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

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

MICHAEL R. CHAPMAN AKA MICHAEL  
RAY CHAPMAN; CARTER-JONES  
COLLECTION SERVICES; PREMIER  
FINANCE COMPANY; ROSHELLE  
MUNSON; EDWARD LUNDE; STATE OF  
OREGON; UNITED STATES OF  
AMERICA; OCCUPANTS OF THE  
PROPERTY,

Defendants.

Case No.: 16CV34843

WRIT OF EXECUTION IN  
FORECLOSURE

**TO THE KLAMATH COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on May 4, 2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the

Judgment Creditor:

BANK OF AMERICA, N.A.  
Submitted By:  
Robert Hakari, Attorney for Plaintiff

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

With the adjudicated amount due of \$509,320.57, plus post judgment interest at the statutory rate of 9.0% per annum from 5/4/2017 to 7/13/2017 in the amount of \$8,791.01, and continuing with a per diem of \$125.59, currently totaling **\$518,111.58**.

1           **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are  
2 hereby commanded to sell, in the manner prescribed by law for the sale of real property on  
3 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or  
4 about June 29, 2007, the date of the Deed of Trust, and also the interest that the Defendant had  
5 thereafter, in the real property legally described in the attached *Exhibit 1* having APN/Parcel #  
6 R575443 and commonly known as: 5734 Homedale Rd, Klamath Falls, OR 97603.

7           Sale of the property is to satisfy the sum listed above, plus the costs incurred in  
8 performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under  
9 the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.

10  
11  
12           *July 17, 2017*



13  
14  
15           **McCarthy & Holthus, LLP**

16           s/ Robert B. Hakari 7/13/17

17           \_\_\_\_\_  
18           \_ John Thomas OSB No. 024691  
19           x Robert Hakari OSB No. 114082  
20           920 SW 3rd Ave, 1st Floor  
21           Portland, OR 97204  
22           Phone: (971) 201-3200  
23           Fax: (971) 201-3202  
24           [rhakari@mccarthyholthus.com](mailto:rhakari@mccarthyholthus.com)  
25           Of Attorneys for Plaintiff

# EXHIBIT 1

The South 120 feet of the following described tract:

A tract of land situated in the NW1/4 SE1/4 of Section 14, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, more particularly described as follows:

Beginning at a one-half inch iron pin on the Westerly right of way line of Homedale Road, said point being South 00° 02' 35" East 2169.24 feet (2170.00 feet by record) and South 89° 48' 28" West 30.00 feet from the Northeast corner of the SW1/4 NE1/4 of said Section 14; thence South 00° 02' 35" East along said right of way line 240.00 feet to a 5/8 inch iron pin; thence South 89° 48' 28" West 703.77 feet to a 5/8 inch iron pin on the Easterly right of way line of U.S.B.R. A-3-B irrigation lateral; thence North 24° 44' 39" East along said Easterly right of way line 264.67 feet to a 5/8 inch iron pin; thence North 89° 48' 28" East along the Northerly edge of an existing fence line 592.80 feet to the point of beginning.

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BANK OF AMERICA, N.A.,

Plaintiff,

v.

MICHAEL R. CHAPMAN AKA MICHAEL  
RAY CHAPMAN; CARTER-JONES  
COLLECTION SERVICES; PREMIER  
FINANCE COMPANY; ROSHELLE  
MUNSON; EDWARD LUNDE; STATE OF  
OREGON; UNITED STATES OF  
AMERICA; OCCUPANTS OF THE  
PROPERTY,

Defendants.

Case No.: 16CV34843

GENERAL JUDGMENT OF  
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion. All Defendants ("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;

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 Klamath County, Oregon, and is commonly known as 5734 Homedale Rd, Klamath Falls, OR 97603 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. R575443.

1 b. Plaintiff is entitled to enforce the note dated 6/29/2007 and made, delivered, and executed by  
2 Michael R. Chapman to Countrywide Home Loans, Inc. in the amount of \$267,750.00 (the  
3 "Note"). The Note was transferred to Plaintiff by delivery of possession and by indorsement  
4 set forth on the Note.

5 c. A deed of trust was made, executed, and delivered by Defendants Michael R. Chapman on or  
6 about 6/29/2007 (the "Deed of Trust"). The Deed of Trust was recorded on 7/20/2007 as  
7 Instrument No. 2007-012891 in the official records of Klamath County, Oregon. The Deed  
8 of Trust is a valid and perfected lien against all of the Property for and securing the Amount  
9 Due. The lien of the Plaintiff is superior to any interest, lien, or claim of the Defendants and  
10 shall remain in effect until issuance of a Sheriff's Deed.

