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CERTIFIED TRUE COPY OF THE ORIGINAL
Dated this 03 day of 10, 2017.
CIRCUIT COURT OF THE STATE OF OREGON
FOR DESCHUTES COUNTY

BY: Chelsea Bethune
COURT CLERK

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

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

DENISE LANDA, an individual; and all other
persons, parties, or occupants unknown
claiming any legal or equitable right, title,
estate, lien, or interest in the real property
described in the complaint herein, adverse to
Plaintiff's title, or any cloud on Plaintiff's title
to the Property.

Defendants.

CASE NUMBER: 16CV32475

WRIT OF EXECUTION IN FORECLOSURE

TO: THE SHERIFF OF DESCHUTES COUNTY, OREGON:

1.

WHEREAS, on June 14, 2017, in the above-entitled Court, a General Judgment of
Foreclosure ("Judgment") was entered and docketed in the above-entitled and numbered proceeding

2.

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 upon (subject to

1 redemption, if applicable), all of the interest which the Defendant DENISE LANDA ("Defendant")
2 had on December 29, 2009, the date of the foreclosed Deed of Trust which was recorded on
3 December 30, 2009, as Instrument No. 2009-54990 in the official records of the Deschutes County
4 Recorder's Office, and/or all of the interest which Defendant had thereafter, in the real property
5 described in the Judgment to satisfy the Judgment as follows:

6
7 **Lender's Principal Judgment:**

8 Unpaid Principal Balance: \$123,051.04

9 Pre-Judgment Interest from July 1, 2010

10 to May 19, 2017, the date set forth in

11 the Judgment at 5.000%, per annum,

12 (\$17.09 per diem): \$42,345.63

13 Lender's Fees and Costs: \$31,210.41

14 Attorney's Fees and Costs: \$5,459.50

15
16 ***Total Judgment Entered:*** \$202,066.58

17
18 **Additional Pre-Judgment Interest:**

19 Accrued Interest from May 20, 2017 the

20 day after the date set forth in the

21 Judgment through June 14, 2017, the

22 date of entry of the Judgment, at

23 5.000%, per annum (\$17.09 per diem): \$421.25

24
25 ***Total Judgment Entered Including***

26 ***Additional Pre-Judgment***

27 ***Interest:*** \$202,487.83

28 3.

1 MAKE RETURN HEREOF within 60 days after you receive this Writ.

2

3

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Signed: 9/26/2017 04:16 PM

Jeffrey E. Hall



Trial Court Administrator Jeffrey E. Hall

7 Submitted by:

Nathan F. Smith

Dated:

9/26/17

8
9
10 Nathan F. Smith, OSB #120112
11 Attorney for Plaintiff
12 MALCOLM ♦ CISNEROS, A Law Corporation
13 2112 Business Center Drive, Second Floor
14 Irvine, California 92612
15 Phone: (949) 252-9400
16 Fax: (949) 252-1032
17 Email: nathan@mclaw.org

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Exhibit "1"

Lot Twenty (20), VISTA DORADO, recorded May 10, 2007, in Cabinet H, Page 323, Deschutes County, Oregon.

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CERTIFIED TRUE COPY OF THE ORIGINAL
Dated this 03 day of 10, 2017.
CIRCUIT COURT OF THE STATE OF OREGON
FOR DESCHUTES COUNTY

BY Chelsea Bohner
COURT CLERK

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

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

DENISE LANDA, an individual; and all other persons, parties, or occupants unknown claiming any legal or equitable right, title, estate, lien, or interest in the real property described in the complaint herein, adverse to Plaintiff's title, or any cloud on Plaintiff's title to the Property.

Defendants.

CASE NUMBER: 16CV32475

**GENERAL JUDGMENT OF
FORECLOSURE AGAINST DEFENDANT:**

1. **DENISE LANDA**

1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff, BANK OF AMERICA, N.A. ("Plaintiff"), filed its Complaint for Foreclosure of Deed of Trust; that Defendant DENISE LANDA ("Defendant") were duly served with the Summons

1 and Complaint as required by law; that Defendant failed to appear, that an order of default has been
2 entered against her on Plaintiff's Complaint, and that Plaintiff is entitled to entry of a General
3 Judgment foreclosing Plaintiff's deed of trust against the property commonly known as 2645 NE
4 3RD STREET, REDMOND, OR 97756 ("Property") and extinguishing any and all interest of the
5 Defendant in the Property.

6 2.

7 The Court being fully advised; it is hereby
8 ORDERED AND ADJUDGED that:

9 3.

10 Plaintiff is the holder of that certain promissory note ("Note"), dated December 29, 2009, in
11 the amount of \$123,954.00, and executed by DENISE LANDA.

12 4.

13 The Note is secured by that certain deed of trust ("Deed of Trust") dated December 29, 2009
14 and executed by DENISE LANDA. The Deed of Trust was recorded on December 30, 2009 under
15 the recording number 2009-54990 of the Official Records of Deschutes County, Oregon, against the
16 Property, which is legally described as: Please see Exhibit "1," attached hereto. ("Property") and
17 constitutes a valid lien against the Property.

18 5.

19 The terms of the Note and Deed of Trust are in breach; therefore, Plaintiff has now declared
20 all sums due and owing under the Note and Deed of Trust as immediately due and payable.

21 6.

22 The Deed of Trust is a valid first priority lien encumbering the Property, is superior to any
23 interest, lien, or claim of the Defendant and any other party in the Property, which are hereby
24 foreclosed and terminated, excepting only any statutory right of redemption to which the Defendant
25 may be entitled under Oregon law.

26 7.

