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

CIT BANK, N.A.,

Plaintiff,

vs.

CASE NUMBER: 16CV16792

WRIT OF EXECUTION IN FORECLOSURE

ESTATE OF ROSE MARIE BLIND, an
Estate; UNKNOWN HEIRS OF ROSE
MARIE BLIND, unknown heirs; WILLIAM
BLIND, an individual; CONNIE LAKEY, an
individual; JANICE MARTIN, an individual;
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 KLAMATH COUNTY, OREGON:

1.

WHEREAS, on March 22, 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 redemption, if applicable), all of the interest which the Defendants ESTATE OF ROSE MARIE BLIND, WILLIAM BLIND, CONNIE LAKEY, and JANICE MARTIN, ("Defendants") had on August 20, 2004, the date of the foreclosed Deed of Trust which was recorded on August 25, 2004, as Instrument No. Vol M04 Page 56545 in the official records of the Klamath 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: \$94,966.77

Pre-Judgment Interest from January 31, 2018, the date set forth in the Judgment at 3.120%, per annum, (\$12.09 per diem):

\$44,943.21

Lender's Fees and Costs:

\$16,213.67

Attorney's Fees and Costs:

\$5,882.00

Total Judgment Entered:

\$162,005.65

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1 Additional Pre-Judgment Interest:
2 Accrued Interest from February 1,
3 2018, the day after the date set forth in
4 the Judgment through March 22, 2018,
5 the date of entry of the Judgment, at
6 3.120%, per annum (\$12.09 per diem): \$592.41

7
8 Total Judgment Entered Including
9 Additional Pre-Judgment
10 Interest: \$162,598.06
11 3.

12 Additionally, Plaintiff is entitled to the accrual of post-judgment interest on \$162,598.06 at
13 the legal rate of interest of 9% per annum, \$40.09 per diem, from March 23, 2018 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 2203 Gettle Street,
18 Klamath Falls, OR 97603 ("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 Celink
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:

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.



John M. Powell (TCA)
By Marcela Flores
September 11, 2018 Clerk

Submitted by:

Dated:

9/10/18

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

Legal Description

A tract of land located in the SE1/4 of the NW1/4 of Section 2, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a point that is North 88° 57' East 195 feet and North 0° 35' West 364.78 feet from the Southwest corner of the SE1/4 NW1/4; thence continuing North 0° 35' West parallel with the West line of said SE1/4 of the NW1/4 a distance of 75 feet; thence North 89° 45' East 135 feet; thence South 0° 35' East a distance of 75 feet; thence South 89° 45' West 135 feet to the place of beginning.

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

CIT BANK, N.A.,

Plaintiff,

vs.

ESTATE OF ROSE MARIE BLIND, an Estate; UNKNOWN HEIRS OF ROSE MARIE BLIND, unknown heirs; WILLIAM BLIND, an individual; CONNIE LAKEY, an individual; JANICE MARTIN, an individual; 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: 16CV16792

GENERAL JUDGMENT OF FORECLOSURE AGAINST:

- (1) ESTATE OF ROSE MARIE BLIND**
- (2) WILLIAM BLIND**
- (3) CONNIE LAKEY**
- (4) JANICE MARTIN**

I.

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 ROSE MARIE BLIND, WILLIAM BLIND, CONNIE LAKEY and JANICE MARTIN ("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 Complaint, and that Plaintiff is entitled to entry of a General Judgment foreclosing Plaintiff's deed of trust against the property commonly known as 2203 Gettle Street,

1 Klamath Falls, OR 97603 ("Property") and extinguishing any and all interest of the Defendants in
2 the Property.

3 2.

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

6 3.

7 Plaintiff is the holder of that certain Adjustable Rate Note (Home Equity Conversion)
8 ("Note"), dated August 20, 2004, in the amount of \$185,250.00, and executed by Rose Marie Blind.

9 4.

10 The Note is secured by that certain deed of trust ("Deed of Trust") dated August 20, 2004
11 and executed by Rose Marie Blind. The Deed of Trust was recorded on August 25, 2004 under the
12 recording number Vol M04 Page 56545 of the Official Records of Klamath County, Oregon, against
13 the Property, which is legally described in Exhibit "1." ("Property") and constitutes a valid lien
14 against the Property. The Deed of Trust was re-recorded on October 16, 2014 under the recording
15 number 2014-010845 to correct the year on the first page of the Deed of Trust from August 20, 2005
16 to August 20, 2004.

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 \$162,005.65 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.

Rose Marie Blind is 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 ESTATE OF
11 ROSE MARIE BLIND, WILLIAM BLIND, CONNIE LAKEY and JANICE MARTIN. Rather, it is
12 a suit to execute upon the Property as security for the Amount Owed.

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

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

15 18.

16 Under the terms of the Deed of Trust and the Note dated August 20, 2004, in the original
17 principal amount of \$185,250.00, there is now due and owing the following amounts, to be
18 hereinafter described as the Amount Due:

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

- | | |
|---|---|
| 20 1. Judgment Creditor: | CIT Bank, N.A. |
| 21 Address: | c/o MALCOLM ♦ CISNEROS,
A Law Corporation
2112 Business Center Drive, 2 nd Floor
Irvine, California 92612 |
| 22 Judgment Attorney: | Nathan F. Smith |
| 23 Address: | MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive, 2 nd Floor
Irvine, California 92612 |
| 24 Telephone Number: | (949) 252-9400 |
| 25 2. Persons or Public Bodies Entitled to | |
| 26 a Portion the Judgment: | N/A |
| 27 3. Judgment Amount: | \$156,123.65 |
| 28 | |

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4. Pre-Judgment Interest:

Simple interest to accrue on \$94,966.77 from February 1, 2018 to the date the Judgment is entered into the Court's register at 3.120% per annum, \$12.09 per diem.

5. Post-Judgment Interest:

Simple interest to accrue on \$162,005.65 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.

6. Periodic accrual:

N/A

7. Attorney's Fees and Costs:

An award of \$5,882.00 in attorney's fees and costs is made.

Signed: 3/21/2018 10:56 AM



— Circuit Court Judge Andrea Janney

Submitted by:



Dated:

3/15/18

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

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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: 3/21, 2018

By: 
 Tabitha Ojala
 Legal Assistant
 MALCOLM ♦ CISNEROS, A Law Corporation
 2112 Business Center Drive, Second Floor
 Irvine, California 92612
 (949) 252-9400 (TELEPHONE)
 (949) 252-1032 (FAX)