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

MTGLQ INVESTORS, L.P., its successors in  
interest and/or assigns,

Plaintiff,

v.

BEN F. MITCHELL AKA BEN FAYE  
MITCHELL; KATHLEEN J. MITCHELL AKA  
KATHLEEN JANELL MITCHELL;  
MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC. (MERS), SOLELY AS  
NOMINEE FOR GMAC MORTGAGE, LLC  
DBA DITECH.COM; AND OCCUPANTS OF  
THE PREMISES,

Defendants.

Case No.17CV13474

WRIT OF EXECUTION IN  
FORECLOSURE

TO: THE SHERIFF OF KLAMATH COUNTY, OREGON

1.

WHEREAS, on July 28, 2017, in the above-entitled court, a General Judgment of  
Foreclosure (the "Judgment") was entered and docketed in the above-entitled cause.

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 execution  
(subject to redemption), all of the interest which the defendants had on April 20, 2007, the date

1 of the foreclosed Deed of Trust, and also all of the interest which the defendants had thereafter,  
2 in the real property described in the Judgment to satisfy the amount due to Plaintiff, set out as  
3 follows:

4 **Lenders' Principal Judgment**

5 Unpaid Principal Balance	\$144,235.67
6 Pre-Judgment Interest from May 1, 2011 to July 8, 7 2017, the date calculated by the declarant in the 8 declaration of indebtedness @ 6.75% per annum	\$57,967.56
9 Lenders' Fees and Costs	\$32,054.85
10 Attorneys' Fees and Costs	\$5,282.68
11 <b><i>Total Amount Due to Plaintiff as of Judgment Submission Date</i></b>	<b>\$239,540.76</b>

12 **Additional Pre-Judgment Interest**

13 Accrued Interest from July 9, 2017 through July 28, 14 2017, the date of entry of the general judgment @ 15 6.750% per annum (\$26.67 per diem).	\$533.40
16 <b><i>Total Amount Due to Plaintiff as of Judgment Entry Date</i></b>	<b>\$240,074.16</b>

17 **Post Judgment Interest**

18 Accrued Post Judgment Interest from July 29, 2017, 19 the date after the entry of the general judgment, 20 through September 22, 2017, the date the Writ was 21 requested @ legal rate of interest of 9.000% per 22 annum (\$59.20 per diem).	\$3,256.00
23 <b><i>Total Amount Due to Plaintiff as of Date of Writ</i></b>	<b>\$243,330.16</b>

24 3.

25 In addition to this amount, Plaintiff is entitled to the continued accrual of post-judgment  
26 interest at the legal rate of interest of 9.000% per annum, \$59.20 per diem from September 23,  
2017, to the date the real property subject to the Judgment is sold by the Klamath County Sheriff  
at its foreclosure auction, plus costs of this writ, sheriff's fees and sale costs, and all other  
recoverable costs pursuant to law.

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4.

The real property subject to this writ of execution is situated in Klamath County, State of Oregon, to wit:

TRACT 142 OF PLEASANT HOME TRACTS NO. 2, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

and more commonly known as 5119 Cottage Avenue, Klamath Falls, Oregon 97603 ("Property").

5.

The Judgment Creditor's name and address is:

MTGLQ INVESTORS, L.P.  
c/o Shellpoint Mortgage Servicing  
15 South Main Street  
Greenville, SC 29601

6.

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

MTGLQ INVESTORS, L.P.  
c/o RCO Legal, P.C.  
511 SW 10<sup>th</sup> Ave., Ste. 400  
Portland, OR 97205  
(503) 977-7840

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

4            MAKE RETURN HEREOF within 60 days after you receive this writ.  
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11 Submitted By:

12 Calvin Knickerbocker Date: 2/21/17  
13 Calvin Knickerbocker, OSB #050110  
14 Attorneys for Plaintiff  
15 511 SW 10<sup>th</sup> Ave., Ste. 400  
16 Portland, OR 97205  
17 (503) 977-7840; Fax (503) 977-7963  
18 cknickerbocker@rcolegal.com  
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IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
IN AND FOR THE COUNTY OF KLAMATH

MTGLQ INVESTORS, L.P., its successors in  
interest and/or assigns,

Plaintiff,

v.

BEN F. MITCHELL AKA BEN FAYE  
MITCHELL; KATHLEEN J. MITCHELL AKA  
KATHLEEN JANELL MITCHELL;  
MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC. (MERS), SOLELY AS  
NOMINEE FOR GMAC MORTGAGE, LLC  
DBA DITECH.COM; AND OCCUPANTS OF  
THE PREMISES,

Defendants.

Case No. 17CV13474

GENERAL JUDGMENT OF  
FORECLOSURE AND SALE  
AGAINST:

- (1) BEN F. MITCHELL AKA BEN FAYE MITCHELL;
- (2) KATHLEEN J. MITCHELL AKA KATHLEEN JANELL MITCHELL;  
AND
- (3) MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. (MERS), SOLELY AS NOMINEE FOR GMAC MORTGAGE, LLC DBA DITECH.COM;

1.

