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

NATIONSTAR MORTGAGE LLC,

Case No.: 17CV20966

Plaintiff,

vs.

WRIT OF EXECUTION IN  
FORECLOSURE

JAMES KERNE AKA JAMES EVERETT  
KERNE; LEAH KERNE AKA LEAH JEAN  
KERNE; STATE OF OREGON ;  
OCCUPANTS OF THE PROPERTY,

Defendants.

**TO THE POLK COUNTY SHERIFF:**

A Judgment of Foreclosure was entered and docketed in this case on February 27, 2018.

A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the  
Plaintiff:

NATIONSTAR MORTGAGE LLC  
c/o Robert Hakari, Attorney for Plaintiff  
McCarthy & Holthus, LLP  
920 SW 3rd Ave, 1st Floor  
Portland, OR 97204

With the adjudicated amount due of \$148,158.46, plus post judgment interest at the statutory rate  
of 9.0% per annum from March 5, 2018 to April 10, 2018 in the amount of \$1,315.16, and  
continuing with a per diem of \$36.53, currently totaling \$149,473.62.

**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 on  
execution (subject to redemption of 180 days), all of the interest that the Defendant had on or  
about May 30, 2013, the date of the Deed of Trust, and also the interest that the Defendant had

1 thereafter, in the real property described in Exhibit 1, having APN/Parcel #209025, and  
2 commonly known as 461 10th Street, Independence , OR 97351.

3 Sale of the property is to satisfy the sum listed above, plus the costs incurred in  
4 performing this Writ. Pursuant to ORS 18.872, you are authorized to continue execution under  
5 the writ and delay making a return on the writ to no later than 150 days from receipt of the writ.  
6 You are to make the return within 60 days after you receive this Writ. Should the sale be  
7 continued, the writ may be automatically extended for 30 days.

Signed: 4/13/2018 02:31 PM



*Debra M. Dupras*

JSSII Debora M. Dupras

8  
9  
10 Submitted by:

11 **McCarthy & Holthus, LLP**

12 s/ Robert B. Hakari 4/6/18

13 Robert Hakari OSB No. 114082

14 920 SW 3rd Ave, 1st Floor

15 Portland, OR 97204

16 Phone: (971) 201-3200

17 Fax: (971) 201-3202

18 rhakari@mccarthyholthus.com

19 Of Attorneys for Plaintiff

# EXHIBIT 1

BEGINNING AT AN IRON ROD AT THE SOUTHWEST CORNER OF LOT 5, BLOCK 2, PATTERSON'S SECOND ADDITION TO THE CITY OF INDEPENDENCE, POLK COUNTY, STATE OF OREGON; AND RUNNING THENCE NORTH 00 DEG. 01' WEST ALONG THE WEST LINE OF SAID LOT 5 A DISTANCE OF 60.00 FEET TO AN IRON ROD, SAID IRON ROD ALSO BEING THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED LAND; THENCE EAST, PARALLEL WITH THE SOUTH LINE OF SAID LOT 5 A DISTANCE OF 91.38 FEET TO AN IRON ROD; THENCE NORTH 00 DEG. 01' WEST PARALLEL WITH THE EAST LINE OF LOTS 5, 6 AND 7 AND SAID BLOCK 2, A DISTANCE OF 85.52 FEET TO AN IRON ROD IN THE NORTH LINE OF THAT CERTAIN TRACT OF AND CONVEYED TO ALAN L. BOWLES AND WIFE, BY DEED RECORDED IN VOLUME 69, PAGE 964, BOOK OF RECORDS FOR SAID POLK COUNTY; THENCE SOUTH 88 DEG. 06' 30" WEST, ALONG SAID NORTH LINE TO A POINT ON THE EAST LINE OF 10TH STREET, SAID POINT BEING 10.5 FEET NORTH OF THE NORTHWEST CORNER OF SAID LOT 6; THENCE SOUTH 00 DEG. 01' EAST ALONG THE WEST LINE OF SAID LOTS 7, 6 AND 5 A DISTANCE OF 82.5 FEET TO THE TRUE POINT OF BEGINNING, (PLAT VOLUME D15, PAGE 462)

TOGETHER WITH: A SEWER LINE EASEMENT OVER AND ACROSS THE FOLLOWING DESCRIBED LAND: BEGINNING AT A POINT WHICH IS 48.0 FEET SOUTH OF THE NORTHEAST CORNER OF LOT 6, BLOCK 2, PATTERSON'S 2ND ADDITION TO THE CITY OF INDEPENDENCE, POLK COUNTY OREGON; SAID POINT ALSO BEING ON THE EAST LINE OF LOT 6, BLOCK 2; THENCE WEST 60.0 FEET ALONG PROPOSED SEWER LINE EASEMENT. SAID EASEMENT TO BE 15.0 FEET IN WIDTH AND LYING 7.5 FEET EITHER SIDE OF THE ABOVE DESCRIBED EASEMENT LINE.

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KERNE, LEAH KERNE AKA LEAH JEAN  
KERNE; STATE OF OREGON;  
OCCUPANTS OF THE PROPERTY,  
  
Defendants.

Case No.: 17CV20966

GENERAL JUDGMENT OF  
FORECLOSURE

1.

THIS MATTER came before the Court on Plaintiff's motion. All Defendants were duly served with process and failed to appear; the default has been entered against Defendants, and it appearing that Defendants are not incapacitated, protected persons, respondents as defined in ORS 125.005, minors, or in the military service of the United States.

