

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

NATIONSTAR MORTGAGE LLC ,
Plaintiff,

Case No. 17CV08344

v.

WRIT OF EXECUTION

THE ESTATE OF CHARLES D. BARKER;
THE UNKNOWN HEIRS, ASSIGNS AND
DEVISEES OF CHARLES D. BARKER;
CITIBANK (SOUTH DAKOTA) NA;
SHERRI BARKER AND ALL OTHER
PERSONS OR PARTIES UNKNOWN
CLAIMING ANY RIGHT, TITLE, LIEN, OR
INTEREST IN THE REAL PROPERTY
COMMONLY KNOWN AS 38898 HWY 62,
CHILOQUIN, OR 97624,
Defendant.

TO THE KLAMATH COUNTY SHERIFF:

On November 28, 2017, a General Judgment of Foreclosure and Declaration of Amount Due by Default was entered by the KLAMATH County Circuit Court, foreclosing Plaintiff's Deed of Trust and directing that the property subject to the Deed of Trust be sold to satisfy the unpaid debt due to Plaintiff.

The mailing address for the judgment creditor is: NATIONSTAR MORTGAGE LLC c/o Aldridge Pite, LLP, 111 SW Columbia St., Ste. 950, Portland, OR 97201.

The real property to be sold at public auction is commonly known as 38898 HWY 62, CHILOQUIN, OR 97624 ("Subject Property"), and legally described as:

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 34 SOUTH, RANGE 7 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

1 BEGINNING AT A POINT ON THE NORTH LINE OF TRACT 1287, AGENCY
2 LAKE RANCHES, A DULY RECORDED SUBDIVISION, FROM WHICH THE
3 NORTHWEST CORNER OF LOT 9 BEARS SOUTH 89°57'34" WEST 45.80 FEET; THENCE
4 NORTH 03°30'35" EAST 504.23 FEET, MORE OR LESS, TO A POINT ON THE
5 SOUTHWESTERLY RIGHT OF WAY LINE OF STATE HIGHWAY 62; THENCE
6 SOUTHEASTERLY ALONG SAID RIGHT OF WAY 560 FEET, MORE OR LESS TO THE
7 NORTHEAST CORNER OF SAID LOT 9; THENCE SOUTH 89°57'34" WEST 276.72 FEET,
8 MORE OR LESS, TO THE POINT OF BEGINNING, WITH BEARINGS BASED ON THE
9 PLAT OF SAID TRACT 1287, AGENCY LAKE RANCHES.

10 The total amount due and owing on the Judgment as of December 11, 2017;

11	Judgment:	Principal	\$96,142.07
12	Pre-Judgment:	Interest(5.000%, \$12.07/day)	\$410.38 (10/26/17 through 11/28/17)
13		Attorney Fees	\$2,940.00
14		Costs	\$3,516.36
15		Prevailing Party Fee	\$300.00
16	Post-Judgment:	Interest(5.000%, \$12.07/day)	\$156.91 (11/29/17 through 12/11/17)
17		Attorney Fees	\$260.00

18 **TOTAL: \$103,725.72**


19 In the name of the State of Oregon, you are hereby directed to proceed to notice for sale
20 and sell the Subject Property.

21
22
23
24
25
26

1 After the sale, you are directed to issue a certificate of sale to the purchaser and file a
2 return on the writ of execution, depositing the sale proceeds with the Court. Further, you are
3 directed to execute, after the time for redemption has elapsed, a deed to the holder of the
4 certificate of sale.

5 DATED December 11, 2017

6 COURT ADMINISTRATOR FOR
7 KLAMATH COUNTY CIRCUIT COURT
8 By: Marcela Flores
9



10 Presented by:
ALDRIDGE PITE, LLP

11 Christina M. Andreoni
12 x CHRISTINA M. ANDREONI, OSB # 160875
13 Tel: (858) 750-7600
14 Fax: (503) 222-2260
CANDREONI@ALDRIDGEPITE.COM

15
16
17
18
19
20
21
22
23
24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

NATIONSTAR MORTGAGE LLC ,

Plaintiff,

v.

