: (971) 201-3200

16 Fax: (971) 201-3202

17 ansmith@mccarthyholthus.com

18 Of Attorneys for Plaintiff



# Exhibit "1"

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