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CIRCUIT COURT OF OREGON FOR JOSEPHINE COUNTY

11 BANK OF AMERICA, N.A., SUCCESSOR  
12 BY MERGER TO COUNTRYWIDE BANK,

Plaintiff,

v.

13  
14  
15  
16 JEFFREY S. FISCUS, THE UNKNOWN  
17 SUCCESSOR TRUSTEES OF THE TREVOR  
18 H. AND ELIZABETH I. PENNINGTON  
19 TRUST DATED MAY 5, 1992, TIMOTHY B.  
20 CUMMINGS, DANIEL L. HULL, AS  
21 PERSONAL REPRESENTATIVE OF THE  
22 ESTATE OF MAX H. HULL, DECEASED,  
23 DANIEL L. HULL, SUCCESSOR TRUSTEE  
24 OF THE HULL FAMILY TRUST, DATED  
25 JUNE 30, 2006, DON PENNINGTON,  
26 TRUSTEE OF THE TREVOR H. AND  
27 ELIZABETH I. PENNINGTON TRUST  
28 DATED MAY 5, 1992, ELIZABETH  
PENNINGTON, TRUSTEE OF THE TREVOR  
H. AND ELIZABETH I. PENNINGTON  
TRUST DATED MAY 5, 1992, DANIEL L.  
HULL, MARY E. HULL, WILLIAM G.  
HULL, MARY E. HULL, SUCCESSOR  
TRUSTEE OF THE HULL FAMILY TRUST,  
DATED JUNE 30, 2006, P PU, THE  
UNKNOWN HEIRS AND DEVISEES OF  
MAX H. HULL, DECEASED, THE

NO. 15CV02342

WRIT OF EXECUTION IN FORECLOSURE

1  
2 UNKNOWN SUCCESSOR TRUSTEE OF  
3 THE HULL FAMILY TRUST, DATED JUNE  
4 30, 2006, TREVOR H. PENNINGTON,  
5 TRUSTEE OF THE TREVOR H. AND  
6 ELIZABETH I. PENNINGTON TRUST  
7 DATED MAY 5, 1992, CONSOLIDATED  
8 PROPERTY HOLDINGS, WHITNEY  
9 FEDOSKY AKA WHITNEY PATTERSON,  
10 THE ESTATE OF DAVID FEDOSKY,  
11 DECEASED, THE UNKNOWN HEIRS &  
12 DEVISEES OF DAVID FEDOSKY,  
13 DECEASED, DAVID FEDOSKY, JR.,  
14 MICHAEL FEDOSKY, SHANI FEDOSKY,  
15 AND PERSONS OR PARTIES UNKNOWN  
16 CLAIMING ANY RIGHT, TITLE, LIEN, OR  
17 INTEREST IN THE PROPERTY DESCRIBED  
18 IN THE COMPLAINT HEREIN,

19  
20  
21 Defendants.

22 TO: JOSEPHINE COUNTY SHERIFF

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

26 2. WHEREAS, pursuant to ORS 18.862, the Judgment Creditor's address is as follows:

27 Bank of America, N.A., successor by merger to Countrywide Bank  
28 c/o New Penn Financial, LLC dba Shellpoint Mortgage Servicing  
55 Beattie Place, Suite 110, MS501  
Greenville, SC 29601

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

New Penn Financial, LLC dba Shellpoint Mortgage Servicing  
c/o Robinson Tait, P.S.  
901 Fifth Avenue, Suite 400  
Seattle, Washington 98164

1  
2 3. WHEREAS, the real property to be sold pursuant to the above referenced judgment is  
3  
4 legally described as

5 LOTS 1, MORNINGSIDE PLANNED UNIT DEVELOPMENT, IN THE CITY OF  
6 GRANTS PASS, JOSPEPHINE COUNTY, OREGON, ACCORDING TO THE OFFICIAL PLAT  
7 THEREOF NOW OF RECORD.

8 and commonly known as 1810 NE D St, Grants Pass, OR 97526.

