

2019 APR 10 PM 4:44

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

WILMINGTON TRUST, NATIONAL
ASSOCIATION, NOT IN ITS INDIVIDUAL
CAPACITY, BUT SOLELY AS TRUSTEE
FOR MFRA TRUST 2015-1,

CASE NO.: 18CV52193
WRIT OF EXECUTION

Plaintiff,

vs.

ALL UNKNOWN HEIRS AND DEVISEES
OF WESLEY E. ACKLEY, a deceased
individual; MARGARET A. ACKLEY, as
potential heir of WESLEY E. ACKLEY, a
deceased individual; DEDEE GEBHARDT, as
potential heir of WESLEY E. ACKLEY, a
deceased individual; KEVIN ACKLEY, as
potential heir of WESLEY E. ACKLEY, a
deceased individual; ALL UNKNOWN
HEIRS AND DEVISEES OF BRIAN
ACKLEY, a deceased individual, as
potential heir of WESLEY E. ACKLEY, a
deceased individual; SIERRA ACKLEY, as
potential heir of BRIAN ACKLEY, a deceased
individual; CAROLYN ACKLEY, as potential
heir of BRIAN ACKLEY, a deceased
individual; NEVE ACKLEY, as potential heir
of BRIAN ACKLEY, a deceased individual;
BROOKE ACKLEY, as potential heir of
BRIAN ACKLEY, a deceased individual; and
ALL OTHER UNKNOWN PARTIES
CLAIMING ANY RIGHT, TITLE, LIEN OR
INTEREST IN THE REAL PROPERTY

WRIT OF EXECUTION -1-

Zieve, Brodnax & Steele, LLP
Jeffrey A. Myers, Esq.
One World Trade Center
121 Southwest Salmon St., 11th Floor
Portland, OR 97204
503-946-6558x801
jmyers@zbslaw.com

1 COMMONLY KNOWN AS 43091 NORTH
2 RIVER DRIVE, SWEET HOME, OR 97386.

3 Defendants.

4 STATE OF OREGON)
5 County of Linn) ss.
6)

7 TO THE SHERIFF OF LINN COUNTY OREGON:

8 WHEREAS, on March 13, 2019 by consideration of the Linn County Circuit Court, there
9 was entered a General Judgment of Foreclosure as to Defendants. Said General Judgment of
10 Foreclosure was duly enrolled and docketed in the Court Administrator's Office in said County on
11 March 14, 2019; a true copy of the General Judgment of Foreclosure is attached hereto and made
12 a part hereof.

13 Judgment Creditor: WILMINGTON TRUST, NATIONAL ASSOCIATION,
14 NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY
15 AS TRUSTEE FOR MFRA TRUST 2015-1
16 c/o Zieve Brodnax & Steele, LLP
17 Judgment Creditor Address: 121 SW Salmon St., 11th Floor
18 Portland, OR 97204

19 NOW THEREFORE IN THE NAME OF THE STATE OF OREGON, you are
20 commanded to sell the real property as by said General Judgment of Foreclosure according to law
21 (subject to redemption) all of the interest that the borrower on the 23rd day of January, 2008, the
22 date of the Mortgage, and also all of the interest that borrower had thereafter, in the real property
23 described in the Judgment as:

24 PARCEL 1 OF PARTITION PLAT NO. 1996-94, RECODED DECEMBER 10, 1996,
25 IN LINN COUNTY, OREGON
26 APN: 13S01E27-B0-00201

27 WRIT OF EXECUTION -2-

28 Zieve, Brodnax & Steele, LLP
Jeffrey A. Myers, Esq.
One World Trade Center
121 Southwest Salmon St., 11th Floor
Portland, OR 97204
503-946-6558x801
jmyers@zbslaw.com

1 The street address of the real property to be levied upon is 43091 N River Dr., Sweet Home,
2 OR 97386.

3 The above referenced property shall be sold to satisfy the following sums: The principal
4 balance and interest and fees in the amount of \$111,900.99; plus reasonable attorney fees and costs
5 in the amount of \$5,501.04; plus prevailing party fee in the amount of \$300.00; plus prejudgment
6 interest in the amount of \$0.00 (\$15.39 x 0 days); plus post-judgment interest accruing after March
7 16, 2019 at the rate of 9.0% per annum, in the amount of \$0.00 (\$29.02 per diem x 0 days) for a
8 total of \$117,702.03 with interest to continue to accrue at the rate of 9.0% per annum (\$29.02 per
9 diem) until the date of sale; Thus,

10 THE TOTAL AMOUNT OF EXECUTION REQUESTED HEREON, STATED AS OF
11 THE DATE OF SUBMISSION (March 14, 2019) IS AS FOLLOWS:

12	Base Judgment:	\$111,900.99
13	Attorney Fees and Costs:	\$5,501.04
14	Prevailing Party Fee	\$300.00
15	Pre-Judgment Interest	
16	Through 3/15/19	
17	(\$15.39 per diem)	\$0.00
18	Post-Judgment Interest	
19	Arising after 3/16/19	
20	(\$29.02 per diem)	\$0.00

21
22 ///
23 ///
24 ///

1 Total due as of March 14, 2019: \$117,702.03, with interest to continue to accrue at
2 9.0% (\$29.02 per diem) until the date of sale.

