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

DITECH FINANCIAL LLC,

Plaintiff,

vs.

JOE BILLY DAVID, TAYLOR TUPPER;  
OREGON SHORES RECREATIONAL CLUB  
INC.; OCCUPANTS OF THE PROPERTY,

Defendants.

Case No.: 1501295CV

WRIT OF EXECUTION IN  
FORECLOSURE

**TO THE KLAMATH COUNTY SHERIFF:**

A Stipulated General Judgment of Foreclosure was entered and docketed in this case on 6/6/2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

DITECH FINANCIAL LLC  
c/o Brady Godbout  
Attorney for Plaintiff

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

With the adjudicated amount due of \$133,620.25, plus post judgment interest at the statutory rate of 9.0% per annum from 6/6/2017 to 8/15/2017 in the amount of \$2,405.16, and continuing with a per diem of \$32.95, currently totaling \$136,025.41.



# EXHIBIT "1"

## Legal Description

Lot 42, Block 19, Tract No. 1113, OREGON SHORES - UNIT #2, in the County of Klamath, State of Oregon.

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

DITECH FINANCIAL LLC,

Plaintiff,

vs.

JOE BILLY DAVID, TAYLOR TUPPER;  
OREGON SHORES RECREATIONAL  
CLUB INC.; OCCUPANTS OF THE  
PROPERTY,

Defendants.

Case No.: 1501295CV

STIPULATED GENERAL JUDGMENT OF  
FORECLOSURE

1.

Plaintiff DITECH FINANCIAL LLC, (“Plaintiff”), by and through its attorney of record Brady Godbout, and Defendants Joe Billy David and Taylor Tupper (“Borrowers”) (“Stipulating Defendants”), (collectively the “Parties”) have settled all matters between themselves within this action and agreed to the entry of this Stipulated General Judgment.

2.

A Limited Judgment as to Defendants Oregon Shores Recreational Club and Occupants of the Property was entered on 1/5/2017.

3.

The Parties acknowledge that a dispute has arisen concerning the subject matter of this Complaint, and as a result, the Parties desire to fully resolve the dispute under the terms and conditions of this Judgment of Foreclosure.

1 **STIPULATED FINDINGS OF FACT:**

2 4.

3 SUBJECT PROPERTY: The real property to which this judgment relates is located and  
4 situated in Klamath County, Oregon, and is commonly known as 33608 Sundance Circle,  
5 Chiloquin, OR 97624, and legally described as shown in the attached *Exhibit 1*, and having  
6 APN/Parcel No. R-3507-018DC-01000-000.

7 5.

8 THE NOTE: Plaintiff is the owner and holder of the beneficial interest in a deed of trust  
9 and original note dated 6/6/2001 and made, delivered, and executed by Joe Billy David and  
10 Taylor Tupper in the amount of \$100,880.00 (the "Note"). The Note was transferred to Plaintiff  
11 by delivery of possession and by indorsement set forth on the Note

12 6.

13 DEED OF TRUST: A deed of trust was made, executed, and delivered by Defendant(s)  
14 Joe Billy David, Taylor Tupper on or about 6/6/2001 (the "Deed of Trust"). The Deed of Trust  
15 was recorded on 6/8/2001 as Volume: M01 Page: 27131 in the official records of Klamath  
16 County, Oregon.

17 7.

18 LOAN: Together the Deed of Trust and Note are herein referred to as the "Loan".

19 8.

20 BORROWER'S DEFAULT AND ACCELERATION: Borrowers failed to comply with  
21 the terms of the Loan, by failing to make payments as agreed. Under the provisions of the Loan,  
22 Plaintiff declared the entire balance of principal and interest due and payable.

23 9.

24 AMOUNTS DUE AND OWING: There is now due and owing the principal sum of  
25 \$84,315.45 together with accrued interest accruing at the rate of 6.8800% per annum thereafter,  
26 together with any other sums for expenses and fees due under the terms of the Loan or advanced  
27 for the protection of the Subject Property as provided in the Amount Due, *infra*.

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10.

COSTS AND ATTORNEY FEES: The Note and Deed of Trust provide that Plaintiff is entitled to recover its reasonable attorney fees and all reasonable and necessary costs and expenses incurred in enforcing the Note and foreclosing the Deed of Trust.

