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CERTIFIED TRUE COPY OF THE ORIGINAL
Dated this 22 day of 12, 2017.
CIRCUIT COURT OF THE STATE OF OREGON
FOR DESCHUTES COUNTY

BY Chelsea B. Smith
COURT CLERK

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

CIT BANK, N.A.,

Plaintiff,

vs.

ESTATE OF JANICE ANN SMITH, an
estate; ROBERT REED, an heir; ROBIN
LINN HICKS, an heir; CITIBANK SOUTH
DAKOTA, a national banking association;
UNKNOWN HEIRS OF JANICE ANN
SMITH, unknown heirs; 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: 16CV31266

WRIT OF EXECUTION IN FORECLOSURE

TO: THE SHERIFF OF DESCHUTES COUNTY, OREGON:

1.

WHEREAS, on August 25, 2017, in the above-entitled Court, a General Judgment of
Foreclosure ("Judgment") was entered and docketed in the above-entitled and numbered proceeding

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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 redemption, if applicable), all of the interest which the Defendants ESTATE OF JANICE ANN SMITH, ROBIN LINN HICKS, CITIBANK SOUTH DAKOTA, and UNKNOWN HEIRS OF JANICE ANN SMITH ("Defendants") had on April 24, 2007, the date of the foreclosed Deed of Trust which was recorded on May 1, 2007, as Instrument No. 2007-24971 in the official records of the Deschutes County Recorder's Office, and/or all of the interest which Defendants had thereafter, in the real property described in the Judgment to satisfy the Judgment as follows:

Lender's Principal Judgment:

Unpaid Principal Balance:	\$113,431.27
Pre-Judgment Interest from April 30, 2007 to June 20, 2017, the date set forth in the Judgment at 5.980%, per annum, (\$8.83 per diem):	\$24,439.67
Lender's Fees and Costs:	\$15,127.73
Attorney's Fees and Costs:	\$4,901.00
Total Judgment Entered:	\$157,899.67

Additional Pre-Judgment Interest:

Accrued Interest from June 21, 2017, the day after the date set forth in the Judgment through August 25, 2017, the date of entry of the Judgment, at interest at 5.98%, per annum (\$8.83 per diem):	\$573.95
--	----------

1 **Total Judgment Entered Including**

2 **Additional Pre-Judgment**

3 **Interest:** **\$158,473.62**

4 3.

5 Additionally, Plaintiff is entitled to the accrual of post-judgment interest on **\$158,473.62** at
6 the legal rate of interest of 9% per annum, \$39.07 per diem, from August 26, 2017 to the date the
7 real property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus
8 costs of this Writ, Sherriff's fees and sale costs, and all other recovered costs pursuant to law.

9 4.

10 The real property subject to this writ of execution is commonly known as 52950 FOREST
11 WAY, LA PINE, OR 97739 ("Property") and described in Exhibit "1" attached hereto.

12 5.

13 The Judgment Creditor's name and address is:

14 CIT Bank, N.A.

15 c/o Financial Freedom

16 888 East Walnut Street

17 Pasadena, CA 91101-1895

18 The Judgment Creditor's name and address for the purpose of this Writ is:

19 CIT Bank, N.A.

20 c/o Malcolm & Cisneros, ALC (Attention: Nathan F. Smith)

21 2112 Business Center Drive

22 Irvine, CA 92612

23 949-252-9400

24 ///

25 ///

26 ///

27 ///

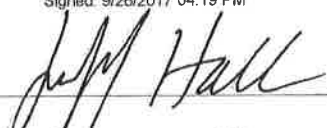
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THEREFORE, in the name of the State of Oregon, you are hereby commanded to seize and sell the Property, in the manner prescribed by law; or so much thereof as may be necessary to satisfy the Judgment, interest, fees, and costs.

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

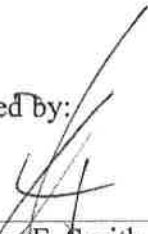
Signed: 9/26/2017 04:19 PM



Trial Court Administrator Jeffrey E. Hall



Submitted by:



Dated: 9/21/17

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

LEGAL DESCRIPTION

Lot 5 in Block 5 of **ALPINE MEADOWS SUBDIVISION NO. 40**, Deschutes County,
Oregon.



CERTIFIED TRUE COPY OF THE ORIGINAL
Dated this 22 day of 12, 2017.
CIRCUIT COURT OF THE STATE OF OREGON
FOR DESCHUTES COUNTY

BY Chelsea B. [Signature]
COURT CLERK

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

CIT BANK, N.A.,

Plaintiff,

vs.