11 d. The Borrower failed to make the payment that was due for 10/1/2008 and has not cured the  
12 default. The amount of debt secured by the Deed of Trust that is now due and owing is  
13 comprised of the following amounts (the "Amount Due"):

14	a) Unpaid principal balance:	\$266,783.50
15	b) Prejudgment interest accruing from	\$187,408.81
16	9/1/2008 through 5/3/2017 and	
17	continuing until the entry of judgment	
	at the current Note rate of 8.250%:	
18	c) Additional amounts due under the	\$49,527.21
19	terms of the loan:	
20	d) Attorney fees and costs:	\$5,516.05
21		
22	e) Prevailing party fee (ORS 20.190	\$85.00
23	(1)(b)):	
24	<b>Total:</b>	<b>\$509,320.57</b>

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

4 e. The interest of the Defendants and any successor in interest in the Subject Property is  
5 foreclosed and terminated excepting only any statutory right of redemption as provided by  
6 Oregon law.

7 f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.

8 g. All right, title and interest in the Subject Property that Defendant Michael R. Chapman had  
9 as of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the  
10 Klamath County Sheriff's Office in accordance with the process for sale upon execution, and  
11 the proceeds of sale shall be applied:

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

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

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

18 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS  
19 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from  
20 the date of entry of judgment through the date of the sale and any incurred costs of sale.

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

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

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

4 l. Pursuant to ORS 88.050, the apparent priority of liens subsequent and inferior to the Deed of  
5 Trust are as follows:

6 1) Defendant CARTER-JONES COLLECTION SERVICES may claim an interest in  
7 Subject Property by virtue of a judgment entered on 11/06/2007 in this Court, Case  
8 No. 0703816CVT.

9 2) Defendant CARTER-JONES COLLECTION SERVICES may claim an interest in  
10 Subject Property by virtue of a judgment entered on 05/23/2008 in this Court, Case  
11 No. 0801332CV.

12 3) Defendant CARTER-JONES COLLECTION SERVICES may claim an interest in  
13 Subject Property by virtue of a judgment entered on 10/14/2008 in this Court, Case  
14 No. 0804016CV.

15 4) Defendant PREMIER FINANCE COMPANY may claim an interest in Subject  
16 Property by virtue of a judgment entered on 01/08/2009 in this Court, Case No.  
17 0804723CV.

18 5) Defendant ROSHELLE MUNSON may claim an interest in Subject Property by  
19 virtue of a judgment entered on 01/23/2009 in this Court, Case No. 0804878CV.

20 6) Defendant EDWARD LUNDE may claim an interest in Subject Property by virtue of  
21 a judgment entered on 01/27/2009 in this Court, Case No. 0900072CV.

22 7) Defendant STATE OF OREGON acting through the Employment Department may  
23 claim an interest in Subject Property by virtue of Tax Warrant A6494 recorded  
24 05/19/2009 as Instrument No. 2009-007016 in the official records in this county.

25 8) Defendant UNITED STATES OF AMERICA may claim an interest in the Subject  
26 Property by virtue of a Federal Tax Lien, notice of which was recorded 07/22/2009 as  
27 Instrument No. 2009-009948 in the official records in this county.



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9) Defendant STATE OF OREGON acting through the Employment Department may claim an interest in Subject Property by virtue of Tax Warrant A7325 recorded 08/17/2009 as Instrument No. 2009-010990 in the official records in this county.

Signed: 5/4/2017 09:36 AM

Roxanne Osborne  
**Circuit Court Judge Roxanne Osborne**

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

This proposed General Judgment of Foreclosure is ready for judicial signature because:

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, \_\_\_\_\_ agreed to independently file any remaining objection.

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.

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

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

Other: \_\_\_\_\_

1 Presented by:

2 **McCarthy & Holthus, LLP**

3 s/ Bryan Kidder 5/3/2017

---

4 Bryan Kidder, OSB No. 140459

5 920 SW 3rd Ave, 1st Floor

6 Portland, OR 97204

7 Phone: (971) 201-3200

8 Fax: (971) 201-3202

9 bkidder@mccarthyholthus.com

10 Of Attorneys for Plaintiff

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