

RECEIVED
SHERIFF'S DEPARTMENT
16CV41370

17 DEC 13 AM 10:34

ANDY LONG SHERIFF
TILLAMOOK COUNTY
TILLAMOOK OREGON

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

CIT BANK, N.A.,

Plaintiff,

vs.

ESTATE OF JOSEPH F. DUCHAM, JR., an
Estate; SUZANNE COLETTI, an heir;
UNKNOWN HEIRS OF JOSEPH F.
DUCHAM, JR., 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: 16CV41370

WRIT OF EXECUTION IN FORECLOSURE

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TO: THE SHERIFF OF TILLAMOOK COUNTY, OREGON:

1.

WHEREAS, on June 27, 2017, in the above-entitled Court, a General Judgment of Foreclosure ("Judgment") was entered and docketed in the above-entitled and numbered proceeding

2.

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 JOSEPH F. DUCHAM, JR. and SUZANNE COLETTI had on October 20, 2007, the date of the foreclosed Deed of Trust which was recorded on October 25, 2007, as Instrument No. 2007-008999 in the official records of the Tillamook 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:	\$134,966.73
Pre-Judgment Interest from June 21, 2016 to June 10, 2017, the date set forth in the Judgment at 2.060%, per annum, (\$9.34 per diem):	\$13,432.48
Lender's Fees and Costs:	\$12,644.94
Attorney's Fees and Costs:	\$4,659.00
Total Judgment Entered:	\$165,703.15

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1 **Additional Pre-Judgment Interest:**

2 Accrued Interest from June 11, 2017,
3 the day after the date set forth in the
4 Judgment through June 27, 2017, the
5 date of entry of the Judgment, at
6 2.060%%, per annum (\$9.31 per diem): \$149.44

7
8 ***Total Judgment Entered Including***
9 ***Additional Pre-Judgment***

10 ***Interest:*** ***\$165,852.59***

11 3.

12 Additionally, Plaintiff is entitled to the accrual of post-judgment interest on \$165,852.59 at
13 the legal rate of interest of 9% per annum, \$40.89 per diem, from June 28, 2017 to the date the real
14 property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus costs of
15 this Writ, Sherriff's fees and sale costs, and all other recovered costs pursuant to law.

16 4.

17 The real property subject to this writ of execution is commonly known as 210 Miller Avenue,
18 Tillamook, OR 97141 ("Property") and described in Exhibit "1" attached hereto.

19 5.

20 The Judgment Creditor's name and address is:

21 CIT BANK, N.A.

22 c/o Financial Freedom

23 888 East Walnut Street

24 Pasadena, CA 91101

25 512-506-6847

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

CIT BANK, N.A.
c/o Malcolm & Cisneros, ALC (Attention: Nathan F. Smith)
2112 Business Center Drive
Irvine, CA 92612
949-252-9400

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.



Submitted by:

[Handwritten Signature]
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

Emily Huselman
TEN 9/14/17

Dated:

9/7/17

EXHIBIT 1

EXHIBIT "A"
LEGAL DESCRIPTION

The East 43 feet of Lot 10, Block 1, H. F. GOODSPEED'S ADDITION TO THE CITY OF TILLAMOOK, Tillamook County, Oregon.

RECEIVED
CIVIL DEPARTMENT

17 DEC 13 AM 10:34

ANDY LONG SHERIFF
TILLAMOOK COUNTY
TILLAMOOK OREGON



Certified True Copy of [unclear]
Dated This 14 Day of Sep, 2017
Twenty-seventh Judicial District, State of Ore
Trial Court Administrator
By AS

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

CIT BANK, N.A.,

Plaintiff,

vs.

ESTATE OF JOSEPH F. DUCHAM, JR., an
Estate; SUZANNE COLETTI, an heir;
UNKNOWN HEIRS OF JOSEPH F.
DUCHAM, JR., 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: 16CV41370

GENERAL JUDGMENT OF
FORECLOSURE AGAINST
DEFENDANTS:

1. ESTATE OF JOSEPH F. DUCHAM, JR.
2. SUZANNE COLETTI

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 JOSEPH F. DUCHAM, JR. and SUZANNE COLETTI ("Defendants") were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, that an order of default has been entered against them on Plaintiff's

1 Complaint, and that Plaintiff is entitled to entry of a General Judgment foreclosing Plaintiff's deed of
2 trust against the property commonly known as 210 Miller Avenue, Tillamook, OR 97141
3 ("Property") and extinguishing any and all interest of the Defendants in the Property.

