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Verified Correct Copy of Original 5/31/2022

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JUN 28 2022

LINCOLN COUNTY SHERIFF'S OFFICE  
NEWPORT, OR

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

U.S. BANK NATIONAL ASSOCIATION,

CASE NUMBER: 19CV11534

Plaintiff,

vs.

WRIT OF EXECUTION IN FORECLOSURE

WILLIAM J. ZEKAN, an individual; CAROL  
K. ZEKAN, 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 LINCOLN COUNTY, OREGON:

1.

WHEREAS, on November 26, 2019, in the above-entitled Court, a General Judgment of  
Foreclosure ("Judgment") was entered and docketed in the above-entitled and numbered proceeding



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**Additional Pre-Judgment Interest:**

Accrued Interest from October 10,  
2019, the day after the date set forth in  
the Judgment through November 26,  
2019, the date of entry of the Judgment,  
at interest at the rate of 4.99%, per  
annum (\$31.92 per diem): \$1,500.24

***Total Judgment Entered Including***

***Additional Pre-Judgment***

***Interest:*** \$301,359.95  
3.

Additionally, Plaintiff is entitled to the accrual of post-judgment interest on \$301,359.95 at the legal rate of interest of 9% per annum, \$74.30 per diem, from November 27, 2019 to the date the real property subject to the Judgment is sold by the County Sheriff at its foreclosure auction, plus costs of this Writ, Sherriff's fees and sale costs, and all other recovered costs pursuant to law.

4.

The real property subject to this writ of execution is commonly known as 725 SW 2nd St, Newport, OR 97365 ("Property") and described in Exhibit "1" attached hereto.

5.

The Judgment Creditor's name and address is:

U.S. Bank National Association  
4801 Frederica Street  
Owensboro, KY 72301

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

U.S. Bank National Association  
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.

5/31/2022 11:32:23 AM



*St. Jell.*

Circuit Court Clerk Steven Zalewski

Submitted by:

*[Handwritten signature]*

Dated: May 25 2022

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

Verified Correct Copy of Original 5/31/2022.

[REDACTED]

**LEGAL DESCRIPTION**

A parcel of land situated in the State of Oregon, County of Lincoln, with a street location address of 725 SW 2nd St; Newport, OR 97365-3914 currently owned by William J Zekan and Carol K Zekan having a tax identification number of 00R340720 and further described as Bayley and Case's Second Addn., Block 70, Coles Subdivision, Lot 11, 12, ptns of 10 / 23, MF 169-1415.

**MORE CORRECTLY DESCRIBED OF RECORD AS:**

All of the following described parcels of land lying with COLE'S SUBDIVISION OF BLOCK 70, CASE AND BAYLEY'S SECOND ADDITION TO NEWPORT, in Lincoln County, Oregon, to-wit:

Lots 11 and 12, and the West one-half of Lot 10 and also that portion of Lot 23, in said subdivision being described as follows:

Beginning at the most Easterly corner of said Lot 23; thence Westerly along the North line of said Lot 23, a distance of 56.70 feet; thence Southerly to a point on the Southeasterly line of said Lot 23, which point marks the Northerly corner common to Lots 4 and 5 in said subdivision; thence Northeasterly along the Northerly lines of Lots 5, 6, 7 and 8, a distance of 60.83 feet to the place of beginning.

[REDACTED]

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

U.S. BANK NATIONAL ASSOCIATION,

**CASE NUMBER: 19CV11534**

Plaintiff,

vs.

**GENERAL JUDGMENT OF  
FORECLOSURE AGAINST:**

WILLIAM J. ZEKAN, an individual; CAROL K. ZEKAN, 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.

1. **WILLIAM J. ZEKAN AND**
2. **CAROL K. ZEKAN**

Defendants.

1.

THIS MATTER, coming on regularly before the Court, and it appearing from the record herein that Plaintiff, U.S. Bank National Association ("Plaintiff"), filed its Complaint for Foreclosure of Deed of Trust; that Defendants WILLIAM J. ZEKAN and CAROL K. ZEKAN ("Defendants") were duly served with the Summons and Complaint as required by law; that Defendants failed to appear, that an orders of defaults have been entered against them on Plaintiff's Complaint, and that Plaintiff is entitled to entry of a General Judgment foreclosing Plaintiff's deed of

1 trust against the property commonly known as 725 SW 2nd St, Newport, OR 97365 ("Property") and  
2 extinguishing any and all interest of the Defendants in 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 Note ("Note"), dated June 18, 2007, in the amount of  
8 \$250,000.00, and executed by WILLIAM J. ZEKAN and CAROL K. ZEKAN.

9 4.

10 The Note is secured by that certain deed of trust ("Deed of Trust") dated June 18, 2007 and  
11 executed by WILLIAM J. ZEKAN and CAROL K. ZEKAN. The Deed of Trust was recorded on  
12 July 12, 2007 under the recording number 200710100 of the Official Records of Lincoln County,  
13 Oregon, against the Property, which is legally described as: See Exhibit "1" attached hereto.  
14 ("Property") and constitutes a valid lien against the Property.

15 5.

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

18 6.

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

23 7.

24 A judgment of foreclosure in the amount of \$299,859.71 shall be granted in favor of Plaintiff,  
25 and its successors and/or assigns, as further described below in the Declaration of Amount Owed –  
26 Not a Money Award ("Amount Owed").

27 8.

28 The Property is hereby ordered to be sold by law and the proceeds of sale applied toward the



1 satisfaction of Plaintiff's Amount Owed herein; and the surplus, if any to the Clerk of the Court to be  
2 disbursed to such party or parties as may establish their right thereto.

3 9.

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

6 10.

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

12 11.

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

17 12.

18 Defendants WILLIAM J. ZEKAN and CAROL K. ZEKAN are not entitled to a homestead  
19 exemption in the Property.

20 13.

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

23 14.

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





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**5. Post-Judgment Interest:**

Simple interest to accrue on ~~\$299,859.71~~ 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.

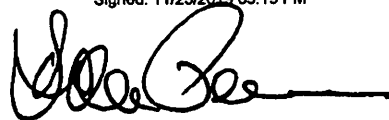
**6. Periodic accrual:**

N/A

**7. Attorney's Fees and Costs:**

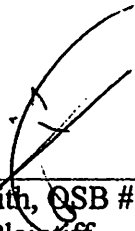
An award of \$5,628.455 in attorney's fees and costs is made.

Signed: 11/25/2019 05:19 PM



\_\_\_\_\_  
Judge Dale W. Penn  
Senior

Submitted by:



Dated:

11/25/19

\_\_\_\_\_  
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

[REDACTED]

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[REDACTED]

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