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PLAIN

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

PODIUM MORTGAGE CAPITAL LLC,

CASE NUMBER: 17CV14456

Plaintiff,

vs.

WRIT OF EXECUTION IN FORECLOSURE

ESTATE OF PAUL D. COOK AKA PAUL DWANE COOK, an estate; PAUL J. COOK AKA PAUL JAMES COOK II, an heir; CRYSTAL PITCHER AKA CRYSTAL DAWN PITCHER, an heir; LORI WANGEN, an heir; SEAN MICHAELS, an heir; UNKNOWN HEIRS OF PAUL D. COOK, 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.

TO: THE SHERIFF OF LANE COUNTY, OREGON:

1.

WHEREAS, on January 2, 2018, 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

1 redemption, if applicable), all of the interest which the Defendants Estate of Paul D. Cook aka Paul
2 Dwane Cook, Paul J. Cook aka Paul James Cook II, Crystal Pitcher aka Crystal Dawn Pitcher, Lori
3 Wangen, and Sean Michaels ("Defendants") had on April 10, 2012, the date of the foreclosed Deed
4 of Trust which was recorded on April 16, 2012, as Instrument No. 2012-017864 in the official
5 records of the Lane County Recorder's Office, and/or all of the interest which Defendants had
6 thereafter, in the real property described in the Judgment to satisfy the Judgment as follows:

7

8 **Lender's Principal Judgment:**

9 Unpaid Principal Balance:	\$79,841.48
10 Pre-Judgment Interest from October 1,	
11 2015 to September 22, 2017, the date	
12 set forth in the Judgment at 4.250%, per	
13 annum, (\$9.30 per diem):	\$6,698.94
14 Lender's Fees and Costs:	\$3,982.02
15 Attorney's Fees and Costs:	\$3,085.00
16	
17 <i>Total Judgment Entered:</i>	<i>\$93,607.44</i>

18

19 **Additional Pre-Judgment Interest:**

20 Accrued Interest from September 23,	
21 2017, the day after the date set forth in	
22 the Judgment through January 2, 2018,	
23 the date of entry of the Judgment, at	
24 4.250%, per annum (\$9.30 per diem):	\$939.30

25

26 <i>Total Judgment Entered Including</i>	
27 <i>Additional Pre-Judgment</i>	
28 <i>Interest:</i>	<i>\$94,546.74</i>

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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.

March 6, 2018

By: *Pherie*
Court Clerk



Submitted by:

[Handwritten signature]

Dated: 2/22/18

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

Beginning at the Southeast corner of the Southeast Quarter of Section 35, Township 21 South, Range 1 West of the Willamette Meridian; thence West 208 feet; thence North to the South line of the County Road; thence Southeasterly, along said South line of said County Road, to the East line of said Southeast Quarter; thence, along said East line of said Southeast Quarter to the point of beginning, in Section 35, Township 21 South, Range 1 West of the Willamette Meridian, in Lane County, Oregon.

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

PODIUM MORTGAGE CAPITAL LLC,

CASE NUMBER: 17CV14456

Plaintiff,

vs.

**GENERAL JUDGMENT OF
FORECLOSURE AGAINST:**

ESTATE OF PAUL D. COOK AKA PAUL DWANE COOK, an estate; PAUL J. COOK AKA PAUL JAMES COOK II, an heir; CRYSTAL PITCHER AKA CRYSTAL DAWN PITCHER, an heir; LORI WANGEN, an heir; SEAN MICHAELS, an heir; UNKNOWN HEIRS OF PAUL D. COOK, 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.

- 1. ESTATE OF PAUL D. COOK AKA PAUL DWANE COOK
- 2. PAUL J. COOK AKA PAUL JAMES COOK II
- 3. CRYSTAL PITCHER AKA CRYSTAL DAWN PITCHER
- 4. LORI WANGEN
- 5. SEAN MICHAELS

Defendants.