3 The proceeds of sale shall be applied, delivered, and distributed according to ORS 18.950.

Signed: 3/20/2019 08:28 AM

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5 By: Kateris Driskill

Kateris Driskill, Administrative Authority

6 Submitted by:

7 /s/ JEFFREY A. MYERS

8 Jeffrey A. Myers, OSB No. 094561



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

WILMINGTON TRUST, NATIONAL
ASSOCIATION, NOT IN ITS INDIVIDUAL
CAPACITY, BUT SOLELY AS TRUSTEE
FOR MFRA TRUST 2015-1,

Plaintiff,

vs.

ALL UNKNOWN HEIRS AND DEVISEES
OF WESLEY E. ACKLEY, a deceased
individual; MARGARET A. ACKLEY, as
potential heir of WESLEY E. ACKLEY, a
deceased individual; DEDEE GEBHARDT, as
potential heir of WESLEY E. ACKLEY, a
deceased individual; KEVIN ACKLEY, as
potential heir of WESLEY E. ACKLEY, a
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HEIRS AND DEVISEES OF BRIAN
ACKLEY, a deceased individual, as
potential heir of WESLEY E. ACKLEY, a
deceased individual; SIERRA ACKLEY, as
potential heir of BRIAN ACKLEY, a deceased
individual; CAROLYN ACKLEY, as potential
heir of BRIAN ACKLEY, a deceased
individual; NEVE ACKLEY, as potential heir
of BRIAN ACKLEY, a deceased individual;
BROOKE ACKLEY, as potential heir of
BRIAN ACKLEY, a deceased individual; and
ALL OTHER UNKNOWN PARTIES
CLAIMING ANY RIGHT, TITLE, LIEN OR
INTEREST IN THE REAL PROPERTY
COMMONLY KNOWN AS 43091 NORTH
RIVER DRIVE, SWEET HOME, OR 97386,

Defendants.

CASE NO. 18CV52193

**GENERAL JUDGMENT OF
FORECLOSURE BY DEFAULT
(WITHOUT MONEY AWARD -
JUDGMENT DOES NOT
CREATE A LIEN)**

1 Based upon the Motion for a General Judgment of Foreclosure filed by plaintiff,
2 Wilmington Trust, National Association, not in its individual capacity, but solely as trustee for
3 MFRA Trust 2015-1 ("Plaintiff") and against defendants All Unknown Heirs and Devisees of
4 Wesley E. Ackley, Margaret A. Ackley, as potential heir of Wesley E. Ackley, Dedee Gebhardt, as
5 potential heir of Wesley E. Ackley, Kevin Ackley, as potential heir of Wesley E. Ackley, All
6 Unknown Heirs and Devisees of Brian Ackley, a deceased individual, as potential heir of Wesley E.
7 Ackley, Sierra Ackley, as potential heir of Brian Ackley, Carolyn Ackley, as potential heir of Brian
8 Ackley, Neve Ackley, as potential heir of Brian Ackley, Brooke Ackley, as potential heir of Brian
9 Ackley, and All Other Unknown Parties claiming any right, title, lien or interest in the real property,
10 collectively ("Defendants"), and that Plaintiff has filed a Statement for Attorney Fees, Costs, and
11 Disbursements,

12 **IT IS HEREBY ORDERED AND ADJUDGED:**

13 1.

14 Plaintiff is awarded judgment against Defendants and all persons claiming through or
15 under Defendants, as purchasers, encumbrances, or otherwise, are forever foreclosed of all
16 interest, lien or claim in the real property described above and every portion thereof excepting
17 only any satisfactory right of redemption as Defendants, or any of them, may have therein.

18 2.

19 Writ of execution upon this General Judgment of Foreclosure shall issue.

20 3.

21 The Deed of Trust executed by Wesley E. Ackley ("Deceased Borrower") and Margaret
22 A. Ackley ("Borrower", collectively "Borrowers") and recorded on January 23, 2008, in the Linn
23 County Recorder's Office as instrument number 2008-01438, is a valid mortgage lien for the
24 amount of Plaintiff's judgment set forth in paragraph 1 against all the real property, located in
25 Linn County, Oregon commonly referred to as 43091 N River Dr. Sweet Home, OR 97386, with
26 a legal description as follows:

27 **PARCEL 1 OF PARTITION PLAT NO. 1996-94, RECODED DECEMBER 10, 1996,**

1 IN LINN COUNTY, OREGON.

2 APN: 13S01E27-B0-00201.

3 4.