9  
10 4. NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON, you are  
11 hereby commanded to sell the above referenced real property, in the manner prescribed by law for the  
12 sale of real property upon execution (subject to redemption), all of the interest which the defendant(s)  
13 had on December 19, 2007, the date of the Deed of Trust, and also all of the interest which the  
14 defendant(s) had thereafter, in the real property described in the judgment, to satisfy the judgment,  
15 which as of October 17, 2017,  
16

17 **Lenders Principal Judgment:**

|   |                            |
|---|----------------------------|
| 18 1. Unpaid Principal Balance  | <u>\$112,500.00</u>        |
| 19 2. Pre-Judgment Interest from February 1, 2009<br>20 to April 28, 2017, the date calculated by the Declarant<br>21 in the Declaration in Support of Judgment | <u>\$47,286.22</u>         |
| 22 3. Lenders Fees and Costs  | <u>\$17,127.89</u>         |
| 23 4. Attorney's Fees and Costs   | <u>\$11,452.05</u>         |
| 24 <b><i>Total Judgment Award Entered</i></b>   | <u><b>\$188,366.16</b></u> |

25 **Additional Pre Judgment Interest**

|   |                            |
|---|----------------------------|
| 26 1. Accrued Interest from April 29, 2017<br>27 to October 4, 2017 the date of entry<br>28 of Judgment | <u>\$1,884.15</u>          |
| <b><i>Total Judgment Award</i></b>  | <u><b>\$190,250.31</b></u> |

1  
2 Post Judgment Interest

- 3  
4 1. Accrued Post Judgment Interest at a rate of 9% per annum or at \$46.91, from October 5,  
5 2017, the day after the entry of judgment, through October 17, 2017,  
6 the date the writ is being requested \$609.83

7 ***Current Total Amount Owing*** \$190,860.14

8  
9 In addition to the above, interest continues to accrue on the total of the amounts listed above  
10 at the rate of 9% per annum or at \$46.91 per diem, in accordance with the General Judgment of  
11 Foreclosure and continues to accrue until the date of sale.

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

15  
16 MAKE RETURN HEREOF within 60 days after you receive this writ.

17 DATED this 24 day of Oct., 2017.

18  
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21  
22  
23 B. Daspari  
24 Court Clerk



# EXHIBIT A

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CIRCUIT COURT OF OREGON FOR JOSEPHINE COUNTY

BANK OF AMERICA, N.A., SUCCESSOR  
BY MERGER TO COUNTRYWIDE BANK,

Plaintiff,

v.

JEFFREY S. FISCUS; TIMOTHY B.  
CUMMINGS; DANIEL L. HULL; MARY E.  
HULL; WILLIAM G. HULL; DANIEL L.  
HULL, AS PERSONAL REPRESENTATIVE  
OF THE ESTATE OF MAX H. HULL,  
DECEASED; DANIEL L. HULL,  
SUCCESSOR TRUSTEE OF THE HULL  
FAMILY TRUST, DATED JUNE 30, 2006;  
MARY E. HULL, SUCCESSOR TRUSTEE  
OF THE HULL FAMILY TRUST, DATED  
JUNE 30, 2006; THE UNKNOWN HEIRS  
AND DEVISEES OF MAX HULL,  
DECEASED; THE UNKNOWN  
SUCCESSOR TRUSTEES OF THE HULL  
FAMILY TRUST, DATED JUNE 30, 2006;  
THE ESTATE OF DAVID FEDOSKY,  
DECEASED; THE UNKNOWN HEIRS &  
DEVISEES OF DAVID FEDOSKY,  
DECEASED; WHITNEY FEDOSKY; DAVID  
FEDOSKY, JR.; SHANI FEDOSKY;  
MICHAEL FEDOSKY; DON PENNINGTON,  
TRUSTEE OF THE TREVOR H. AND  
ELIZABETH J. PENNINGTON TRUST  
DATED MAY 5, 1992; THE UNKNOWN  
SUCCESSOR TRUSTEES OF THE TREVOR  
H. AND ELIZABETH J. PENNINGTON  
TRUST DATED MAY 5, 1992; ELIZABETH

NO. 15CV02342

GENERAL JUDGMENT DETERMINING  
AMOUNT OWED AND FORECLOSURE

(Clerk's Action Required)