4 2.

5 The Court being fully advised; it is hereby

6 ORDERED AND ADJUDGED that:

7 3.

8 Plaintiff is the holder of that certain adjustable rate note ("Note"), dated October 20, 2007, in
9 the amount of \$282,750.00, and executed by Joseph F. Ducham, Jr and Virginia L. Ducham.

10 4.

11 The Note is secured by that certain deed of trust ("Deed of Trust") dated October 20, 2007
12 and executed by Joseph F. Ducham, Jr. and Virginia L. Ducham. The Deed of Trust was recorded
13 on October 25, 2007, under the recording number 2007-008999 of the Official Records of
14 Tillamook County, Oregon, against the Property, which is legally described as: See Exhibit "1"
15 attached hereto. ("Property") and constitutes a valid lien against the Property.

16 5.

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

19 6.

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

24 7.

25 A judgment of foreclosure in the amount of \$165,703.15 shall be granted in favor of Plaintiff,
26 and its successors and/or assigns, as further described below in the Declaration of Amount Owed –
27 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.

Mortgagors Joseph F. Ducham, Jr and Virginia L. Ducham 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 Mortgagors Joseph F.
13 Ducham, Jr and Virginia L. Ducham. Rather, it is a suit to execute upon the Property as security for
14 the Amount Owed.

15 **DECLARATION OF DEBT SECURED BY DEED OF TRUST**
16 **(Pursuant to Senate Bill 368)**

17 18.

18 Under the terms of the Deed of Trust and the Note dated October 20, 2007, in the original
19 principal amount of \$282,750.00, there is now due and owing the following amounts, to be
20 hereinafter described as the Amount Due:

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DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD

- 1. Judgment Creditor:** CIT BANK, N.A.
Address: c/o MALCOLM ♦ CISNEROS,
A Law Corporation
2112 Business Center Drive, 2nd Floor
Irvine, California 92612
- Judgment Attorney:** Nathan F. Smith
Address: MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, 2nd Floor
Irvine, California 92612
- Telephone Number:** (949) 252-9400
- 2. Persons or Public Bodies Entitled to a Portion the Judgment:** N/A
- 3. Judgment Amount:** \$161,044.15
- 4. Pre-Judgment Interest:** Simple interest to accrue on \$134,966.73 from June 11, 2017 to the date the Judgment is entered into the Court's register at 2.060% per annum, \$9.34 per diem.
- 5. Post-Judgment Interest:** Simple interest to accrue on \$165,703.15 plus Pre-Judgment Interest from the day after the General Judgment is entered to the date upon which the Writ of Execution in Foreclosure is levied at the legal rate of interest or 9% per annum, whichever is greater.

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6. Periodic accrual:

N/A

7. Attorney's Fees and Costs:

An award of \$4,659.00 in attorney's fees and costs is made.

Signed: 6/27/2017 09:23 AM



Circuit Court Judge Jonathan R. Hill

Submitted by:



Dated: 6/23/17

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

EXHIBIT "A"
LEGAL DESCRIPTION

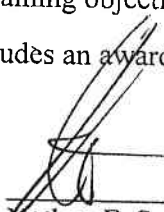
The East 43 feet of Lot 10, Block 1, H. F. GOODSPEED'S ADDITION TO THE CITY OF TILLAMOOK, Tillamook County, Oregon.

CERTIFICATE OF READINESS

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

- Service is not required pursuant to subsection (3) of UTCR 5.100, or by statute, rule or otherwise.
- 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.
- 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, [role and name of opposing party] agreed to independently file any remaining objection.
- This is a proposed judgment that includes an award of punitive damages.

DATED: 6/23, 2017

By: 
Nathan F. Smith, OSB #120112
Attorney for Plaintiff
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, Second Floor
Irvine, California 92612
(949) 252-9400 (TELEPHONE)
(949) 252-1032 (FAX)