THIS MATTER coming regularly before the Court on this day and it appearing from the record herein that plaintiff MTGLQ Investors, L.P., its successors in interest and/or assigns ("Plaintiff"), filed its Complaint for deed of trust foreclosure; that defendants Ben F. Mitchell aka Ben Faye Mitchell; Kathleen J. Mitchell aka Kathleen Janell Mitchell and Mortgage Electronic Registration Systems, Inc. (MERS), solely as nominee for GMAC Mortgage, LLC dba ditech.com were duly served with the

1 Summons and Complaint as required by law; that defendants Ben F. Mitchell aka Ben Faye Mitchell;  
2 Kathleen J. Mitchell aka Kathleen Janell Mitchell and Mortgage Electronic Registration Systems, Inc.  
3 (MERS), solely as nominee for GMAC Mortgage, LLC dba ditech.com failed to appear; and that an  
4 Order of Default has been filed concurrently with this Judgment and, consequently this General  
5 Judgment of foreclosure is submitted in accordance with UTCR 5.100 (3)(c).  
6

7 2.

8 Plaintiff hereby requests this general judgment for foreclosure and sale be entered into the  
9 Court's register to accomplish the following: to foreclose any and all interest of defendants Ben F.  
10 Mitchell aka Ben Faye Mitchell; Kathleen J. Mitchell aka Kathleen Janell Mitchell and Mortgage  
11 Electronic Registration Systems, Inc. (MERS), solely as nominee for GMAC Mortgage, LLC dba  
12 ditech.com in the real property subject to this foreclosure action, located at 5119 Cottage Avenue,  
13 Klamath Falls, Oregon 97603 (the "Property").  
14

15 3.

16 The court being fully advised in the Premise, finding good cause exists so this general judgment  
17 of foreclosure and sale may be entered in favor of Plaintiff and against defendants Ben F. Mitchell aka  
18 Ben Faye Mitchell; Kathleen J. Mitchell aka Kathleen Janell Mitchell and Mortgage Electronic  
19 Registration Systems, Inc. (MERS), solely as nominee for GMAC Mortgage, LLC dba ditech.com, all  
20 of them, it is hereby  
21

22 ORDERED AND ADJUDGED:

23 4.

24 That the Deed of Trust dated April 20, 2007, executed by Ben F. Mitchell and Kathleen J.  
25 Mitchell for the benefit of Mortgage Electronic Registrations Systems, Inc., solely as nominee for  
26

1 Quicken Loans Inc., its successors and assigns (“Deed of Trust”), recorded on April 25, 2007 as  
2 Instrument No. 2007-007465 in the official records of Klamath County, Oregon, and subsequently  
3 assigned to Plaintiff by way of an assignment recorded on January 5, 2017 as Instrument No. 2017-  
4 000098, is a valid lien for the amount due and owing as set forth in Paragraph 13 herein, against the  
5 Property situated in Klamath County, Oregon, and described as follows  
6

7 TRACT 142 OF PLEASANT HOME TRACTS NO. 2, ACCORDING TO THE  
8 OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY  
9 CLERK OF KLAMATH COUNTY, OREGON.

5.

10 That the lien of the Deed of Trust is superior to any interest, lien, or claim of defendants Ben F.  
11 Mitchell aka Ben Faye Mitchell; Kathleen J. Mitchell aka Kathleen Janell Mitchell and Mortgage  
12 Electronic Registration Systems, Inc. (MERS), solely as nominee for GMAC Mortgage, LLC dba  
13 ditech.com in the Property, and that said Deed of Trust is hereby foreclosed by this Court on the  
14 Property.

6.

15 That the grantors of the Deed of Trust, defendants Ben F. Mitchell and Kathleen J. Mitchell,  
16 previously filed for protection under Chapter 7 of the United States Bankruptcy Code, Case No. 6:10-  
17 bk-65418, District of Oregon, Eugene Division, and received a discharge of their debts on January 7,  
18 2011 (the “Bankruptcy Discharge Order”). Thus, this suit does not constitute an attempt to collect the  
19 debt in violation of the Bankruptcy Discharge Order. Rather, this judgment of foreclosure and sale is to  
20 be enforced by execution and sale of the Property as security for the debt owed under the terms of the  
21 Deed of Trust, as contemplated by the bankruptcy code, and pursuant to ORS 88.010 and 88.060.  
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7.

That defendants Ben F. Mitchell aka Ben Faye Mitchell; Kathleen J. Mitchell aka Kathleen Janell Mitchell; Mortgage Electronic Registration Systems, Inc. (MERS), solely as nominee for GMAC Mortgage, LLC dba ditech.com; and Occupants of the Premises, each of them, and all parties claiming by, through, or under them as purchasers, encumbrances, or otherwise, are forever barred and foreclosed of all interests, liens, or claims in the Property, and every portion thereof, excepting only the statutory right of redemption provided by the laws of the State of Oregon.

8.

That defendants Ben F. Mitchell aka Ben Faye Mitchell; Kathleen J. Mitchell aka Kathleen Janell Mitchell and Mortgage Electronic Registration Systems, Inc. (MERS), solely as nominee for GMAC Mortgage, LLC dba ditech.com, all of them, are not entitled to a homestead exemption as against Plaintiff's Deed of Trust.