GENERAL JUDGMENT DETERMINING  
AMOUNT OWED AND FORECLOSURE - 1  
60128-14024-JUD-OR1791506

*Law Offices*  
ROBINSON TAIT, P.S.,

901 Fifth Avenue, Suite 100  
Seattle, WA 98161  
425.693.9766 x.9610

1 PENNINGTON, TRUSTEE OF THE  
2 TREVOR H. AND ELIZABETH I.  
3 PENNINGTON TRUST DATED MAY 5,  
4 1992; TREVOR H. PENNINGTON,  
5 TRUSTEE OF THE TREVOR H. AND  
6 ELIZABETH I. PENNINGTON TRUST  
7 DATED MAY 5, 1992; CONSOLIDATED  
8 PROPERTY HOLDINGS; AND PERSONS  
9 OR PARTIES UNKNOWN CLAIMING ANY  
10 RIGHT, TITLE, LIEN, OR INTEREST IN  
11 THE PROPERTY DESCRIBED IN THE  
12 COMPLAINT HEREIN,

13 Defendants.

14 THIS MATTER having come on for hearing this day before the undersigned Judge of the  
15 above entitled court upon the motion of the plaintiff for judgment and foreclosure herein, the  
16 plaintiff, BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO COUNTRYWIDE BANK,  
17 appearing and being represented by CRAIG PETERSON, Attorney of Robinson Tait, defendants Don  
18 Pennington, Trustee of the Trevor H. and Elizabeth I. Pennington Trust Dated May 5, 1992, and The  
19 Unknown Successor Trustees of the Trevor H. and Elizabeth I. Pennington Trust Dated May 5, 1992,  
20 being represented by Duane Wm. Schultz, these defendants having stipulated to foreclosure, the  
21 remaining defendants having failed to appear, and after considering the pleadings and affidavits on  
22 file herein, findings of fact and conclusion of law being unnecessary under Civil Rule 69D, the court  
23 finds that the allegations contained in the plaintiff's Complaint are true, that there are no material  
24 issues of fact, that the plaintiff is entitled to judgment as a matter of law, and that the judgment  
25 should be entered in favor of the plaintiff forthwith as more particularly hereafter set forth. Therefore,

26 IT IS HEREBY ORDERED AND ADJUDGED THAT:

27 1. Plaintiff, BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO  
28 COUNTRYWIDE BANK be awarded judgment in the sum of \$112,500.00, together with interest at a

GENERAL JUDGMENT DETERMINING  
AMOUNT OWED AND FORECLOSURE - 2  
60128-14024-JL D-OR1791506

*Law Offices*  
ROBINSON TAIT, P.S.

591 1<sup>st</sup> Avenue, Suite 100  
Seattle, WA 98101  
(206) 676-0000

1  
2 rate as provided in the Note from February 1, 2009 through April 28, 2017 in the amount of \$47,286.22  
3 with additional pre-judgment interest at the per diem rate of \$11.85 as provided in the Note to the date of  
4 entry of judgment; plus reasonable attorneys' fees in the amount of \$2,400.00, plus additional attorneys'  
5 fees for litigation in the amount of \$1,595.75, totaling \$3,995.75, plus other recoverable amounts of  
6 \$17,127.89 which includes the amounts itemized in the declaration of the lender in support of motion for  
7 judgment plus allowable costs of \$7,456.30 as itemized in the bill of disbursements and an additional  
8 amount for post-judgment sheriff's fees. Said judgment to bear interest until paid at the statutory rate or  
9 at the contract rate, whichever is greater; and.  
10

11         2. Plaintiff's Deed of Trust on real property in Josephine County, Oregon, legally  
12 described as follows:  
13

14                 LOTS 1, MORNINGSIDE PLANNED UNIT DEVELOPMENT, IN THE CITY OF  
15                 GRANTS PASS, JOSEPHINE COUNTY, OREGON, ACCORDING TO THE  
16                 OFFICIAL PLAT THEREOF NOW OF RECORD.

