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

ONEWEST BANK N.A.,

Plaintiff,

vs.

MONNA NORGAUER, an heir; MARCIA FERRIE, an heir; HEIRS OF MAXINE R. LEVINE UNKNOWN, individuals; ESTATE OF MAXINE R LEVINE, an estate; 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: 15CV19587

WRIT OF EXECUTION IN FORECLOSURE

TO: THE SHERIFF OF JOSEPHINE COUNTY, OREGON:

1.

WHEREAS, on January 22, 2018, in the above-entitled Court, a General Judgment of Foreclosure ("Judgment") was entered and docketed in the above-entitled and numbered proceeding

1 Additional Pre-Judgment Interest:
2 Accrued Interest from November 23,
3 2017, the day after the date set forth in
4 the Judgment through January 22, 2018,
5 the date of entry of the Judgment, at
6 2.482%, per annum (\$22.19 per diem): \$1,331.40

7
8 Total Judgment Entered Including
9 Additional Pre-Judgment
10 Interest: \$333,612.63

11 3.

12 Additionally, Plaintiff is entitled to the accrual of post-judgment interest on \$333,612.63 at
13 the legal rate of interest of 9% per annum, \$82.26 per diem, from January 23, 2018 to the date the
14 real property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus
15 costs of 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 857 Idle Court,
18 Grants Pass, OR 97527 ("Property") and described in Exhibit "1" attached hereto.

19 5.

20 The Judgment Creditor's name and address is:

21 OneWest Bank N.A.
22 [c/o Financial Freedom
23 888 East Walnut Street
24 Pasadena, California 91101-1895

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

OneWest 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.

DEC 10 2018 *B. Haggard*
Court Clerk



Submitted by:

s/ Nathan F. Smith Dated: 11/20/2018
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

LEGAL DESCRIPTION

Lot 4, WILLOW MEADOWS SUBDIVISION, Josephine County, Oregon.

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

ONEWEST BANK N.A.,

Plaintiff,

vs.

MONNA NORG AUER, an heir; MARCIA FERRIE, an heir; HEIRS OF MAXINE R. LEVINE UNKNOWN, individuals; ESTATE OF MAXINE R LEVINE, an estate; 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: 15CV19587

GENERAL JUDGMENT OF FORECLOSURE AGAINST:

- 1. MONNA NORG AUER**
- 2. MARCIA FERRIE**
- 3. ESTATE OF MAXINE R LEVINE**

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1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff, OneWest Bank N.A. ("Plaintiff"), filed its Complaint for Foreclosure of Deed of Trust; that Defendants MONNA NORGAUER, MARCIA FERRIE, and ESTATE OF MAXINE R LEVINE ("Defendants") were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, that orders of defaults have been entered against the Defendants on Plaintiff's Complaint, and that Plaintiff is entitled to entry of a General Judgment foreclosing Plaintiff's deed of trust against the property commonly known as 857 Idle Court, Grants Pass, OR 97527 ("Property") and extinguishing any and all interest of the Defendants in the Property.

2.

The Court being fully advised; it is hereby
ORDERED AND ADJUDGED that:

3.

Plaintiff is the holder of that certain adjustable rate note ("Note"), dated January 14, 2009, in the amount of \$457,500.00, and executed by MAXINE R LEVINE.

4.

The Note is secured by that certain deed of trust ("Deed of Trust") dated January 14, 2009 and executed by MAXINE R LEVINE. The Deed of Trust was recorded on January 20, 2009 under the recording number 2009-000826 of the Official Records of Josephine County, Oregon, against the Property, which is legally described as: Lot 4 WILLOW MEADOWS SUBDIVISION, Josephine County, Oregon ("Property") and constitutes a valid lien against the Property.

5.

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

6.

The Deed of Trust is a valid first priority lien encumbering the Property, is superior to any interest, lien, or claim of the Defendants and any other party in the Property, which are hereby foreclosed and terminated, excepting only any statutory right of redemption to which the Defendants

1 may be entitled under Oregon law.