4 Said mortgage lien is superior to any interest, lien or claim of the Defendants in the real
5 property, and all other interest in the property gained by him thereafter, or so much interest as
6 may be necessary to satisfy the judgment of the Plaintiff shall be sold by the Sheriff of Linn
7 County, Oregon in the manner provided by law and in accordance with the practice of this Court.

8 5.

9 The proceeds of sale shall first be applied to the costs of sale; then toward the satisfaction
10 of Plaintiff's judgment awarded herein, calculated as of the date of sale; and any resulting surplus
11 shall then be tendered to the Clerk of the Court to be distributed to such other party or parties as
12 may establish their right thereto.

13 6.

14 Defendants and all persons claiming through or under Defendants, as purchasers,
15 encumbrances, or otherwise, are forever foreclosed of all interest, lien or claim in the real
16 property described above and every portion thereof excepting only any satisfactory right of
17 redemption as Defendants may have.

18 7.

19 Plaintiff or any other party to this suit or third party purchase may become the purchaser
20 at the sale of the real property. The purchaser is entitled to exclusive possession of the real
21 property from and after the date of sale and is entitled to such remedies as are available at law to
22 secure possession, including writ of assistance, if the Defendants and any other party or person
23 shall refuse to surrender possession to the purchaser immediately on the purchaser's demand for
24 possession.

25 **SECURED DEBT**

26 1. Judgment Creditor:

Wilmington Trust, National Association, not in its
individual capacity, but solely as trustee for MFRA
Trust 2015-1

c/o Zieve, Brodnax, & Steele, LLP
One World Trade Center
121 Southwest Salmon St., 11th Floor
Portland, OR 97204
714-848-7920

2. Judgment Creditor's Attorney: Scott D. Crawford
Jeffrey A. Myers
Zieve, Brodnax, & Steele, LLP
One World Trade Center
121 Southwest Salmon St., 11th Floor
Portland, OR 97204
714-848-7920
3. Person or public body entitled to any portion of money award herein: None
4. Total Amount of Secured Debt:

LENDERS' PRINCIPAL AND INTEREST	
Principal Balance	\$ 90,446.66
Accrued interest on the principal balance through 3/15/19	\$ 9,908.59
Accrued fees on the principal balance through 3/15/19	\$ 11,545.74
Additional pre-judgment interest to accrue from 3/16/19 to the date this judgment is entered, at the note rate of 6.125% (\$15.39 per diem)	
Post-judgment interest to accrue on the sum of: (1) the judgment amount in section d, and (2) the additional pre-judgment interest accruing from 3/16/19 to the date of judgment. This post-judgment interest shall accrue at the statutory rate of 9.0%, from the date judgment is entered until the date of sale.	
Total Principal and Interest Through 3/15/19 at the rate of 6.125% (\$15.39 per diem)	\$ 111,900.99
ATTORNEYS' FEES AND COSTS	
Attorney Fees	\$ 3,300.00
Attorney Costs	\$ 2,201.04
Total Attorney Fees and Costs	\$ 5,501.04
Prevailing Party Fee	\$ 300.00
TOTAL SECURED DEBT (JUDGMENT)	\$ 117,702.03

///

1 Interest will continue to accrue on the judgment amount at the rate of 9%. Said Judgment
2 is meant to be for the purposes of foreclosure *only*, and is not intended to be a monetary
3 judgment against the Borrowers.
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Signed: 3/13/2019 05:08 PM

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12 **Circuit Court Judge, Thomas A. McHill**

13 **UTCRC 5.100(2) CERTIFICATE OF READINESS**

14 This proposed order or judgment is ready for judicial signature because:

- 15 1. Each party affected by this order of judgment has stipulated to the order or judgment,
16 as shown by each party's signature on the document being submitted.
- 17 2. Each party affected by this order of judgment has approved the order or judgment, as
18 shown by each party's signature on the document being submitted or by written
19 confirmation of approval sent to me.
- 20 3. I have served a copy of this order of judgment on each party entitled to service and:
21 a. No objection has been served on me.
22 b. I received objections that I could not resolve with a party despite reasonable
23 efforts to do so. I have filed a copy of the objections I have received and
24 indicated which objections remained unresolved.
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1 c. After conferring about objections [role and name of objecting party] agreed to
2 independently file any remaining objection.

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

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

5 6. Service is not required pursuant to subsection 3 of this rule, or by statute, rule, or
6 otherwise.

7 7. This is a proposed judgment that includes an award of punitive damages and notice as
8 been served on the Director of the Crime Victims' Assistance Section as required by
9 subsection (5) of the rule.
10

11 8. Other: _____

12 Submitted By:

13 /s/ Jeffrey A. Myers 3/12/18

14 Scott D. Crawford, OR No. 086448

15 Jeffrey A. Myers, OSB No. 094561

16 Attorneys for Plaintiff

scrawford@zbslaw.com

jmyers@zbslaw.com