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9 CIRCUIT COURT OF OREGON FOR CLACKAMAS COUNTY

10 WILMINGTON TRUST NATIONAL
11 ASSOCIATION, AS SUCCESSOR TRUSTEE
12 TO CITIBANK, N.A., AS TRUSTEE FOR NO. CV15020527
13 THE MERRILL LYNCH MORTGAGE WRIT OF EXECUTION IN FORECLOSURE
14 INVESTORS TRUST, MORTGAGE LOAN
15 ASSET-BACKED CERTIFICATES, SERIES
16 2007-HE2,

15 Plaintiff,

16 v.

17 THE ESTATE OF BRIAN C. KINCAID,
18 DECEASED; UNKNOWN HEIRS AND
19 DEVISEES OF BRIAN C. KINCAID,
20 DECEASED; THERESA M. KINCAID;
21 ROBERT C. KINCAID; CAPITAL ONE
22 BANK (USA) N.A.; AND PERSONS OR
23 PARTIES UNKNOWN CLAIMING ANY
24 RIGHT, TITLE, LIEN OR INTEREST IN THE
25 PROPERTY DESCRIBED IN THE
26 COMPLAINT HEREIN,

24 Defendants,

24 and

25 TURNING LEAF HOMES, LLC,

27 Defendant-Intervenor.

28 TO: CLACKAMAS COUNTY SHERIFF

1
2 1. WHEREAS, on March 24, 2017, in the above-entitled court, a judgment of foreclosure
3 was enrolled and docketed in the above-entitled cause, a true copy of which is attached hereto as
4 **Exhibit A** and made a part hereof;

5 2. WHEREAS, pursuant to ORS 18.862, the Judgment Creditor's address is as follows:
6
7 Wilmington Trust National Association, as Successor Trustee to Citibank, N.A., as
8 trustee for the Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed
9 Certificates, Series 2007-HE2
10 c/o Ocwen Loan Servicing
11 1661 Worthington Rd., #100
12 West Palm Beach, FL 33409

13 For the purpose of this Writ, the Judgment Creditor's address is as follows:

14 Ocwen Loan Servicing
15 c/o Robinson Tait, P.S.
16 901 Fifth Avenue, Suite 400
17 Seattle, Washington 98164

18 3. WHEREAS, the real property to be sold pursuant to the above referenced judgment is
19 legally described as

20 LOT 7, HOLMES MEADOWS, IN THE CITY OF OREGON CITY, IN THE COUNTY
21 OF CLACKAMAS, AND STATE OF OREGON.

22 and commonly known as 934 Haley Ct., Oregon City, OR 97045.

23 4. NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are
24 hereby commanded to sell the above referenced real property, in the manner prescribed by law for the
25 sale of real property upon execution (subject to redemption), all of the interest which the defendant(s)
26 had on September 19, 2006, the date of the Deed of Trust, and also all of the interest which the
27 defendant(s) had thereafter, in the real property described in the judgment, to satisfy the judgment,
28 which as of September 8, 2017,

1
2 5. THEREFORE, in the name of the State of Oregon you are hereby commanded to seize
3 and sell the above described Property, in the manner prescribed by law; or so much thereof as may be
4 necessary to satisfy the Judgment and Money Award, interest, fees and costs.

5 MAKE RETURN HEREOF within 60 days after you receive this writ.

6
7
8 DATED this 10th day of September, 2017.

9
10
11 Clerk
12 Title

13 Wendy Peterson
14 By:



15
16 Prepared by:

17 Kimberly Hood
18

19 [] Craig Peterson, OSB #120365
20 Email: cpeterson@robinsontait.com
21 [] Jaimie Fender, OSB #120832
22 Email: jfender@robinsontait.com
23 [x] Kimberly Hood, OSB #123008
24 Email: khood@robinsontait.com
25 Robinson Tait, P.S.
26 Attorneys for Plaintiff
27 Tel: (206) 676-9640
28 Fax: (206) 676-9659

COURT CLERK HAS NOT VERIFIED FIGURES IN THIS WRIT.
IF YOU HAVE ANY QUESTIONS REGARDING THIS WRIT,
PLEASE CONTACT YOUR LEGAL COUNSEL, THE ISSUING
ATTORNEY OR THE ISSUING COMPANY. DEBTOR MAY CONTEST
THIS WRIT BY FILING A CLAIM OF EXEMPTION.

Court Administrator relies on the information
provided by the person seeking issuance of
this writ of execution and is not liable for any
errors or omissions in the information

EXHIBIT A

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CIRCUIT COURT OF OREGON FOR CLACKAMAS COUNTY

WILMINGTON TRUST NATIONAL
ASSOCIATION, AS SUCCESSOR TRUSTEE
TO CITIBANK, N.A., AS TRUSTEE FOR
THE MERRILL LYNCH MORTGAGE
INVESTORS TRUST, MORTGAGE LOAN
ASSET-BACKED CERTIFICATES, SERIES
2007-HE2,

Plaintiff,

v.