11.

VALID SENIOR LIEN: Plaintiff's lien is a valid senior and prior lien against the Subject Property. Plaintiff is entitled to have its lien foreclosed and the Subject Property sold at a foreclosure sale by the Klamath County Sheriff to satisfy any and all amounts due and owing upon the Deed of Trust and Note as adjudged below.

12.

RESIDENTIAL TRUST DEED: Pursuant to the Declaration of Defendants Joe Billy David and Taylor Tupper, the Deed of Trust is a residential trust deed pursuant to ORS 86.705(6).

13.

OCCUPANTS OF THE PROPERTY: Pursuant to the Declaration of JOE BILLY DAVID and TAYLOR TUPPER.

**OTHER TERMS**

14.

FORECLOSURE SALE DATE: Stipulating Defendants will vacate the Subject Property on or at any time before the day of foreclosure sale. Stipulating Defendants will not destroy or damage any part of the Property, and will not remove any fixtures from the Property. All personal property remaining at the Subject Property after said date will be considered abandoned.

15.

NO LEASE OR TENANCY: Stipulating Defendants shall not enter into any lease or renew any existing lease of the Subject Property.

16.

COMPLETE AGREEMENT: The terms of this Stipulated Judgment contain the entire

1 agreement between the Parties and supersede any and all other agreements, either oral or written,  
2 between the Parties.

3 **STIPULATED GENERAL JUDGMENT:**

4 17.

5 Premised upon the above stipulations of Plaintiff and Stipulating Defendants and the  
6 records and files herein, the Court is fully advised and finds good cause exists so that this  
7 Stipulated General Judgment may be entered in this matter. IT IS HEREBY ADJUDGED that  
8 Plaintiff shall have judgment as follows: Premised upon Plaintiff's motion for General Judgment  
9 and the records and files herein, which reveal that an order of default was entered against  
10 Defendants Oregon Shores Recreational Club and Occupants of the Property, and upon the above  
11 stipulations of the Plaintiff and Stipulating Defendants, the Court being fully advised and finding  
12 good cause exists so that this General Judgment may be entered in this matter, IT IS HEREBY  
13 ORDERED AND ADJUDGED that Plaintiff shall have judgment as follows:

- 14 a. The amount of debt secured by the Deed of Trust that is now due and owing is comprised  
15 of the amounts below (the "Amount Due"):

16 Unpaid principal balance:	\$84,315.45
17 Prejudgment interest accruing from 18 3/1/2012 through 4/24/2017 and continuing 19 until the entry of judgment at the current Note rate of 6.87500%:	\$29,841.15
20 Additional amounts due under the terms of 21 the loan:	\$14,522.05
22 Attorney fees and costs:	\$4,941.60
23 Total:	\$133,620.25

24 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from  
25 the date of entry of this judgment through the sale of the Subject Property at the rate of  
26 9.00% per annum.  
27



1 b. Plaintiff's lien is a valid senior lien upon the Subject Property and that lien is superior to  
2 any interest, lien or claim of the Defendants.

3 c. All right, title and interest in the Subject Property that the Stipulating Defendant(s) had as  
4 of the date of the Deed of Trust or thereafter acquired is hereby ordered to be sold by the  
5 Klamath County Sheriff's Office in accordance with the process for sale upon execution,  
6 and the proceeds of sale shall be applied:

- 7 1) First, to the costs of sale not incurred by Plaintiff;
- 8 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of  
9 entry of judgment through the date of the sale and any incurred costs of sale;
- 10 3) Third, the surplus, if any, to the Defendants in the priority as their interest may  
11 appear, described *infra*, or to the clerk of the court to be distributed by the Court  
12 to such party or parties as they may establish their right thereto.

13 d. Plaintiff's lien is foreclosed and the Property shall be sold at a foreclosure sale by the  
14 Klamath County Sheriff in the manner provided by law, and the proceeds thereof are to  
15 be applied first toward the costs of sale, then toward the satisfaction of Plaintiff's  
16 judgment awarded herein, and the surplus, if any, to such party or parties as may establish  
17 their right thereto.

18 e. Stipulating Defendants are not entitled to a homestead exemption.

