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5
6 IN THE CIRCUIT COURT OF THE STATE OF OREGON
7 FOR THE COUNTY OF CLACKAMAS

8 TIMOTHY ROTE,

9 Plaintiff,

10 vs.

11 MAX ZWEIZIG AND JOHN DOES (1-5)

12
13
14 Defendants

Case No.: 22cv17744

EX PARTE MOTION FOR ORDER OF
DEFAULT AGAINST MAX ZWEIZIG
AND DECLARATION IN SUPPORT

15
16 **MOTION**

17 Based on the attached Declaration, Plaintiff requests that this court grant an Order
18 entering the default of Defendant Max Zweizig and directing entry of judgment.

19 **STATEMENT OF POINTS AND AUTHORITIES**

20 ORCP 69 requires the court or clerk to enter an order of default on a showing by
21 affidavit or declaration that a party against whom a judgment is sought has been served with
22 Summons or is otherwise subject to the jurisdiction of the Court and has failed to plead or
23 otherwise defend within the time set by law.
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EX PARTE MOTION FOR ORDER OF DEFAULT AGAINST MAX ZWEIZIG AND DECLARATION IN
SUPPORT - 1

1 **DECLARATION**

2 Defendant was served with the Summons and Complaint as required by law in the
3 County of Clackamas, State of Oregon, on July 14, 2022, by order permitting electronic service
4 and has not made an appearance within the time required by law. Completed service has been
5 filed in this case, documenting service by first class, by certified mail, by electronic notice and
6 by email.

7 Defendant has not provided me with written notice of intent to appear. Out of an
8 abundance of caution Plaintiff served a Notice of Intent file this Motion specifying the damages
9 amount on August 23, 2022, which is provided herein as Exhibit 1.

10 Defendant is not now, and was not at the time of the service of the Complaint and
11 Summons, incapacitated, a minor, a financially incapable person, a protected person, or a
12 Respondent in a fiduciary protective proceeding, as defined by ORS 125.005

13 The Defendant is not now, and was not at the time of service of the Complaint and
14 Summons, in active military service of the United States.

15 I request the relief specified in the attached Judgment.

16 Costs and Fees are allowable under ORS 20.115 and 20.190.

17 **I hereby declare that the above statements are true to the best of my knowledge**
18 **and belief, and that I understand they are made for use as evidence in court and I am**
19 **subject to penalty for perjury.**

20
21 DATED: September 5, 2022

22 */s/ Timothy C. Rote*
23 Timothy C. Rote
24 Plaintiff *ProSe*

1 **CERTIFICATE OF SERVICE**

2

3 I hereby certify that I served the above on:

4

5 MAX ZWEIZIG
6 140 Ford Ave.
7 Woodbury, New Jersey 08096
8 peerlessmusician@gmail.com

9 Via First Class Mail

10 Via Email

11 Via OECF Notification

12 DATED: September 5, 2022

13 /s/ Timothy C. Rote

14 **Timothy C. Rote**

15 Plaintiff *Pro Se*