9.

That all of the right, title and interest which Ben F. Mitchell and Kathleen J. Mitchell had on April 20, 2007, the date of the Deed of Trust, and all of the right, title and interest defendants Ben F. Mitchell aka Ben Faye Mitchell; Kathleen J. Mitchell aka Kathleen Janell Mitchell and Mortgage Electronic Registration Systems, Inc. (MERS), solely as nominee for GMAC Mortgage, LLC dba ditech.com and any successor thereafter had in and to the real Property is hereby ordered to be sold by law, and the proceeds of sale shall be applied first toward the sheriff's fees and costs of sale, then toward the satisfaction of the amount due and owing set forth in Paragraph 13 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.

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10.

That Plaintiff may become purchaser at the sheriff's sale of the Property and may bid up to the aggregate amount due and owing set forth in Paragraph 13 herein, plus interest from the date of this Judgment until sale without advancing any cash except money required for the sheriff's sale.

11.

That the Plaintiff, if the successful purchaser of the Property at the sheriff's sale, reserves the right to motion the court after sale for exclusive and immediate possession of the Property through the issuance and enforcement of a writ of assistance, should defendants Ben F. Mitchell aka Ben Faye Mitchell; Kathleen J. Mitchell aka Kathleen Janell Mitchell and Mortgage Electronic Registration Systems, Inc. (MERS), solely as nominee for GMAC Mortgage, LLC dba ditech.com refuse to surrender possession of the Property immediately upon the purchaser's demand for possession.

12.

That Plaintiff is entitled to, and is hereby awarded its attorney fees and costs incurred in this action, and that Plaintiff's attorney fees in the amount of \$3,545.00 and its litigation costs in the amount of \$1,737.68, shall be, and is hereby declared additional amounts secured by and hereinafter shall be made part of the amount of the debt secured by Plaintiff's Deed of Trust.

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1 Additional pre-judgment interest pursuant to ORS  
18.042 from July 8, 2017 to the date entry of  
2 judgment at the contract rate of interest as defined by  
Section 2 of the Note

3 Post-Judgment interest thereafter on the Total  
4 Amount Due at the contract rate of interest as defined  
by Section 2 of the note, or 9.000% per annum,  
5 whichever is greater.

6 *Total Amount Due* **\$239,540.76**

Signed: 7/27/2017 11:32 AM

*Roxanne Osborne*  
Circuit Court Judge Roxanne Osborne

15 Presented by:  
16 **RCO LEGAL, P.C.**

17 By *Calvin Knickerbocker* DATED 7/26/2017  
18 Calvin Knickerbocker, OSB # 050110  
19 Attorneys for Plaintiff  
20 511 SW 10<sup>th</sup> Ave., Ste. 400  
21 Portland, OR 97205  
Telephone (503) 977-7840 Facsimile (503) 977-7963  
cknickerbocker@rcolegal.com

CERTIFICATE OF UTCR 5.100 COMPLIANCE

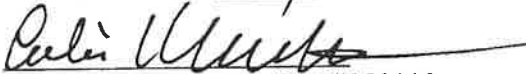
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This Proposed order or judgment is ready for judicial signature because:

- A.  The order or judgment was served on the opposing counsel not less than 3 days prior to submission to the court, or mailed to a self-represented party at the party's last known address not less than 7 days prior to submission to the court with a notice of the time period to object.
- B.  The order or judgment is accompanied by a stipulation by opposing counsel that no objection exists as to the judgment or order.
- C.  The judgment or order is exempt from UTCR 5.100(1) because:
  - a.  The judgment or order is a proposed order or judgment presented in open court with the parties present.
  - b.  The judgment or order is of a kind that may be presented *ex parte* and has been submitted either in person or by mail *ex parte*.
  - c.  The judgment is a proposed judgment after an order for default has already been entered or is being simultaneously requested against the opposing party.
  - d.  The proposed judgment is subject to UTCR 10.0099
  - e.  The proposed judgment or order is an uncontested probate and protective proceeding.
  - f.  This matter is certified to the court under ORS 416.422, 416.430, 416.435, or 416.448.
- D. In compliance with UTCR 5.100(2)(b), the drafting party certifies the following as to why the proposed judgment or order is ready for a judicial signature:
  - 1.  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.
  - 2.  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.
  - 3.  I have served a copy of this order or judgment on all parties entitled to service and:
    - a.  No objection has been served on me.
    - b.  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.
    - c.  After conferring about objections, [role and name of opposing party] agreed to independently file any remaining objection.
  - 4.  The relief sought is against an opposing party who has been found to be in default.

- 1 5. [ ] An order of default is being requested with this proposed judgment.  
2 6. [ ] Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise  
3 noted.  
4 7. [ ] This is a proposed judgment that includes an award of punitive damages and notice has been  
5 served on the Director of the Crime Victims' Assistance Section as required by subsection  
6 (4) of this rule.

6 Dated this 26 day of July, 2017

7 By,   
8 Calvin Knickerbocker OSB#050110  
9 Attorney for Plaintiff

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