THE ESTATE OF CHARLES D. BARKER;
THE UNKNOWN HEIRS, ASSIGNS AND
DEVISEES OF CHARLES D. BARKER;
CITIBANK (SOUTH DAKOTA) NA;
SHERRI BARKER and ALL OTHER
PERSONS OR PARTIES UNKNOWN
CLAIMING ANY RIGHT, TITLE, LIEN, OR
INTEREST IN THE REAL PROPERTY
COMMONLY KNOWN AS 38898 HWY 62,
CHILOQUIN, OR 97624,

Defendants.

Case No. 17CV08344

**GENERAL JUDGMENT OF
FORECLOSURE AND DECLARATION OF
AMOUNT DUE BY DEFAULT**

ORCP Rule 69

PURSUANT TO SB368, THIS IS A
JUDGMENT OF FORECLOSURE AND DOES
NOT CONSTITUTE A MONEY AWARD
AGAINST ANY DEFENDANT

Based upon the Court's Order of Default against defendants THE ESTATE OF CHARLES D. BARKER; THE UNKNOWN HEIRS, ASSIGNS AND DEVISEES OF CHARLES D. BARKER; CITIBANK (SOUTH DAKOTA) NA; SHERRI BARKER and ALL OTHER PERSONS OR PARTIES UNKNOWN CLAIMING ANY RIGHT, TITLE, LIEN, OR INTEREST IN THE REAL PROPERTY COMMONLY KNOWN AS 38898 HWY 62, CHILOQUIN, OR 97624, the records on file herein, and pursuant to the Motion for General Judgment and Declaration of Amount Due by Default by Plaintiff NATIONSTAR MORTGAGE LLC,

IT IS HEREBY ADJUDGED:

1. Plaintiff's security interest in the real property located at 38898 HWY 62,

1 CHILOQUIN, OR 97624 ("Subject Property"), as evidenced by the Deed of Trust recorded July
2 21, 2009 in the official records of KLAMATH County as instrument number 2009-009916
3 ("Deed of Trust"), is a viable first priority lien, superior to the interests of all the Defendants. All
4 rights, claims, ownerships, liens, titles and demands of all Defendants are subsequent to
5 Plaintiff's lien as created by the Note and Deed of Trust. The Subject Property is legally
6 described as follows:

7 A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 31,
8 TOWNSHIP 34 SOUTH, RANGE 7 EAST OF THE WILLAMETTE MERIDIAN,
9 KLAMATH COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS
10 FOLLOWS:

11 BEGINNING AT A POINT ON THE NORTH LINE OF TRACT 1287, AGENCY
12 LAKE RANCHES, A DULY RECORDED SUBDIVISION, FROM WHICH THE
13 NORTHWEST CORNER OF LOT 9 BEARS SOUTH 89°57'34" WEST 45.80 FEET;
14 THENCE NORTH 03°30'35" EAST 504.23 FEET, MORE OR LESS, TO A POINT ON
15 THE SOUTHWESTERLY RIGHT OF WAY LINE OF STATE HIGHWAY 62;
16 THENCE SOUTHEASTERLY ALONG SAID RIGHT OF WAY 560 FEET, MORE OR
17 LESS TO THE NORTHEAST CORNER OF SAID LOT 9; THENCE SOUTH 89°57'34"
18 WEST 276.72 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, WITH
19 BEARINGS BASED ON THE PLAT OF SAID TRACT 1287, AGENCY LAKE
20 RANCHES.

21 2. The Deed of Trust is foreclosed and upon entry of this Judgment the court
22 administrator shall upon request of the Plaintiff issue a writ of execution for the sale, by the
23 Sheriff, in the manner provided by law;

24 3. Plaintiff has submitted a Declaration of Amount Due and is owed the total amount
25 due under the Note and Deed of Trust and any future advances and/or fees that may be made or
26 incurred pursuant to the terms of the Note and Deed of Trust up to the date of the execution sale.

