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

U.S. BANK NATIONAL ASSOCIATION,  
NOT IN ITS INDIVIDUAL CAPACITY  
BUT SOLELY AS TRUSTEE FOR THE  
RMAC TRUST, SERIES 2016-CTT,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES  
OF ZOLA RAE SIMMONS; THE  
UNKNOWN HEIRS AND DEVISEES OF  
AUDREY BERNICE MATTHEWS; BILLIE  
NICHOLA CHRISTIANSON; DALE  
CRAWFORD MATTHEWS; STATE OF  
OREGON; HEARTHSTONE NURSING &  
REHABILITATION CENTER;  
OCCUPANTS OF THE PROPERTY AT 820  
OLYMPIC AVE, MEDFORD, OR 97504;  
OCCUPANTS OF THE PROPERTY AT 822  
OLYMPIC AVE, MEDFORD, OR 97504,

Defendants.

Case No.: 18CV32949

WRIT OF EXECUTION IN  
FORECLOSURE

**TO THE JACKSON COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on March 4, 2019. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:  
U.S. BANK NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY  
BUT SOLELY AS TRUSTEE FOR THE RMAC TRUST, SERIES 2016-CTT


1 c/o Andreanna Smith  
2 Attorney for Plaintiff  
3 McCarthy & Holthus, LLP  
4 920 SW 3rd Ave, 1st Floor  
5 Portland, OR 97204

6 With the adjudicated amount due of \$263,124.06, plus pre judgment interest from 03/01/2019 to  
7 03/04/2019 at the per diem rate of \$17.55 totaling, \$52.65, plus post judgment interest at the  
8 statutory rate of 9.0% per annum from 03/04/2019 to 04/16/2019 in the amount of \$2,790.27,  
9 and continuing with a per diem of \$64.89 currently totaling \$265,966.98.

10 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are  
11 hereby commanded to sell, in the manner prescribed by law for the sale of real property on  
12 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or  
13 about November 10, 2004, the date of the Deed of Trust, and also the interest that the Defendant  
14 had thereafter, in the real property described as attached as Exhibit 1 and commonly known as:  
15 820 and 822 Olympic Ave, Medford, OR 97504.

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



 Signed: 4/16/2019 03:04 PM

M. Thomas  
Court Clerk

1 Dated: 4/12/2019 and submitted by:

2 **McCarthy & Holthus, LLP**

3 s/ Andreanna Smith

4 \_ John Thomas OSB No. 024691

5 X Andreanna Smith OSB No. 131336

6 \_ Brady Godbout OSB No. 132708

7 \_ Bryan Kidder OSB No. 140459

8 \_ Jeremy Clifford OSB No. 142987

9 \_ Michael Scott OSB No. 973947

10 920 SW 3rd Ave, 1st Floor

11 Portland, OR 97204

12 Phone: (971) 201-3200

13 Fax: (971) 201-3202

14 ansmith@mccarthyholthus.com

15 Of Attorneys for Plaintiff

# EXHIBIT 1

Beginning at the southeast corner of Lot Four (4) in Block Two (2) of MONTCREST PARK - UNIT NO. 1, in the City of Medford, Jackson County, Oregon, according to the official plat thereof, now of record; thence North 89 degrees 42' West, along the south line thereof, 120.0 feet to the southwest corner thereof; thence South 0 degrees 02'10" West 79.0 feet; thence Southeasterly and parallel with the northerly line of tract described in Deed recorded as No. 72-08721 of the Official Records of Jackson County, Oregon, to the west line of Olympic Street and being a point South 0 degrees 02'10" West of the Point of Beginning; thence North 0 degrees 02'10" East to the Point of Beginning.

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

U.S. BANK NATIONAL ASSOCIATION,  
NOT IN ITS INDIVIDUAL CAPACITY  
BUT SOLELY AS TRUSTEE FOR THE  
RMAC TRUST, SERIES 2016-CTT,

Plaintiff,

vs.

THE UNKNOWN HEIRS AND DEVISEES  
OF ZOLA RAE SIMMONS; THE  
UNKNOWN HEIRS AND DEVISEES OF  
AUDREY BERNICE MATTHEWS;  
BILLIE NICHOLA CHRISTIANSON;  
DALE CRAWFORD MATTHEWS; STATE  
OF OREGON; HEARTHSTONE NURSING  
& REHABILITATION CENTER;  
OCCUPANTS OF THE PROPERTY AT  
820 OLYMPIC AVE MEDFORD, OR  
97504; OCCUPANTS OF THE PROPERTY  
AT 822 OLYMPIC AVE MEDFORD, OR  
97504,

Defendants.

Case No.: 18CV32949

GENERAL JUDGMENT OF  
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion. Defendants THE UNKNOWN HEIRS AND DEVISEES OF ZOLA RAE SIMMONS; THE UNKNOWN HEIRS AND DEVISEES OF AUDREY BERNICE MATTHEWS; BILLIE NICHOLA CHRISTIANSON; DALE CRAWFORD MATTHEWS; STATE OF OREGON; HEARTHSTONE NURSING & REHABILITATION CENTER; OCCUPANTS OF THE PROPERTY AT 820 OLYMPIC AVE MEDFORD, OR 97504; OCCUPANTS OF THE PROPERTY AT 822 OLYMPIC AVE MEDFORD, OR 97504 ("Defaulted Defendants") were

1 duly served with process and failed to appear; the default has been entered against Defaulted  
2 Defendants, and it appearing that Defaulted Defendants are not incapacitated, protected persons,  
3 respondents as defined in ORS 125.005, minors, or in the military service of the United States,  
4 now therefore,

5 2.