19 f. Defendants, and all persons claiming by, through, or under them, as purchasers,  
20 encumbrancers, or otherwise, are adjudged inferior and subordinate to Plaintiff and are  
21 forever foreclosed of all interest, lien, or claim in the real property described above and  
22 every portion thereof, excepting only any statutory right of redemption as Defendants  
23 may have therein.

24 g. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS  
25 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing  
26 from the date of entry of judgment through the date of the sale and any incurred costs of  
27 sale.

28

1 h. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject  
2 Property from and after the date of the sale and is entitled to such remedies as are  
3 available at law or in equity to secure possession. The purchaser at the sale may apply to  
4 the Court for a writ of assistance if any Defendant, other party, or other person shall  
5 refuse to surrender possession to the purchaser immediately upon the purchaser's demand  
6 for possession.

7 i. In accordance with ORS 86.797(2), Plaintiff shall not be entitled to further execute upon  
8 any amounts of the judgment debt remaining unsatisfied by the proceeds of the  
9 foreclosure sale nor be entitled to a deficiency judgment against the Borrowers or any  
10 other person obligated as provided by ORS 86.797(2)(a) and (b) *et seq.* for such deficient  
11 amounts.

12 j. Pursuant to ORS 88.050, the apparent priority of liens subsequent and inferior to the  
13 Deed of Trust are as follows:

- 14 1) Defendant OREGON SHORES RECREATIONAL CLUB, INC. may claim some  
15 junior interest in Subject Property that is subsequent, subject and inferior to the  
16 interest held by the Plaintiff.

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2 k. This Stipulated Judgment shall inure to the benefit of Plaintiff and Stipulating  
3 Defendants, their successors and/or assigns.

4

5 **IT IS SO STIPULATED:**

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Signed: 6/2/2017 10:28 AM



\_\_\_\_\_  
Circuit Court Judge Andrea Janney

14

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**Stipulated to by:**

19

By: s/ Brady Godbout\_\_\_\_\_

By: \_\_\_\_\_

20

21

Dated: 31st day of May, 2017

Dated: \_\_\_ day of \_\_\_\_\_, 2017

22

Brady Godbout, OSB No. 132708

Matthew G. Fawcett, OSB No. 901746

23

920 SW 3rd Ave, 1st Floor

243 S Holly St.

24

Portland, OR 97204

Medford, OR 97501

25

Phone: (971) 201-3200

Phone: (541) 779-6282

26

Fax: (971) 201-3202

Fax: (541) 857-8284

27

bgodbout@mccarthyholthus.com

Email: mgflegal@ccountry.net

28

Of Attorneys for Plaintiff

Attorney for Stipulating Defendants

1 ///

2 k. This Stipulated Judgment shall inure to the benefit of Plaintiff and Stipulating  
3 Defendants, their successors and/or assigns.  
4

5 **IT IS SO STIPULATED:**  
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18 **Stipulated to by:**

19 By: \_\_\_\_\_

20  
21 Dated: \_\_\_\_ day of \_\_\_\_\_, 2017  
22 Brady Godbout, OSB No. 132708  
23 920 SW 3rd Ave, 1st Floor  
24 Portland, OR 97204  
25 Phone: (971) 201-3200  
26 Fax: (971) 201-3202  
27 bgodbout@mccarthyholthus.com  
28 Of Attorneys for Plaintiff

By: \_\_\_\_\_

Dated: 22 day of May, 2017  
Matthew G. Fawcett, OSB No. 901746  
243 S Holly St.  
Medford, OR 97501  
Phone: (541) 779-6282  
Fax: (541) 857-8284  
Email: mgflegal@ccountry.net  
Attorney for Stipulating Defendants

# EXHIBIT "1"

## Legal Description

Lot 42, Block 19, Tract No. 1113, OREGON SHORES - UNIT #2, in the County of Klamath, State of Oregon.

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OREGON SHORES RECREATIONAL  
CLUB INC.; OCCUPANTS OF THE  
PROPERTY;  
  
Defendants.

Case No.: 1501295CV  
  
CERTIFICATE OF READINESS

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

This proposed Stipulated General Judgment 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.

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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: \_\_\_\_\_

DATED: May 31, 2017

McCarthy & Holthus, LLP

By: s/ Brady Godbout  
Brady Godbout, Attorney