

FILED: January 29, 2020

IN THE COURT OF APPEALS OF THE STATE OF OREGON

U.S. BANK TRUST, N.A., as Trustee for LSF9 Master Participation Trust,
Plaintiff-Respondent,

v.

MARY P. STRONG,
Defendant-Appellant,

and

OREGON AFFORDABLE HOUSING ASSISTANCE CORPORATION, et al,
Defendants.

Deschutes County Circuit Court
16CV32768

A170560

A. Michael Adler, Judge.

Submitted on January 03, 2020.

Before Lagesen, Presiding Judge, and Egan, Chief Judge, and Powers, Judge.

Attorney for Appellant: Mary Strong *pro se*.

Attorney for Respondent: John Thomas.

AFFIRMED WITHOUT OPINION

DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS

Prevailing party: Respondent

☐ No costs allowed.
☒ Costs allowed, payable by Appellant.

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

U.S. BANK TRUST, N.A., AS TRUSTEE
FOR LSF9 MASTER PARTICIPATION
TRUST,

Plaintiff,

vs.

MARY P. STRONG; OREGON
AFFORDABLE HOUSING ASSISTANCE
CORPORATION; JOHN KELLEY; BEND
LOCK & SAFE, INC.; STRATAGEM
ASSET-BACKED CREDIT TRUST IV;
WILMINGTON SAVINGS FUND
SOCIETY, FSB, DBA CHRISTIANA
TRUST, NOT INDIVIDUALLY BUT AS
TRUSTEE FOR PRETIUM MORTGAGE
ACQUISITION TRUST; OCCUPANTS OF
THE PROPERTY,

Defendants.

Case No.: 16CV32768

GENERAL JUDGMENT OF
FORECLOSURE

1.

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

- a. Defendants OREGON AFFORDABLE HOUSING ASSISTANCE CORPORATION, JOHN KELLEY, BEND LOCK & SAFE, INC., STRATAGEM ASSET-BACKED CREDIT TRUST IV, WILMINGTON SAVINGS FUND SOCIETY, FSB, DBA CHRISTIANA TRUST, NOT INDIVIDUALLY BUT AS TRUSTEE FOR PRETIUM MORTGAGE ACQUISITION TRUST, and OCCUPANTS OF THE PROPERTY ("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;

b. An Order granting Summary Judgment in favor of Plaintiff has been entered with regard to answering Defendant MARY P. STRONG, now therefore,

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 Deschutes County, Oregon, and is commonly known as 2559 NW Monterey Pines Drive, Bend, OR 97701 (the “Subject Property”), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 197885.

b. Plaintiff is entitled to enforce the note dated June 28, 2005 and made, delivered, and executed by Mary Strong to Lehman Brothers Bank, FSB, A Federal Saving Bank in the amount of \$182,200.00 (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 Defendant MARY P. STRONG on or about June 28, 2005 (the “Deed of Trust”). The Deed of Trust was recorded on July 5, 2005 as Instrument No. 2005-42362 in the official records of Deschutes 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 January 1, 2012 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: \$182,099.05

b) Prejudgment interest accruing from \$23,311.57

7/1/2015 through 1/28/2019 and continuing until the entry of judgment at the current Note rate of 5.250%:

c) Additional amounts due under the terms of the loan:	\$13,143.94
d) Attorney fees and costs:	\$9,843.09
e) Prevailing party fee (ORS 20.190 (1)(a)):	\$85.00
Total:	\$228,482.65

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

- e. The interest of the Defendants and any successor in interest in the Subject Property is foreclosed and terminated excepting only any statutory right of redemption as provided by Oregon law.
- f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.
- g. All right, title and interest in the Subject Property that Defendant MARY P. STRONG had as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the Deschutes County Sheriff's Office in accordance with the process for sale upon execution, and the proceeds of sale shall be applied:
 - 1) First, to the costs of sale not incurred by Plaintiff;
 - 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of entry of judgment through the date of the sale and any incurred costs of sale;
 - 3) Third, the surplus, if any, to the Defendants in the priority as their interest may appear, described *infra*, or to the clerk of the court to be distributed by the Court to such party or parties as they may establish their right thereto.