6 IT IS HEREBY ADJUDGED that Plaintiff shall have judgment as follows:

- 7 a. The real property to which this judgment relates is located and situated in Jackson County,  
8 Oregon, and is commonly known as 820 and 822 Olympic Ave, Medford, OR 97504 (the  
9 "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having  
10 APN/Parcel No. 10022247, 10844350.
- 11 b. Plaintiff is entitled to enforce the note dated November 10, 2004 and made, delivered, and  
12 executed by ZOLA RAE SIMMONS and AUDREY BERNICE MATTHEWS to Wells  
13 Fargo Bank, N.A. The Note is commonly referred to a "Reverse Mortgage" and is based on a  
14 Home Equity Conversion Loan Agreement. The Note was transferred to Plaintiff by delivery  
15 of possession and by indorsement set forth on the Note.
- 16 c. A deed of trust was made, executed, and delivered by ZOLA RAE SIMMONS and  
17 AUDREY BERNICE MATTHEWS on or about November 10, 2004 (the "Deed of Trust").  
18 The Deed of Trust was recorded on November 16, 2004 as Instrument No. 2004-066812 in  
19 the official records of Jackson County, Oregon. The Deed of Trust is a valid and perfected  
20 lien against all of the Property for and securing the Amount Due. Under the terms of the  
21 Note, the Home Equity Conversion Loan Agreement, and the Deed of Trust, Plaintiff agreed  
22 to advance funds up to and including \$277,875.00, which would increase up to and including  
23 the amount stated in the Deed of Trust. The lien of the Plaintiff is superior to any interest,  
24 lien, or claim of the Defendants and shall remain in effect until issuance of a Sheriff's Deed.
- 25 d. Under the terms of the Loan all amounts due under the Note, including principal, interest,  
26 fees and costs, are due payable immediately upon the death of the borrowers. Borrower  
27 AUDREY BERNICE MATTHEWS passed away on 07/04/2005. Borrower ZOLA RAE  
28

1 SIMMONS passed away on 09/25/2015. Therefore, the Loan is in default. The amount of  
2 debt secured by the Deed of Trust that is now due and owing is comprised of the following  
3 amounts (the "Amount Due"):

4	a) Unpaid principal balance:	\$241,775.50
5	b) Prejudgment interest <sup>1</sup> accruing	\$10,094.57
6	from 8/1/2017 through 2/28/2019	
7	and continuing until the entry of	
	judgment at the current Note rate of	
	2.650%:	
8	c) Additional amounts due under the	\$4,928.62
9	terms of the loan:	
10	d) Attorney fees and costs:	\$6,240.37
11	e) Prevailing party fee (ORS 20.190	\$85.00
	(1)(a)):	
12	<b>Total:</b>	<b>\$263,124.06</b>

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

- 16 e. The interest of the Defendants and any successor in interest in the Subject Property is  
17 foreclosed and terminated excepting only any statutory right of redemption as provided by  
18 Oregon law.
- 19 f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.
- 20 g. All right, title and interest in the Subject Property that Defendants ZOLA RAE SIMMONS  
21 and AUDREY BERNICE MATTHEWS had as of the date of the Deed of Trust or thereafter  
22 acquired is hereby ordered to be sold by the Jackson County Sheriff's Office in accordance  
23 with the process for sale upon execution, and the proceeds of sale shall be applied:

- 24 1) First, to the costs of sale not incurred by Plaintiff;

26 \_\_\_\_\_  
27 <sup>1</sup> : Interest continues to accrue at the rate of \$17.55 per diem. Since 1/10/2019, the date of the Declaration of amount  
28 due and owing, to the 2/28/2019, 49 days have passed.

1 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of  
2 entry of judgment through the date of the sale and any incurred costs of sale;

3 3) Third, the surplus, if any, to the Defendants in the priority as their interest may  
4 appear, described *infra*, or to the clerk of the court to be distributed by the Court to  
5 such party or parties as they may establish their right thereto.

6 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS  
7 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from  
8 the date of entry of judgment through the date of the sale and any incurred costs of sale.

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

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

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

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1 1. 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 STATE OF OREGON has or may have a lien against the Property under  
4 the State of Oregon tax deferral program.
- 5 2) Defendant HEARTHSTONE NURSING & REHABILITATION CENTER may  
6 claim a junior interest in Subject Property by virtue of a notice long term care lien  
7 recorded February 23, 2016 as Instrument No. 2016-004795 in the official records of  
8 Jackson County, Oregon, in the amount of \$722.00.

Signed: 3/4/2019 12:13 PM

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14 **Circuit Court Judge - Judge Timothy C. Gerking**

15  
16 I hereby certify that the requirements of UTCR 5.100 have been satisfied.

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

18  Each opposing party affected by this order or judgment has stipulated to the order or  
19 judgment, as shown by each opposing party's signature on the document being  
20 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  
23 confirmation of approval sent to me.

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

25  No objection has been served on me.

26  I received objections that I could not resolve with the opposing party despite  
27 reasonable efforts to do so. I have filed a copy of the objections I received and  
28 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.

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

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

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

6             Other: \_\_\_\_\_

7 Dated: 2/28/2019 and submitted by:

8            **McCarthy & Holthus, LLP**

9            s/ Andreanna Smith

10            Andreanna Smith OSB No. 131336

11            920 SW 3rd Ave, 1st Floor

12            Portland, OR 97204

13            Phone: (971) 201-3200

14            Fax: (971) 201-3202

15            ansmith@mccarthyholthus.com

16            Of Attorneys for Plaintiff

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