1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff, Podium Mortgage Capital LLC ("Plaintiff"), filed its Complaint for Foreclosure of Deed of Trust; that Defendants ESTATE OF PAUL D. COOK AKA PAUL DWANE COOK, PAUL J. COOK AKA PAUL JAMES COOK II, CRYSTAL PITCHER AKA CRYSTAL DAWN PITCHER, LORI WANGEN, and SEAN MICHAELS ("Defendants") were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, that an order of

1 default has been entered against them on Plaintiff's Complaint, and that Plaintiff is entitled to entry
2 of a General Judgment foreclosing Plaintiff's deed of trust against the property commonly known as
3 39888 Brice Creek Road, Dorena, OR 97434 ("Property") and extinguishing any and all interest of
4 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 promissory note ("Note"), dated April 10, 2012, in the
10 amount of \$85,000.00, and executed by decedent PAUL D. COOK AKA PAUL DWANE COOK.

11 4.

12 The Note is secured by that certain deed of trust ("Deed of Trust") dated April 10, 2012 and
13 executed by decedent PAUL D. COOK AKA PAUL DWANE COOK. The Deed of Trust was
14 recorded on April 16, 2012 under the recording number 2012-017864 of the Official Records of
15 Lane County, Oregon, against the Property, which is legally described as: Attached hereto as Exhibit
16 "1" ("Property") and 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 \$96,496.39 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 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 available at law to secure possession of the Property, and may apply to the Clerk of the Court for a writ of assistance, if Defendants, any of them, or any other party or person shall refuse to surrender

1 possession of the Property to the purchaser immediately on the purchaser's demand for possession.

2 15.

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

6 16.

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

9 17.

10 This suit does not constitute an attempt to collect the debt against Defendants. Rather, it is a
11 suit to execute upon the Property as security for the Amount Owed.

12 **DECLARATION OF DEBT SECURED BY DEED OF TRUST**
13 **(Pursuant to Senate Bill 368)**

14 18.

15 Under the terms of the Deed of Trust and the Note dated April 10, 2012, in the original
16 principal amount of \$85,000.00, there is now due and owing the following amounts, to be hereinafter
17 described as the Amount Due:

18
19 **DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD**

20	1. Judgment Creditor:	Podium Mortgage Capital LLC
21	Address:	c/o MALCOLM ♦ CISNEROS,
22		A Law Corporation
23		2112 Business Center Drive, 2 nd Floor
24		Irvine, California 92612

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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:	\$90,522.44
9	4. Pre-Judgment Interest:	Simple interest to accrue on \$79,841.48 from
10		September 23, 2017 to the date the Judgment is
11		entered into the Court's register at 4.250% per
12		annum, \$9.30 per diem.
13	5. Post-Judgment Interest:	Simple interest to accrue on \$93,607.44 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.
19	6. Periodic accrual:	N/A
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7. Attorney's Fees:

An award of \$3,085.00 in attorney's fees is made.

Signed: 12/29/2017 01:01 PM



Charles D. Carlson, Circuit Court Judge

Submitted by:

Dated: 12/14/17

Nathan N. 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

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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: 12/14, 2017

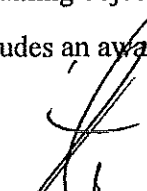
By: 
 Nathan F. Smith, OSB #120112
 Attorney for Plaintiff
 MALCOLM ♦ CISNEROS, A Law Corporation
 2112 Business Center Drive, Second Floor
 Irvine, California 92612
 (949) 252-9400 (TELEPHONE)
 (949) 252-1032 (FAX)

EXHIBIT 1

EXHIBIT "A"
LEGAL DESCRIPTION

Beginning at the Southeast corner of the Southeast Quarter of Section 35, Township 21 South, Range 1 West of the Willamette Meridian; thence West 208 feet; thence North to the South line of the County Road; thence Southeasterly, along said South line of said County Road, to the East line of said Southeast Quarter; thence, along said East line of said Southeast Quarter to the point of beginning, in Section 35, Township 21 South, Range 1 West of the Willamette Meridian, in Lane County, Oregon.