

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA,

Plaintiff

v.

Civil No. 03-274-P-C

WAYNE S. THURSTON AND ADELIA B.
THURSTON,

Defendants

Gene Carter, Senior District Judge

ORDER GRANTING PLAINTIFF'S MOTION TO FORECLOSE MORTGAGE

Now before the Court is Plaintiff's Motion to Foreclose Mortgage. Plaintiff originally moved for foreclosure in its Motion for Summary Judgment (Docket Item No. 12). In an Order dated November 30, 2004, the Court granted Plaintiff's Motion for Summary Judgment but reserved ruling on the foreclosure issue and required Plaintiff's counsel to file a memorandum of law supporting its entitlement on the existing record to foreclose the mortgage, to which Defendants were ordered to respond. *See* Order Granting Plaintiff's Motion for Summary Judgment (Docket Item No. 23).

Counsel for Plaintiff has now filed its Memorandum of Law in Further Support of the United States' Motion to Foreclose (Docket Item No. 28). Plaintiff asserts that it has met the requirements of 14 M.R.S.A. § 6321 and is entitled to foreclose on Defendants'

property.¹ Defendants failed to respond to Plaintiff's memorandum of law even though Defendants received a thirty day extension of time in which to do so. *See* Order Granting Motion to Extend Time (Docket Item No. 31).²

After full review of the record in this case, the Court is satisfied that Plaintiff is entitled to foreclose the mortgage pursuant to Maine law.

Accordingly, it is **ORDERED** as follows:

- (1) Plaintiff's Motion to Foreclose Mortgage be, and it is hereby, **GRANTED**;
- (2) Judgment of Foreclosure shall issue forthwith pursuant to 14 M.R.S.A. § 6322;
- (3) Upon expiration of the period of redemption, Plaintiff shall proceed by appropriate means to foreclose the mortgage as provided in 14 M.R.S.A. §§ 6323, 6324.

So ORDERED.

/s/Gene Carter _____

GENE CARTER

United States Senior District Judge

Dated at Portland, Maine this 22nd day of April, 2005.

¹ Foreclosure in this case is governed by the laws of the State of Maine.

² Defendants represented to the Court that they required the additional response time in order secure financing to fund a purported settlement agreement. Defendants indicated that they expected to receive bank approval in the "coming days." *See* Consented Motion for Enlargement of Time to Respond to Plaintiff's Request for Foreclosure (Docket Item No. 30) ¶ 2. This Motion was docketed on March 3, 2005. Defendants have provided the Court with no further information regarding the status of their financing application. Moreover, Defendants have not objected to the Plaintiff's memorandum in support of its Motion to Foreclose.

Plaintiff

USA

represented by **WENDY J. KISCH**
U.S. DEPARTMENT OF
JUSTICE
TAX DIVISION
BENJAMIN FRANKLIN
STATION
P.O. BOX 55
WASHINGTON, DC 20044
(202) 307-6553
Email: wendy.j.kisch@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

WAYNE S THURSTON

represented by **PETER M. GARCIA**
SKELTON, TAINTOR &
ABBOTT
P.O. BOX 3200
95 MAIN STREET
AUBURN, ME 04212-3200
784-3200
Email: pgarcia@3200.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

ADELIA B THURSTON

represented by **PETER M. GARCIA**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Counter Claimant

ADELIA B THURSTON

represented by **PETER M. GARCIA**
(See above for address)
ATTORNEY TO BE NOTICED

Counter Claimant

WAYNE S THURSTON

represented by **PETER M. GARCIA**
(See above for address)
ATTORNEY TO BE NOTICED

V.

Counter Defendant

USA

represented by **WENDY J. KISCH**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED