

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15

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

U. S. BANK NATIONAL ASSOCIATION,  
Plaintiff,

v.

SUSAN R. MILLER INDIVIDUALLY AND  
AS PERSONAL REPRESENTATIVE OF  
THE SMALL TESTATE ESTATE OF  
NANCY M. BROOKS; and ALL OTHER  
PERSONS OR PARTIES UNKNOWN  
CLAIMING ANY RIGHT, TITLE, LIEN, OR  
INTEREST IN THE REAL PROPERTY  
COMMONLY KNOWN AS 206 W. 1ST  
STREET, WALLOWA, OR 97885,

Defendants.

Case No. 17CV20704

**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 SUSAN R. MILLER  
INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE SMALL TESTATE  
ESTATE OF NANCY M. BROOKS; and ALL OTHER PERSONS OR PARTIES UNKNOWN  
CLAIMING ANY RIGHT, TITLE, LIEN, OR INTEREST IN THE REAL PROPERTY  
COMMONLY KNOWN AS 206 W. 1ST STREET, WALLOWA, OR 97885, the records on file  
herein, and pursuant to the Motion for General Judgment and Declaration of Amount Due by  
Default by Plaintiff U. S. BANK NATIONAL ASSOCIATION (“Plaintiff”),

**IT IS HEREBY ADJUDGED:**

1. Plaintiff’s security interest in the real property located at 206 W. 1ST STREET,  
WALLOWA, OR 97885 (“Subject Property”), as evidenced by the Deed of Trust recorded  
December 28, 2004 in the official records of Wallowa County as instrument number 2004-53656

1 (“Deed of Trust”), is a viable first priority lien, superior to the interests of all the Defendants. All  
2 rights, claims, ownerships, liens, titles and demands of all Defendants are subsequent to  
3 Plaintiff’s lien as created by the Note and Deed of Trust. The Subject Property is legally  
4 described as follows:

5 LOTS 9 AND 10 OF BLOCK 20 OF THE TOWN OF WALLOWA, WALLOWA  
6 COUNTY, OREGON, AS SHOWN BY THE PLAT THEREOF ON FILE AND OF  
7 RECORD IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY AND  
8 STATE IN BOOK G OF DEEDS, PAGE 154.

9 SITUATED IN THE COUNTY OF WALLOWA AND STATE OF OREGON:

10 PERMANENT PARCEL NUMBER: 1N4214AC-3400

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

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

18 4. Plaintiff is owed reasonable attorney fees plus the remaining flat rate fees for an  
19 uncontested execution on the Judgment, pursuant to the Note and Deed of Trust and ORCP Rule  
20 68(C), which amount may be added to the outstanding obligation due and owing under the Note  
21 and Deed of Trust and recovered from the proceeds of the sheriff’s sale. Pursuant to the Deed of  
22 Trust, these fees continue to accrue to the date of the execution sale. This amount to be satisfied  
23 by sale of the Subject Property as directed under this Judgment;

24 5. Plaintiff is owed costs of suit pursuant to the Note and Deed of Trust, ORCP Rule  
25 68(A)(2) and ORS 20.115(4), which may be added to the outstanding obligation due and owing  
26 under the Note and Deed of Trust and recovered from the proceeds of the sheriff’s sale. Pursuant

1 to the Deed of Trust, these costs continue to accrue to the date of the execution sale. This  
2 amount to be satisfied by sale of the Subject Property as directed under this Judgment;

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

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

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

19 **DECLARATION OF AMOUNT DUE BY DEFAULT**

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

22 1. The total amount of the unpaid principal balance, interest, and other amounts  
23 owed is \$86,701.65.


24 2. Simple interest at the rate currently at 4.700% per annum (\$8.42 *per diem*) after  
25 October 13, 2017, through the date of judgment.  
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

- 3. Attorney fees of \$4,160.00, plus \$305.00, through the date of sale.
- 4. Costs of \$1,435.40, plus costs accrued through the date of sale.
- 5. Prevailing party fee: \$300.00.
- 6. Post-judgment interest thereafter on the total amounts above, #1-5, at the contract rate of interest or 9.000% per annum, whichever is greater, through the date of sale.

**IT IS SO ADJUDGED**

Signed: 3/21/2018 10:10 AM

  
 \_\_\_\_\_  
 Circuit Court Judge Thomas B Powers

**CERTIFICATE OF READINESS**

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

- 1.  Each party affected by this order or judgment has stipulated to the order or judgment, as shown by each party's signature on the document being submitted.
- 2.  Each party affected by this order or judgment has approved the order or judgment, as shown by each party's 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 objection has been served on me;
  - b.  I received objections that I could not resolve with a party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
  - c.  After conferring about objections, [ **role and name of objecting party** ] agreed to independently file any remaining objection.
- 4.  Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.

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

- 5.  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 (5) of this rule.
  
- 6.  Other: \_\_\_\_\_

Presented By:  
ALDRIDGE PITE, LLP

/s/ Sarah M. Mathenia  
{ } Hunter Zook, OSB #095578  
{ } Katie Riggs, OSB #095861  
{ } Sarah Mathenia, OSB #120681  
{ } Shannon K. Calt, OSB #121855  
{ } Christina Andreoni, OSB #160875  
*of Attorneys for Plaintiff*  
(858) 750-7600  
(503) 222-2260 (facsimile)  
orecourtnotices@aldridgepite.com

Date: March 5, 2018