THE ESTATE OF BRIAN C. KINCAID,
DECEASED; UNKNOWN HEIRS AND
DEWISEES OF BRIAN C. KINCAID,
DECEASED; THERESA M. KINCAID;
ROBERT C. KINCAID; CAPITAL ONE
BANK (USA) N.A.; AND PERSONS OR
PARTIES UNKNOWN CLAIMING ANY
RIGHT, TITLE, LIEN OR INTEREST IN
THE PROPERTY DESCRIBED IN THE
COMPLAINT HEREIN,

Defendants.

and

TURNING LEAF HOMES, LLC.

Defendant-Intervenor

NO. CV15020527

GENERAL JUDGMENT DETERMINING
AMOUNT OWED AND FORECLOSURE

(Clerk's Action Required)

1
2 THIS MATTER having come on for hearing this day before the undersigned Judge of the
3 above entitled court upon the motion of the plaintiff for judgment and foreclosure herein, the
4 plaintiff, WILMINGTON TRUST NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO
5 CITIBANK, N.A., AS TRUSTEE FOR THE MERRILL LYNCH MORTGAGE INVESTORS
6 TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-HE2, appearing
7 and being represented by CRAIG PETERSON, Attorney of Robinson Tait, defendant-intervenor
8 Turning Leaf Homes being represented by Andrew Glascock, and plaintiff's Motion for Summary
9 Judgment having been granted, the remaining defendants having been defaulted, that the plaintiff is
10 entitled to judgment as a matter of law, and that the judgment should be entered in favor of the
11 plaintiff forthwith as more particularly hereafter set forth. Therefore,
12
13

14 IT IS HEREBY ORDERED AND ADJUDGED THAT:

15 1. Plaintiff, WILMINGTON TRUST NATIONAL ASSOCIATION, AS SUCCESSOR
16 TRUSTEE TO CITIBANK, N.A., AS TRUSTEE FOR THE MERRILL LYNCH MORTGAGE
17 INVESTORS TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2007-HE2
18 be awarded judgment in the sum of \$244,746.81, together with interest at a rate as provided in the Note
19 from June 1, 2010 through January 11, 2017 in the amount of \$134,882.41 with additional pre-judgment
20 interest at the per diem rate of \$57.78 as provided in the Note to the date of entry of judgment; plus
21 reasonable attorneys' fees in the amount of \$2,050.00, contested fees in the amount of \$3,282.50, plus
22 other recoverable amounts of \$35,828.14 which includes the amounts itemized in the declaration of the
23 lender in support of motion for judgment plus allowable costs of \$4,457.74 as itemized in the bill of
24 disbursements and an additional amount for post-judgment sheriff's fees. Said judgment to bear interest
25 until paid at the statutory rate or at the contract rate, whichever is greater; and.
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2 2. Plaintiff's Deed of Trust on real property in Clackamas County, Oregon, legally
3 described as follows:

4 LOT 7, HOLMES MEADOWS, IN THE CITY OF OREGON CITY, IN THE
5 COUNTY OF CLACKAMAS, AND STATE OF OREGON.

6 which was recorded on October 2, 2006, under Auditor's File No. 2006-091359, records of
7 Clackamas County, Oregon, be adjudged and decreed to be a first and paramount lien upon the above
8 described real estate and the whole thereof as security for the payment of the judgment herein set
9 forth, and that said Deed of Trust be foreclosed and the property therein described is hereby ordered
10 sold by the Sheriff of Clackamas County in the manner provided for by law, and the proceeds
11 therefrom shall be applied to the payment of the judgment, interest, attorneys' fees and costs, and
12 such other sums as plaintiff has advanced prior to judgment, and that such sums shall constitute a first
13 and specific lien and charge upon said real estate, prior and superior to any right, title, estate, lien or
14 interest of the defendants The Estate Of Brian C. Kincaid, Deceased, Unknown Heirs And Devisees
15 Of Brian C. Kincaid, Deceased, Theresa M. Kincaid, Robert C. Kincaid, Capital One Bank (USA)
16 N.A., and Persons Or Parties Unknown Claiming Any Right, Title, Lien Or Interest In The Property
17 Described In The Complaint Herein and of any one claiming by, through or under them; and
18
19