27 A judgment of foreclosure in the amount of \$202,066.58 shall be granted in favor of Plaintiff,
28

1 and its successors and/or assigns, as further described below in the Declaration of Amount Owed –
2 Not a Money Award (“Amount Owed”).

3 8.

4 The Property is hereby ordered to be sold by law and the proceeds of sale applied toward the
5 satisfaction of Plaintiff's Amount Owed herein; and the surplus, if any to the Clerk of the Court to be
6 disbursed to such party or parties as may establish their right thereto.

7 9.

8 Plaintiff is entitled to recover its reasonable attorney's fees and all reasonable and necessary
9 costs and expenses incurred to enforcing the Note and Deed of Trust.

10 10.

11 Any increased interest or any such additional amounts as Plaintiff may advance for taxes,
12 assessments, municipal charges, and such other items as may constitute liens on the Property,
13 together with insurance and repairs necessary to prevent the impairment of the Property, together
14 with interest thereon from the date of payment may also be added to the Amount Owed and paid
15 from the proceeds from the sale of the Property.

16 11.

17 Defendant and all parties claiming an interest in the Property as purchasers, encumbrancers,
18 or otherwise, are forever barred and foreclosed of all interests, liens, or claims in the Property and
19 every portion thereof, excepting only any statutory right of redemption provided by the laws of the
20 State of Oregon.

21 12.

22 Defendant DENISE LANDA is not entitled to a homestead exemption in the Property.

23 13.

24 Plaintiff may become purchaser at the Sheriff's Sale of the Property and may bid up to the
25 aggregate amount of its Amount Owed, plus any additional interest and reasonable costs until sale.

26 14.

27 The purchaser of the Property at the Sheriff's Sale is entitled to exclusive and immediate
28

1 possession of the Property from and after the date of the sale, and is entitled to such remedies as are
2 available at law to secure possession of the Property, and may apply to the Clerk of the Court for a
3 writ of assistance, if Defendant, any of them, or any other party or person shall refuse to surrender
4 possession of the Property to the purchaser immediately on the purchaser's demand for possession.

5 15.

6 This Court shall retain jurisdiction to enforce all provisions of this General Judgment and to
7 enter such additional order, judgment, or decree necessary for the purchaser at the foreclosure sale to
8 obtain possession of the Property.

9 16.

10 Under the Note, there is now due and owing to Plaintiff, the following amounts, to be
11 hereinafter described as the Amount Owed.

12 17.

13 This suit does not constitute an attempt to collect the debt against Defendant DENISE
14 LANDA. Rather, it is a suit to execute upon the Property as security for the Amount Owed.

15 **DECLARATION OF DEBT SECURED BY DEED OF TRUST**

16 **(Pursuant to Senate Bill 368)**

17 18.

18 Under the terms of the Deed of Trust and the Note dated December 29, 2009, in the original
19 principal amount of \$123,954.00, there is now due and owing the following amounts, to be
20 hereinafter described as the Amount Due:

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DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD

- 1
2 **1. Judgment Creditor:** BANK OF AMERICA, N.A.
3 Address: c/o MALCOLM ♦ CISNEROS,
4 A Law Corporation
5 2112 Business Center Drive, 2nd Floor
6 Irvine, California 92612
7 **Judgment Attorney:** Nathan F. Smith
8 Address: MALCOLM ♦ CISNEROS, A Law Corporation
9 2112 Business Center Drive, 2nd Floor
10 Irvine, California 92612
11 Telephone Number: (949) 252-9400
12 **2. Persons or Public Bodies Entitled to**
13 **a Portion the Judgment:** N/A
14 **3. Judgment Amount:** \$196,607.08
15 **4. Pre-Judgment Interest:** Simple interest to accrue on \$123,051.04 from
16 May 20, 2017 to the date the Judgment is
17 entered into the Court's register at 5.000% per
18 annum, \$16.85 per diem.
19 **5. Post-Judgment Interest:** Simple interest to accrue on \$202,066.58 plus
20 Pre-Judgment Interest from the day after the
21 General Judgment is entered to the date upon
22 which the Writ of Execution in Foreclosure is
23 levied at the legal rate of interest or 9% per
24 annum, whichever is greater.

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6. Periodic accrual:

N/A

7. Attorney's Fees and Costs:

An award of \$5,459.50 in attorney's fees and costs is made.

Signed: 6/13/2017 02:07 PM



Circuit Court Judge Wells B. Ashby

Submitted by:



Dated:

6/9/17

Nathan F. Smith, OSB #120112
Attorney for Plaintiff
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: nathan@mclaw.org

EXHIBIT 1

Lot Twenty (20), VISTA DORADO, recorded May 10, 2007, in Cabinet H, Page 323, Deschutes County, Oregon.

CERTIFICATE OF READINESS

This proposed Order or Judgment is ready for judicial signature because:

- Service is not required pursuant to subsection (3) of UTCR 5.100, or by statute, rule or otherwise.
- The relief sought is against an opposing party who has been found in default.
- An order of default is being requested with this proposed judgment.
- Each opposing party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.
- Each opposing party affected by this order or judgment has approved the order or judgment, as shown by signature on the document being submitted or by written confirmation of approval sent to me.
- I have served a copy of this order or judgment on all parties entitled to service and:
 - No objection has been served on me.
 - 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.
 - After conferring about objections, [role and name of opposing party] agreed to independently file any remaining objection.
- This is a proposed judgment that includes an award of punitive damages.

DATED: 6/9, 2017

By: 

Nathan F. Smith, OSB #120112
Attorney for Plaintiff
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
(949) 252-9400 (TELEPHONE)
(949) 252-1032 (FAX)