Page 2 -- GENERAL JUDGMENT AND DECLARATION OF AMOUNT DUE BY DEFAULT

1 This amount is to be satisfied by sale of the Subject Property as directed under this Judgment;

2 4. Plaintiff is owed reasonable attorney fees plus the remaining flat rate fees for an
3 uncontested execution on the Judgment, pursuant to the Note and Deed of Trust and ORCP Rule
4 68(C), which amount may be added to the outstanding obligation due and owing under the Note
5 and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant to the Deed of
6 Trust, these fees continue to accrue to the date of the execution sale. This amount to be satisfied
7 by sale of the Subject Property as directed under this Judgment;

8 5. Plaintiff is owed costs of suit pursuant to the Note and Deed of Trust, ORCP Rule
9 68(A)(2) and ORS 20.115(4), which may be added to the outstanding obligation due and owing
10 under the Note and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant
11 to the Deed of Trust, these costs continue to accrue to the date of the execution sale. This
12 amount to be satisfied by sale of the Subject Property as directed under this Judgment;

13 6. Plaintiff is owed the prevailing party fee of \$300.00, this amount to be satisfied by
14 sale of the Subject Property as directed under this Judgment.

15 7. The Sheriff shall make a return on the writ of execution to the court administrator
16 along with the proceeds of the sale, if any. The proceeds of the sale, if any, shall be applied first
17 toward the costs of the sale; then toward the satisfaction of Plaintiff's Judgment of Foreclosure
18 awarded herein; and the surplus, if any, to the clerk of the court to be distributed to such party or
19 parties as may establish their right thereto. The Defendants and all persons claiming through or
20 under Defendants, whether lien claimants, judgment creditors, claimants arising under junior
21 mortgages or deeds of trust, purchasers, encumbrances or otherwise, shall be barred and
22 foreclosed from all rights, claims, interest or equity of redemption in the Subject Property and
23 every part of the Subject Property when the time for redemption has elapsed;

24 8. Plaintiff or any other party to this action may become a purchaser at the
25 foreclosure sale, and such purchaser shall be immediately let into possession of the subject
26 property, until redemption of the property, if any. The purchaser at the foreclosure sale or any

Page 3 – GENERAL JUDGMENT AND DECLARATION OF AMOUNT DUE BY DEFAULT

1 successor in interest may apply to this Court for a writ of assistance to gain possession of the
2 subject property if Defendants or any other party or person refuses to surrender possession;

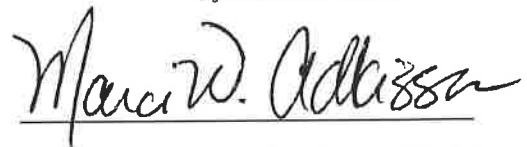
3 DECLARATION OF AMOUNT DUE BY DEFAULT

4 (PURSUANT TO SB 368, THIS IS A JUDGMENT OF FORECLOSURE AND DOES NOT
5 CONSTITUTE A MONEY AWARD AGAINST ANY DEFENDANT)

- 6 1. The amount of the judgment is \$96,142.07.
7 2. Simple interest at the variable rate currently at 5.0% (\$12.07 *per diem*) after
8 October, 25, 2017, through the date of sale.
9 3. Attorney fees of \$2,940.00, plus \$260.00, through the date of sale.
10 4. Costs of \$3,516.36, plus costs accrued through the date of sale.
11 5. Prevailing party fee: \$300.00.

12
13 **IT IS SO ADJUDGED**

14
15
16
17 Signed: 11/27/2017 03:20 PM

18 

19
20 **Circuit Court Judge Marci W. Adkisson**

21 CERTIFICATE OF READINESS

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

- 23 1. Each opposing party affected by this Order or Judgment has stipulated to the Order
24 or Judgment, as shown by each opposing party's signature on the document being
25 submitted.
26 2. 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

Page 4 – GENERAL JUDGMENT AND DECLARATION OF AMOUNT DUE BY DEFAULT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

confirmation of approval sent to me.

- 3. I have served a copy of this Order or Judgment on all parties entitled to service and:
 - a. No objections have been served on me within that time frame;
 - b. I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed with the Court a copy of the objections I received and indicated which objections remain unresolved;
 - c. After conferring about objections, [**Opposing Party**] agreed to independently file any remaining objection with the Court.
- 4. The relief sought is against an opposing party who has been found in default.
- 5. An order of default is being requested with this proposed judgment.
- 6. Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
- 7. 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.

Presented By:
ALDRIDGE PITE, LLP



Date: 11/21/2017

Christina M. Andreoni, OSB #160875
(858) 750-7600
(503) 222-2260 (Facsimile)
candreoni@aldridgepite.com
Of Attorneys for Plaintiff