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

NEW PENN FINANCIAL LLC D/B/A  
SHELLPOINT MORTGAGE SERVICING,  
Plaintiff,

Case No. 16CV01977

**WRIT OF EXECUTION**

v.

NICHOLAS M. GIACOMELLI; CARRIE M.  
GIACOMELLI; AND ALL OTHER  
PERSONS OR PARTIES UNKNOWN  
CLAIMING ANY RIGHT, TITLE, LIEN, OR  
INTEREST IN THE REAL PROPERTY  
COMMONLY KNOWN AS 6019 SHASTA  
WAY, KLAMATH FALLS, OREGON 97603,  
Defendant.

TO THE KLAMATH COUNTY SHERIFF:

On September 22, 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: NEW PENN FINANCIAL LLC D/B/A SHELLPOINT MORTGAGE SERVICING 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 6019 SHASTA WAY, KLAMATH FALLS, OREGON 97603 ("Subject Property"), and legally described as:

THE EAST 75 FEET OF LOT 1, BLOCK 2, SHASTA VIEW TRACTS, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK

1 OF KLAMATH COUNTY, OREGON

2 The total amount due and owing on the Judgment as of September 22, 2014;

3 Judgment:	Principal	\$135,072.07
4 Pre-Judgment:	Interest(6.125%, \$18.38/day)	\$404.36 (September 1, 2017 through
5		September 22, 2017)
6	Attorney Fees	\$3,232.50
7	Costs	\$1,862.47
8	Prevailing Party Fee	\$300.00
9 Post-Judgment:	Interest(6.125%, \$18.38/day)	\$863.86 (September 23, 2017 through
10		November 8, 2017)
11	Attorney Fees	\$317.15
12	Costs	\$0.00

13 **TOTAL: \$142,052.41**

14 In the name of the State of Oregon, you are hereby directed to proceed to notice for sale  
15 and sell the Subject Property. After the sale, you are directed to issue a certificate of sale to the  
16 purchaser and file a return on the writ of execution, depositing the sale proceeds with the Court.  
17 Further, you are directed to execute, after the time for redemption has elapsed, a deed to the  
18 holder of the certificate of sale.



20 *Marcela Flores*  
21 *November 14, 2017* *Cart Clerk*

22 Presented by:  
23 ALDRIDGE PITE, LLP

24 *Christina Andreoni*

25 Christina Andreoni, OSB #160875  
26 (858) 750-7600  
(503) 222-2260 (Facsimile)  
[candreoni@aldridgepite.com](mailto:candreoni@aldridgepite.com)

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

NEW PENN FINANCIAL D/B/A  
SHELLPOINT MORTGAGE SERVICING

Plaintiff,

v.

NICHOLAS M. GIACOMELLI; CARRIE M.  
GIACOMELLI; and ALL OTHER PERSONS  
OR PARTIES UNKNOWN CLAIMING ANY  
RIGHT, TITLE, LIEN, OR INTEREST IN  
THE REAL PROPERTY COMMONLY  
KNOWN AS 6019 SHASTA WAY,  
KLAMATH FALLS, OREGON 97603,

Plaintiff.

Case No. 16CV01977

**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 NICHOLAS M. GIACOMELLI; CARRIE M. GIACOMELLI; and ALL OTHER PERSONS OR PARTIES UNKNOWN CLAIMING ANY RIGHT, TITLE, LIEN, OR INTEREST IN THE REAL PROPERTY COMMONLY KNOWN AS 6019 SHASTA WAY, KLAMATH FALLS, OREGON 97603, the records on file herein, and pursuant to the Motion for General Judgment and Declaration of Amount Due by Default by Plaintiff NEW POINT FINANCIAL D/B/A SHELLPOINT MORTGAGE SERVICING ("Plaintiff"),

**IT IS HEREBY ADJUDGED:**

1. Plaintiff's security interest in the real property located at 6019 SHASTA WAY, KLAMATH FALLS, OREGON 97603 ("Subject Property"), as evidenced by the Deed of Trust recorded September 27, 2007 in the official records of KLAMATH County as instrument number 2007-016944 ("Deed of Trust"), is a viable first priority lien, superior to the interests of

1 all the Defendants. All rights, claims, ownerships, liens, titles and demands of all Defendants are  
2 subsequent to Plaintiff's lien as created by the Note and Deed of Trust. The Subject Property is  
3 legally described as follows:

4 THE EAST 75 FEET OF LOT 1, BLOCK 2, SHASTA VIEW TRACTS, ACCORDING  
5 TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY  
6 CLERK OF KLAMATH COUNTY, OREGON

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

10 3. Plaintiff has submitted a Declaration of Amount Due and is owed the total amount  
11 due under the Note and Deed of Trust and any future advances and/or fees that may be made or  
12 incurred pursuant to the terms of the Note and Deed of Trust up to the date of the execution sale.  
13 This amount is to be satisfied by sale of the Subject Property as directed under this Judgment;

14 4. Plaintiff is owed reasonable attorney fees plus the remaining flat rate fees for an  
15 uncontested execution on the Judgment, pursuant to the Note and Deed of Trust and ORCP Rule  
16 68(C), which amount may be added to the outstanding obligation due and owing under the Note  
17 and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant to the Deed of  
18 Trust, these fees continue to accrue to the date of the execution sale. This amount to be satisfied  
19 by sale of the Subject Property as directed under this Judgment;

20 5. Plaintiff is owed costs of suit pursuant to the Note and Deed of Trust, ORCP Rule  
21 68(A)(2) and ORS 20.115(4), which may be added to the outstanding obligation due and owing  
22 under the Note and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant  
23 to the Deed of Trust, these costs continue to accrue to the date of the execution sale. This  
24 amount to be satisfied by sale of the Subject Property as directed under this Judgment;

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

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

10           8.       Plaintiff or any other party to this action may become a purchaser at the  
11 foreclosure sale, and such purchaser shall be immediately let into possession of the subject  
12 property, until redemption of the property, if any. The purchaser at the foreclosure sale or any  
13 successor in interest may apply to this Court for a writ of assistance to gain possession of the  
14 subject property if Defendants or any other party or person refuses to surrender possession;

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**DECLARATION OF AMOUNT DUE BY DEFAULT**

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

1. The amount of the judgment is \$135,072.07.
2. Simple interest at the rate currently at 6.125% per annum (\$18.38 *per diem*) after September 1<sup>st</sup>, 2017, through the date of sale.
3. Attorney fees of \$3,232.50, plus \$317.15, through the date of sale.
4. Costs of \$1,862.47, plus costs accrued through the date of sale.
5. Prevailing party fee: \$300.00.

**IT IS SO ADJUDGED**

Signed: 9/21/2017 02:54 PM



**Circuit Court Judge Andrea Janney**

**CERTIFICATE OF READINESS**

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

1.  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.
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 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;

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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: 9/21/2017

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

111 SW Columbia Street, Suite 950  
Portland, OR 97201

Of Attorneys for Plaintiff