- 1 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS
2 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from
3 the date of entry of judgment through the date of the sale and any incurred costs of sale.
- 4 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject
5 Property from and after the date of the sale and is entitled to such remedies as are available at
6 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a
7 writ of assistance if any Defendant, other party, or other person shall refuse to surrender
8 possession to the purchaser immediately upon the purchaser's demand for possession.
- 9 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be
10 entitled to any further or other judgment, including a judgment for the deficiency.
- 11 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,
12 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be
13 terminated.
- 14 l. Pursuant to ORS 18.950 (4), the apparent priority of liens subsequent and inferior to the
15 Deed of Trust are as follows:
- 16 1) Defendant OREGON AFFORDABLE HOUSING ASSISTANCE CORPORATION
17 may claim a junior interest in Subject Property by virtue of a deed of trust recorded
18 on 04/23/2012 as Instrument No. 2012-14905 in the official records of Deschutes
19 County, Oregon.
- 20 2) Defendant JOHN KELLEY and BEND LOCK & SAFE, INC. may claim a junior
21 interest in Subject Property by virtue of a judgment entered on 03/15/2016 as Case
22 No. 16SC02422 in the Circuit Court of Deschutes County, Oregon.
- 23 3) Defendant STRATAGEM ASSET-BACKED CREDIT TRUST IV may claim a
24 junior interest in Subject Property by virtue of a judgment entered on 03/28/2016 as
25 Case No. 16LT01484 in the Circuit Court of Deschutes County, Oregon.
- 26
27
28

1 4) Defendant WILMINGTON SAVINGS FUND SOCIETY, FSB, DBA CHRISTIANA
2 TRUST, NOT INDIVIDUALLY BUT AS TRUSTEE FOR PRETIUM MORTGAGE
3 ACQUISITION TRUST may claim a junior interest in Subject Property by virtue of
4 an open foreclosure proceeding filed on 06/21/2016 as Case No. 16CV19530 in the
5 Circuit Court of Deschutes County, Oregon.
6

Signed: 3/4/2019 12:27 PM

7
8 
9

10 **Circuit Court Judge A. Michael Adler**
11
12
13

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

15 On 2/8/19, a copy of the Motion For Entry Of Judgment, Declaration Of Attorney Fees
16 And Costs For Plaintiff, Declaration Of Amounts Due, Proposed Judgment Of Foreclosure was:

17 ☐ Served on:
18
19

20 not less than 3 days prior to submission to the court.

21 ☐ Accompanied by a stipulation by that no objection exists as to the judgment or order.

22 ☒ Mailed to:

23 Mary P. Strong
24 2559 NW Monterey Pines Drive
25 Bend, OR 97701

26 not less than 7 days prior to submission to the court with a notice of the time period to
27 object.

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

1 [] Each opposing party affected by this order or judgment has stipulated to the order or
2 judgment, as shown by each opposing party's signature on the document being
3 submitted.

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

7 [X] I have served a copy of this order or judgment on all parties entitled to service and:

8 [] No objection has been served on me.

9 [] I received objections that I could not resolve with the opposing party despite
10 reasonable efforts to do so. I have filed a copy of the objections I received and
11 indicated which objections remain unresolved.

12 [X] After conferring* about objections, Mary Strong agreed to independently file
13 any remaining objection. *See Other, below.

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

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

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

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

21 [X] Other: Mary Strong simply filed objections with the court on 2/15/19. Plaintiff does
22 not believe they relate to the form of order/judgment, but instead rehash her prior
23 argument, which the court had rejected.

24 Dated: 3/1/19 and submitted by:

25 **McCarthy & Holthus, LLP**

26 s/ John Thomas

27 John Thomas OSB No. 024691

28 920 SW 3rd Ave, 1st Floor

 Portland, OR 97204

 Phone: (971) 201-3200

 Fax: (971) 201-3202

 jthomas@mccarthyholthus.com

 Of Attorneys for Plaintiff

RECORDING COVER SHEET PER ORS 205.234

THIS COVER SHEET HAS BEEN PREPARED BY THE PERSON
PRESENTING THE ATTACHED INSTRUMENT FOR RECORDING.
ANY ERRORS IN THIS COVER SHEET DOES NOT AFFECT THE
TRANSACTION(S) CONTAINED IN THE INSTRUMENT ITSELF.

AFTER RECORDING RETURN TO:

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

Deschutes County Official Records **2019-13209**

CL-WE

04/26/2019 01:14 PM

Stn=1 BN

\$60.00 \$11.00 \$61.00

\$132.00

I, Nancy Blankenship, County Clerk for Deschutes County, Oregon,
certify that the instrument identified herein was recorded in the Clerk
records.