17 which was recorded on December 20, 2007, under Auditor's File No. 2007-023899, records of  
18 Josephine County, Oregon, be adjudged and decreed to be a first and paramount lien upon the above  
19 described real estate and the whole thereof as security for the payment of the judgment herein set  
20 forth, and that said Deed of Trust be foreclosed and the property therein described is hereby ordered  
21 sold by the Sheriff of Josephine County in the manner provided for by law, and the proceeds  
22 therefrom shall be applied to the payment of the judgment, interest, attorneys' fees and costs, and  
23 such other sums as plaintiff has advanced prior to judgment, and that such sums shall constitute a first  
24 and specific lien and charge upon said real estate, prior and superior to any right, title, estate, lien or  
25 interest of the defendant and of any one claiming by, through or under them; and  
26  
27  
28



1  
2 3. Any and all persons acquiring any right, title, estate, lien or interest in or to the  
3 property described above or any part thereof subsequent to December 19, 2007, the date of the Deed  
4 of Trust which is foreclosed herein, be forever barred and estopped from claiming or asserting any  
5 right, title, lien or interest in or to said property or any part thereof, save and except for the right of  
6 redemption as allowed by law; and

7  
8 4. Plaintiff be granted the right to become a bidder and purchaser at the sale and the  
9 purchaser shall be entitled to exclusive possession of the property upon completion of sale according to  
10 law, and to all right, title and interest in any rents and profits generated or arising from the property  
11 during the statutory redemption period; and plaintiff is entitled to such remedies as are available at law to  
12 secure possession, including writ of assistance, if defendants or any of them or any other party or person  
13 shall refuse to surrender possession to the purchaser immediately upon purchaser's demand for  
14 possession; and

15  
16 5. Pursuant to ORS 18.950, if any proceeds from the execution sale remain after the  
17 payment of costs under ORS 18.950(3) and satisfaction of the judgment, the court administrator shall  
18 pay the remaining proceeds as directed by the court in the order of distribution.  
19  
20

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

23 Judgment Creditor: BANK OF AMERICA, N.A., SUCCESSOR  
24 BY MERGER TO COUNTRYWIDE BANK  
25 c/o Robinson Tait, P.S.  
26 901 Fifth Avenue, Suite 400  
27 Seattle, WA 98164  
28 (206) 676-9640

Attorney for Judgment Creditor: Craig Peterson  
Robinson Tait, P.S.

901 Fifth Avenue, Suite 400  
Seattle, WA 98164  
(206) 676-9640

The name of any person or public body,  
other than the Judgment Creditor's  
Attorney, who is entitled to any  
portion of the judgment:

None

Principal Balance: \$112,500.00

Simple Interest on the Principal Balance  
from February 1, 2009 to April 28, 2017: \$47,286.22

Other Amounts Due Under Terms of Loan: \$17,127.89

Attorneys' Fees and Costs:

Attorneys' Fee: \$3,995.75

Total Costs: \$7,456.30

Total Attorney Fees and Costs: \$11,452.05

*TOTAL DEBT OWED* \$188,366.16

Pre-Judgment: Additional pre-judgment interest accrues from April 29, 2017, to the date of entry of judgment at the per diem rate of \$11.85, in accordance with the Note.

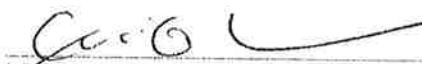
Post-Judgment: Interest Accrues on the total of the amounts listed above in accordance with the contract rate in the Note, or at the statutory rate of 9% per annum, whichever is greater.

Signed: 10/3/2017 04:01 PM



Circuit Court Judge Michael Newman

Submitted by:

  
[X] Craig Peterson, OSB #120365  
Email: cpeterson@robinsontait.com  
[ ] Jaimie Fender, OSB #120832  
Email: jfender@robinsontait.com

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[ ] Kimberly Hood, OSB #123008  
Email: KHood@robinsontait.com  
Robinson Tait, P.S.  
Attorneys for Plaintiff  
Tel: (206) 676-9640  
Fax: (206) 676-9659

GENERAL JUDGMENT DETERMINING  
AMOUNT OWED AND FORECLOSURE - 6  
60128-14024-JUD-OR1791506

*Tau Office*  
ROBINSON TAIT, P.S.  
901 Fifth Avenue, Suite 100  
Seattle WA 98101  
(206) 676-9610


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:

9-22-17

  
\_\_\_\_\_  
Attorney, OSB

120363