ESTATE OF JANICE ANN SMITH, an estate; ROBERT REED, an heir; ROBIN LINN HICKS, an heir; CITIBANK SOUTH DAKOTA, a national banking association; UNKNOWN HEIRS OF JANICE ANN SMITH, unknown heirs; 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: 16CV31266

GENERAL JUDGMENT OF FORECLOSURE AGAINST:

1. ESTATE OF JANICE ANN SMITH,
2. ROBIN LINN HICKS,
3. CITIBANK SOUTH DAKOTA,
4. UNKNOWN HEIRS OF JANICE ANN SMITH

1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff, CIT Bank, N.A. ("Plaintiff"), filed its Complaint for Foreclosure of Deed of Trust; that Defendants ESTATE OF JANICE ANN SMITH, ROBIN LINN HICKS, CITIBANK SOUTH DAKOTA, AND UNKNOWN HEIRS OF JANICE ANN SMITH ("Defendants") were duly served with the Summons and Complaint as required by law; that Defendants failed to appear,

1 that an order of default has been entered against them on Plaintiff's Complaint, and that Plaintiff is
2 entitled to entry of a General Judgment foreclosing Plaintiff's deed of trust against the property
3 commonly known as 52950 FOREST WAY, LA PINE, OR 97739 ("Property") and extinguishing
4 any and all interest of the Defendants in the Property.

5 2.

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

8 3.

9 Plaintiff is the holder of that certain adjustable rate note ("Note"), dated April 24, 2007, in
10 the amount of \$295,500.00, and executed by William R. Smith and Janice A. Smith.

11 4.

12 The Note is secured by that certain deed of trust ("Deed of Trust") dated April 24, 2007 and
13 executed by William R. Smith and Janice A. Smith. The Deed of Trust was recorded on May 1,
14 2007 under the recording number 2007-24970 of the Official Records of Deschutes County, Oregon,
15 against the Property, which is legally described as: Attached as Exhibit "1" hereto. ("Property") and
16 constitutes a valid lien against the Property.

17 5.

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

20 6.

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

25 7.

26 A judgment of foreclosure in the amount of \$157,899.67 shall be granted in favor of Plaintiff,
27 and its successors and/or assigns, as further described below in the Declaration of Amount Owed –
28 Not a Money Award ("Amount Owed").

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8.

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

9.

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

10.

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

11.

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

12.

Defendants ESTATE OF JANICE ANN SMITH, ROBIN LINN HICKS, CITIBANK SOUTH DAKOTA, AND UNKNOWN HEIRS OF JANICE ANN SMITH are not entitled to a homestead exemption in the Property.

13.

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

14.

The purchaser of the Property at the Sheriff's Sale is entitled to exclusive and immediate possession of the Property from and after the date of the sale, and is entitled to such remedies as are

1 available at law to secure possession of the Property, and may apply to the Clerk of the Court for a
2 writ of assistance, if Defendants, any of them, or any other party or person shall refuse to surrender
3 possession of the Property to the purchaser immediately on the purchaser's demand for possession.

4 15.

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

8 16.

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

11 17.

12 This suit does not constitute an attempt to collect the debt against Defendants ESTATE OF
13 JANICE ANN SMITH, ROBIN LINN HICKS, CITIBANK SOUTH DAKOTA, AND UNKNOWN
14 HEIRS OF JANICE ANN SMITH WILLIAM ROY SMITH and JANICE ANN SMITH. Rather, it
15 is a suit to execute upon the Property as security for the Amount Owed.

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

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

18 18.

19 Under the terms of the Deed of Trust and the Note dated April 24, 2007, in the original
20 principal amount of \$295,500.00, there is now due and owing the following amounts, to be
21 hereinafter described as the Amount Due:

22 **DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD**

23
24 **1. Judgment Creditor:** CIT Bank, N.A.
25 Address: c/o MALCOLM ♦ CISNEROS,
26 A Law Corporation
27 2112 Business Center Drive, 2nd Floor
28 Irvine, California 92612

1	Judgment Attorney:	Nathan F. Smith
2	Address:	MALCOLM ♦ CISNEROS, A Law Corporation
3		2112 Business Center Drive, 2 nd Floor
4		Irvine, California 92612
5	Telephone Number:	(949) 252-9400
6	2. Persons or Public Bodies Entitled to	
7	a Portion the Judgment:	N/A
8	3. Judgment Amount:	\$152,998.67
9	4. Pre-Judgment Interest:	Simple interest to accrue on \$113,431.27 from
10		June 21, 2017 to the date the Judgment is
11		entered into the Court's register at interest at
12		2.110% per annum, \$8.83 per diem.
13	5. Post-Judgment Interest:	Simple interest to accrue on \$157,899.67 plus
14		Pre-Judgment Interest from the day after the
15		General Judgment is entered to the date upon
16		which the Writ of Execution in Foreclosure is
17		levied at the legal rate of interest or 9% per
18	///	annum, whichever is greater.
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6. Periodic accrual:

N/A

7. Attorney's Fees and Costs:

An award of \$4,901.00 in attorney's fees and costs is made.

Signed: 8/24/2017 02:00 PM


Circuit Court Judge Alta J. Brady

Submitted by:



Dated:

8/17/17

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

LEGAL DESCRIPTION

Lot 5 in Block 5 of **ALPINE MEADOWS SUBDIVISION NO. 40**, Deschutes County,
Oregon.