Nancy Blankenship - County Clerk

M&H File No.: OR-12-522860-JUD

1. TITLE OF THE TRANSACTION (ORS 205.234a)
WRIT OF EXECUTION

2. Grantor(s) (2nd Party/Defendant) and Address: (ORS 205.160)

Mary P. Strong

2559 NW Monterey Pines Drive, Bend, OR 97701

3. Grantee(s) (1st Party/Plaintiff) and Address: (ORS 205.1251a and 205.160)

U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF9 MASTER PARTICIPATION TRUST

3701 Regent Blvd.,

Irving, TX, 75063

4. Trustor (s) : (ORS 205.234)

Mary P. Strong

2559 NW Monterey Pines Drive

Bend, OR 97701

5. Other Parties (Named Defendants)

Oregon Affordable Housing Assistance Corporation, John Kelley, BEND LOCK & SAFE, INC., Stratagem
Asset-Backed Credit Trust IV, Wilmington Savings Fund Society, FSB, DBA Christiana Trust, Not
individually but as Trustee for Pretium Mortgage Acquisition Trust, Occupants of the Property,

6. TRUE AND ACTUAL CONSIDERATION PAID (ORS 93.030) \$ 0.00**7. SEND TAX STATEMENTS TO:**

U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF9 MASTER PARTICIPATION TRUST, C/O Caliber Home Loans,
Inc., Attention: Collateral Team 13801 Wireless Way, Oklahoma City, OK 73134-2500

8. If this instrument is being Re-Recorded, complete the following statement: (ORS 205.244)

Being Re-Recorded to correct _____

Previously recorded as Document No. _____



CERTIFIED TRUE COPY OF THE ORIGINAL
Dated this 21 day of March, 2019.
CIRCUIT COURT OF THE STATE OF OREGON
FOR DESCHUTES COUNTY

BY: [Signature]
COURT CLERK

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

U.S. BANK TRUST, N.A., AS TRUSTEE
FOR LSF9 MASTER PARTICIPATION
TRUST,

Plaintiff,

vs.

MARY P. STRONG; OREGON
AFFORDABLE HOUSING ASSISTANCE
CORPORATION, JOHN KELLEY, BEND
LOCK & SAFE, INC., STRATAGEM
ASSET-BACKED CREDIT TRUST IV,
WILMINGTON SAVINGS FUND SOCIETY,
FSB, DBA CHRISTIANA TRUST, NOT
INDIVIDUALLY BUT AS TRUSTEE FOR
PRETIUM MORTGAGE ACQUISITION
TRUST, OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 16CV32768

WRIT OF EXECUTION IN
FORECLOSURE

TO THE DESCHUTES 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 TRUST, N.A., AS TRUSTEE FOR LSF9 MASTER PARTICIPATION
TRUST
c/o John Thomas
Attorney for Plaintiff

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

With the adjudicated amount due of \$228,482.65, plus pre judgment interest from 1/29/2019 to 3/3/2019 at the per diem rate of \$23.70 totaling \$782.10, plus post judgment interest at the statutory rate of 9.0%) per annum from March 4, 2019 to March 18, 2019 in the amount of \$788.73, and continuing with a per diem of \$56.34, currently totaling \$230,053.48.

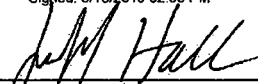
NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are hereby commanded to sell, in the manner prescribed by law for the sale of real property on execution (subject to redemption of 180 days), all of the interest that the Defendant had on or about June 29, 2005, the date of the Deed of Trust, and also the interest that the Defendant had thereafter, in the real property described as follows:

Attached as Exhibit 1

and commonly known as: 2559 NW Monterey Pines Drive, Bend, OR 97701.

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

Signed: 3/18/2019 02:09 PM



1 Dated: 3/18/19 and submitted by:

2 **McCarthy & Holthus, LLP**

3 s/ John Thomas

4 John Thomas OSB No. 024691

5 920 SW 3rd Ave, 1st Floor

6 Portland, OR 97204

7 Phone: (971) 201-3200

8 Fax: (971) 201-3202

9 jthomas@mccarthyholthus.com

10 Of Attorneys for Plaintiff

Lot 9 of WESTSIDE PINES, PHASE II, City of Bend, Deschutes County, Oregon.

IN THE SUPREME COURT OF THE STATE OF OREGON

U.S. BANK TRUST, N.A., as Trustee for LSF9 Master Participation Trust,
Plaintiff-Respondent,
Respondent on Review,

v.

MARY P. STRONG,
Defendant-Appellant,
Petitioner on Review,

and

OREGON AFFORDABLE HOUSING ASSISTANCE CORPORATION et al,
Defendants.

Court of Appeals
A170560

S067444

ORDER DENYING REVIEW

Upon consideration by the court.

The court has considered the petition for review and orders that it be denied.



MARTHA L. WALTERS
CHIEF JUSTICE, SUPREME COURT
4/23/2020 10:35 AM

c: John M Thomas
Mary P Strong

jr

ORDER DENYING REVIEW

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563