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

DITECH FINANCIAL LLC,
Plaintiff,

v.

VICTORIA A. TERMINE AS AFFIANT OF
THE SMALL ESTATE OF DAVID J.
TERMINE and ALL OTHER PERSONS OR
PARTIES UNKNOWN CLAIMING ANY
RIGHT, TITLE, LIEN, OR INTEREST IN
THE REAL PROPERTY COMMONLY
KNOWN AS 1266 W. MAIN STREET,
VALE, OR 97918,
Defendant.

Case No. 17CV21953

WRIT OF EXECUTION

TO THE MALHEUR COUNTY SHERIFF:

On October 5, 2017, a General Judgment of Foreclosure and Declaration of Amount Due by Default was entered by the MALHEUR 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: DITECH FINANCIAL 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 1266 W. MAIN STREET, VALE, OR 97918 ("Subject Property"), and legally described as:

LAND IN MALHEUR COUNTY, OREGON, AS FOLLOWS:

IN TOWNSHIP 18 SOUTH, RANGE 45 EAST OF THE WILLIAM MERIDIAN:

SECTION 30: A PARCEL OF LAND IN THE NE1/4 SE1/4 MORE PARTICULARLY

1 DESCRIBED AS FOLLOWS:

2 BEGINNING AT A POINT NORTH 0° 03' WEST, 337 FEET FROM THE
3 SOUTHEAST CORNER OF SAID NE1/4 SE1/4; THENCE NORTH 0° 03' WEST, 173.1
4 FEET; THENCE NORTH 89° 28' WEST, 330.23 FEET; THENCE SOUTH 0° 02' EAST, 173.1
5 FEET; THENCE SOUTH 89° 28' EAST, 330.29 FEET TO THE POINT OF BEGINNING,
6 EXCEPTING THEREFROM THE SOUTH 77.2 FEET THEREOF.

7 The total amount due and owing on the Judgment as of October 5, 2017;

8 Judgment:	Principal	\$39,256.73
9 Pre-Judgment:	Interest(5.875%, \$5.44/day)	\$43.52 (September 27, 2017 through
10		October 5, 2017)
11	Attorney Fees	\$3,095.00
12	Costs	\$999.00
13	Prevailing Party Fee	\$300.00
14 Post-Judgment:	Interest(5.875%, \$5.44/day)	\$195.84 (October 6, 2017 through
15		November 3, 2017)
16	Attorney Fees	\$305.00
17	Costs	\$0.00

18 **TOTAL: \$44,195.09**

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. After the sale, you are directed to issue a certificate of sale to the
21 purchaser and file a return on the writ of execution, depositing the sale proceeds with the Court.

22 //
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1 Further, you are directed to execute, after the time for redemption has elapsed, a deed to
2 the holder of the certificate of sale.



Erin K. Landis
Erin K. Landis, Circuit Court Judge

Signed: 11/7/2017 10:20 AM

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6 Presented by:
7 ALDRIDGE PITE, LLP
S. Mathenia
8 Sarah M. Mathenia, OSB #120681
9 (858) 750-7600
(503) 222-2260 (facsimile)
smathenia@aldridgepite.com

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

DITECH FINANCIAL LLC,

Plaintiff,

v.

VICTORIA A. TERMINE AS AFFIANT OF
THE SMALL ESTATE OF DAVID J.
TERMINE and ALL OTHER PERSONS OR
PARTIES UNKNOWN CLAIMING ANY
RIGHT, TITLE, LIEN, OR INTEREST IN
THE REAL PROPERTY COMMONLY
KNOWN AS 1266 W. MAIN STREET,
VALE, OR 97918,

Defendants.

Case No. 17CV21953

**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 Victoria A. Termine as Affiant of the Small Estate of David J. Termine and All Other Persons or Parties Unknown claiming any Right, Title, Lien, or Interest in The Real Property Commonly Known as 1266 W. Main Street, Vale, OR 97918, the records on file herein, and pursuant to the Motion for General Judgment and Declaration of Amount Due by Default by Plaintiff Ditech Financial LLC ("Plaintiff"),

IT IS HEREBY ADJUDGED:

1. Plaintiff's security interest in the real property located at 1266 W. Main Street, Vale, OR 97918 ("Subject Property"), as evidenced by the Deed of Trust recorded January 14, 2004 in the official records of Malheur County as instrument number 2004-993 ("Deed of Trust"), is a viable first priority lien, superior to the interests of all the Defendants. All rights,

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

3 LAND IN MALHEUR COUNTY, OREGON, AS FOLLOWS:

4 IN TOWNSHIP 18 SOUTH, RANGE 45 EAST OF THE WILLIAM MERIDIAN:

5 SECTION 30: A PARCEL OF LAND IN THE NE1/4 SE1/4 MORE PARTICULARLY

6
7 DESCRIBED AS FOLLOWS:

8 BEGINNING AT A POINT NORTH 0° 03' WEST, 337 FEET FROM THE
9 SOUTHEAST CORNER OF SAID NE1/4 SE1/4; THENCE NORTH 0° 03' WEST,
10 173.1 FEET; THENCE NORTH 89° 28' WEST, 330.23 FEET; THENCE SOUTH 0° 02'
11 EAST, 173.1 FEET; THENCE SOUTH 89° 28' EAST, 330.29 FEET TO THE POINT
12 OF BEGINNING, EXCEPTING THEREFROM THE SOUTH 77.2 FEET THEREOF.

13
14 2. The Deed of Trust is foreclosed and upon entry of this Judgment the court
15 administrator shall upon request of Plaintiff issue a writ of execution for the sale, by the Sheriff,
16 in the manner provided by law;

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

21 4. Plaintiff is owed reasonable attorney fees plus the remaining flat rate fees for an
22 uncontested execution on the Judgment, pursuant to the Note and Deed of Trust and ORCP Rule
23 68(C), which amount may be added to the outstanding obligation due and owing under the Note
24 and Deed of Trust and recovered from the proceeds of the sheriff's sale. Pursuant to the Deed of
25 Trust, these fees continue to accrue to the date of the execution sale. This amount to be satisfied
26 by sale of the Subject Property as directed under this Judgment;

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

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

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

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

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

22 DECLARATION OF AMOUNT DUE BY DEFAULT

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

25 1. The amount of the judgment is \$39,256.73.
26

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

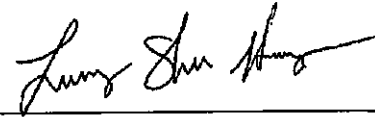
Aldridge Pite, LLP
111 SW Columbia Street, Suite 950
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- 2. Simple interest at the variable rate currently at 5.875% (\$5.44 *per diem*) after ~~September 27, 2017 through the date of sale.~~
- 3. Attorney fees of \$3,095.00, plus \$305.00 through the date of sale.
- 4. Costs of \$999.00 plus costs accrued through the date of sale.
- 5. Prevailing party fee: \$300.00.

IT IS SO ADJUDGED

Signed: 10/5/2017 02:39 PM



Lung S. Hung, Circuit Court Judge

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;

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

Aldridge Pite, LLP
111 SW Columbia Street, Suite 950
Portland, OR 97201
(858) 750-7600

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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

S. Mathenia
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Date: 10/2/17

Of Attorneys for Plaintiff