2 7.

3 A judgment of foreclosure in the amount of \$332,281.23 shall be granted in favor of Plaintiff,
4 and its successors and/or assigns, as further described below in the Declaration of Amount Owed –
5 Not a Money Award (“Amount Owed”).

6 8.

7 The Property is hereby ordered to be sold by law and the proceeds of sale applied toward the
8 satisfaction of Plaintiff's Amount Owed herein; and the surplus, if any to the Clerk of the Court to be
9 disbursed to such party or parties as may establish their right thereto.

10 9.

11 Plaintiff is entitled to recover its reasonable attorney's fees and all reasonable and necessary
12 costs and expenses incurred to enforcing the Note and Deed of Trust.

13 10.

14 Any increased interest or any such additional amounts as Plaintiff may advance for taxes,
15 assessments, municipal charges, and such other items as may constitute liens on the Property,
16 together with insurance and repairs necessary to prevent the impairment of the Property, together
17 with interest thereon from the date of payment may also be added to the Amount Owed and paid
18 from the proceeds from the sale of the Property.

19 11.

20 Defendants and all parties claiming an interest in the Property as purchasers, encumbrancers,
21 or otherwise, are forever barred and foreclosed of all interests, liens, or claims in the Property and
22 every portion thereof, excepting only any statutory right of redemption provided by the laws of the
23 State of Oregon.

24 12.

25 Defendants MONNA NORGAUER, MARCIA FERRIE, and ESTATE OF MAXINE R
26 LEVINE ESTATE OF MAXINE R LEVINE are not entitled to a homestead exemption in the
27 Property.

28 13.

1 Plaintiff may become purchaser at the Sheriff's Sale of the Property and may bid up to the
2 aggregate amount of its Amount Owed, plus any additional interest and reasonable costs until sale.

3 14.

4 The purchaser of the Property at the Sheriff's Sale is entitled to exclusive and immediate
5 possession of the Property from and after the date of the sale, and is entitled to such remedies as are
6 available at law to secure possession of the Property, and may apply to the Clerk of the Court for a
7 writ of assistance, if Defendants, any of them, or any other party or person shall refuse to surrender
8 possession of the Property to the purchaser immediately on the purchaser's demand for possession.

9 15.

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

13 16.

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

16 17.

17 This suit does not constitute an attempt to collect the debt against Defendants MONNA
18 NORGAUER, MARCIA FERRIE, and ESTATE OF MAXINE R LEVINE. Rather, it is a suit to
19 execute upon the Property as security for the Amount Owed.

20 **DECLARATION OF DEBT SECURED BY DEED OF TRUST**

21 **(Pursuant to Senate Bill 368)**

22 18.

23 Under the terms of the Deed of Trust and the Note dated January 14, 2009, in the original
24 principal amount of \$457,500.00, there is now due and owing the following amounts, to be
25 hereinafter described as the Amount Due:

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DECLARATION OF AMOUNT OWED – NOT A MONEY AWARD

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- 1. Judgment Creditor:** OneWest 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:** \$327,273.23
- 4 Accrued Interest through
November 22, 2017:** \$39,912.61
- 5. Pre-Judgment Interest:** Simple interest to accrue on \$269,612.92 from
November 23, 2017 through the date of
Judgment is entered into the Court's Register at
2.482% per annum, \$22.19 per diem.
- 6. Post-Judgment Interest:** Simple interest to accrue on \$332,281.23 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.
- 7. Other Recovery Amounts:** \$17,747.70

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8. Attorney's Fees and Costs:

An award of \$5,008.00 in attorney's fees and costs is made.

Signed: 1/19/2018 12:55 PM



Circuit Court Judge Lindi L. Baker

Submitted by:



Dated:

1/16/18

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

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: 1/16, 2018

By: _____

Nathan R. 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)