20 3. The Estate Of Brian C. Kincaid, Deceased, Unknown Heirs And Devisees Of Brian C.
21 Kincaid, Deceased, Theresa M. Kincaid, Robert C. Kincaid, Capital One Bank (USA) N.A., and
22 Persons Or Parties Unknown Claiming Any Right, Title, Lien Or Interest In The Property Described
23 In The Complaint Herein subsequent to September 19, 2006, the date of the Deed of Trust which is
24 foreclosed herein, be forever barred and estopped from claiming or asserting any right, title, lien or
25 interest in or to said property or any part thereof, save and except for the right of redemption as
26 allowed by law; and
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1
2 4. Plaintiff be granted the right to become a bidder and purchaser at the sale and the
3 purchaser shall be entitled to exclusive possession of the property upon completion of sale according to
4 law, and to all right, title and interest in any rents and profits generated or arising from the property
5 during the statutory redemption period; and plaintiff is entitled to such remedies as are available at law to
6 secure possession, including writ of assistance, if defendants or any of them or any other party or person
7 shall refuse to surrender possession to the purchaser immediately upon purchaser's demand for
8 possession; and
9

10 5. Pursuant to ORS 18.950, if any proceeds from the execution sale remain after the
11 payment of costs under ORS 18.950(3) and satisfaction of the judgment, the court administrator shall
12 pay the remaining proceeds as directed by the court in the order of distribution.
13
14

15 **DECLARATION DETERMINING AMOUNT OF DEBT**
16 *(Not a Money Award, see ORS 18.862, 86.797, and 88.010)*

17 Judgment Creditor:

18 WILMINGTON TRUST NATIONAL
19 ASSOCIATION, AS SUCCESSOR
20 TRUSTEE TO CITIBANK, N.A., AS
21 TRUSTEE FOR THE MERRILL LYNCH
22 MORTGAGE INVESTORS TRUST,
23 MORTGAGE LOAN ASSET-BACKED
24 CERTIFICATES, SERIES 2007-HE2
25 c/o Robinson Tait, P.S.
26 710 Second Ave., Suite 710
27 Seattle, WA 98104
28 (206) 676-9640

Attorney for Judgment Creditor:

Craig Peterson
Robinson Tait, P.S.
710 Second Ave., Suite 710
Seattle, WA 98104
(206) 676-9640

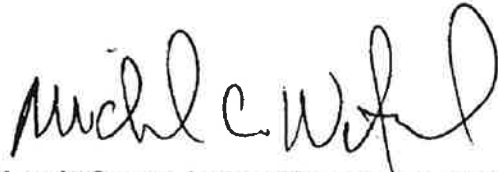
The name of any person or public body.

1		
2	other than the Judgment Creditor's	
3	Attorney, who is entitled to any	
4	portion of the judgment:	None
5	Principal Balance:	\$244,746.81
6	Simple Interest on the Principal Balance	
7	from June 1, 2010 to January 11, 2017:	\$134,882.41
8	Other Amounts Due Under Terms of Loan:	\$35,828.14
9	Attorneys' Fees and Costs:	
10	Attorneys' Fee: \$2,050.00	
11	Contested Fee: \$3,282.50	
12	Total Costs: \$4,457.74	
13	Total Attorney Fees and Costs:	\$9,790.24
14	<i>TOTAL DEBT OWED</i>	\$425,247.60

15 Pre-Judgment: Additional pre-judgment interest accrues from January 12, 2017, to the date of
 16 entry of judgment at the per diem rate of \$57.78, in accordance with the Note.
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1 Post-Judgment: Interest Accrues on the total of the amounts listed above in accordance with
2 the contract rate in the Note, or at the statutory rate of 9% per annum, whichever is greater.
3
4

Signed: 3/24/2017 12:05 PM

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6 

7
8

Circuit Court Judge Michael C. Wetzel



11
12 Submitted by:

13
14 

15 Craig Peterson, OSB #120365
16 Email: cpeterson@robinsontait.com
17 Brandon Smith, OSB #124584
18 Email: bsmith@robinsontait.com
19 Jaimie Fender, OSB #120832
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21 Kimberly Hood, OSB # 123008
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23 Michael Althouse, OSB # 150793
24 Email: malthouse@robinsontait.com
25 Robinson Tait, P.S.
26 Attorneys for Plaintiff
27 Tel: (206) 676-9640
28 Fax: (206) 676-9659

CERTIFICATE OF READINESS- UTCR 5.100

This proposed order or judgment is ready for judicial signature because:

1. Each opposing party affected by this order or judgment has stipulated to or approved its terms, as shown by each party's signature on the proposed order or judgment being submitted.
2. Each opposing party affected by this order has approved the form of the document, as shown by written communication to me.
3. I have served a copy on all parties entitled to service and:
 - No objection has been served on me within that time frame.
 - I received objections that I could not resolve with the objecting party despite reasonable efforts to do so. I have filed with the court 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.
4. The relief sought is against a party who has been found in default.
5. An order of default is being requested with this proposed judgment.
6. Service is not required pursuant to subsection (1)(c) of UTCR 5.100, or by statute, rule, or otherwise.
7. 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 (1)(d) of UTCR 5.100.

Date:

2-17-17

Craig
Attorney, OSB

120365