2.

IT IS HEREBY ADJUDGED that Plaintiff shall have judgment as follows:

- a. The real property to which this judgment relates is located and situated in Polk County, Oregon, and is commonly known as 461 10th Street, Independence , OR 97351 (the "Subject Property"), legally described as shown in the attached *Exhibit 1*, and having APN/Parcel No. 209025.
- b. Plaintiff is entitled to enforce the note dated May 30, 2013 and made, delivered, and executed by James Kerne and Leah Kerne ("Borrowers") to Plaintiff in the amount of \$132,600.00 (the "Note").

1 c. A deed of trust was made, executed, and delivered by Borrowers on or about May 30, 2013  
2 (the "Deed of Trust"). The Deed of Trust was recorded on June 11, 2013 as Instrument No.  
3 2013-006366 in the official records of Polk County, Oregon. The Deed of Trust is a valid  
4 and perfected lien against all of the Property for and securing the Amount Due. The lien of  
5 the Plaintiff is superior to any interest, lien, or claim of the Defendants and shall remain in  
6 effect until issuance of a Sheriff's Deed.

7 d. Borrowers failed to make the payment that was due for June 1, 2016 and has not cured the  
8 default. The amount of debt secured by the Deed of Trust that is now due and owing is  
9 comprised of the following amounts (the "Amount Due"):

- |    |                                       |                     |
|----|---------------------------------------|---------------------|
| 10 | a) Unpaid principal balance:          | \$125,107.42        |
| 11 | b) Prejudgment interest accruing from | \$9,053.34          |
| 12 | 5/1/2016 through 2/20/2018 and        |                     |
| 13 | continuing until the entry of         |                     |
|    | judgment at the current Note rate of  |                     |
|    | 4.00%:                                |                     |
| 14 | c) Additional amounts due under the   | \$9,237.51          |
| 15 | terms of the loan:                    |                     |
| 16 | d) Attorney fees and costs:           | \$4,675.19          |
| 17 | e) Prevailing party fee (ORS 20.190   | \$85.00             |
| 18 | (1)(a)):                              |                     |
| 19 | <b>Total:</b>                         | <b>\$148,158.46</b> |

20 Pursuant to ORS 82.010 (2), post-judgment interest shall accrue on the Amount Due from the  
21 date of entry of this judgment through the sale of the Subject Property at the rate of 9.00%  
22 per annum.

23 e. The interest of the Defendants and any successor in interest in the Subject Property is  
24 foreclosed and terminated excepting only any statutory right of redemption as provided by  
25 Oregon law.

26 f. The Defendants are not entitled to a homestead exception as against Plaintiff's judgment.

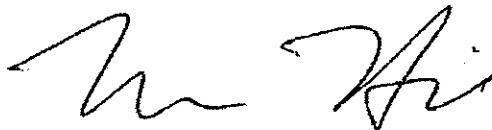
27 g. All right, title and interest in the Subject Property that Borrowers had as of the date of the  
28

1 Deed of Trust or thereafter acquired is hereby ordered to be sold by the Polk County Sheriff's  
2 Office in accordance with the process for sale upon execution, and the proceeds of sale shall  
3 be applied:

- 4 1) First, to the costs of sale not incurred by Plaintiff;
- 5 2) Second, to the Amount Due, plus post-judgment interest accruing from the date of  
6 entry of judgment through the date of the sale and any incurred costs of sale;
- 7 3) Third, the surplus, if any, to the Defendants in the priority as their interest may  
8 appear, described *infra*, or to the clerk of the court to be distributed by the Court to  
9 such party or parties as they may establish their right thereto.

- 10 h. Plaintiff may become purchaser at the sale of the Subject Property and, pursuant to ORS  
11 18.936 (2), may credit bid up to the Amount Due, plus post-judgment interest accruing from  
12 the date of entry of judgment through the date of the sale and any incurred costs of sale.
- 13 i. The purchaser at the sale is entitled to exclusive and immediate possession of the Subject  
14 Property from and after the date of the sale and is entitled to such remedies as are available at  
15 law or in equity to secure possession. The purchaser at the sale may apply to the Court for a  
16 writ of assistance if any Defendant, other party, or other person shall refuse to surrender  
17 possession to the purchaser immediately upon the purchaser's demand for possession.
- 18 j. In the event the proceeds of sale are insufficient to pay the Amount Due, Plaintiff shall not be  
19 entitled to any further or other judgment, including a judgment for the deficiency.
- 20 k. If, before the sale, the Amount Due is brought into court and paid to the clerk, the execution,  
21 if issued, shall be recalled and the effect of the judgment as to the Amount Due shall be  
22 terminated.

Signed: 2/27/2018 02:43 PM



**Circuit Court Judge Norm R. Hill**

---

1 I hereby certify that the requirements of UTCR 5.100 have been satisfied.

2 This proposed Judgment Of Foreclosure is ready for judicial signature because:

3  Each opposing party affected by this order or judgment has stipulated to the order or  
4 judgment, as shown by each opposing party's signature on the document being  
5 submitted.

6  Each opposing party affected by this order or judgment has approved the order or  
7 judgment, as shown by signature on the document being submitted or by written  
8 confirmation of approval sent to me.

9  I have served a copy of this order or judgment on all parties entitled to service and:

10  No objection has been served on me.

11  I received objections that I could not resolve with the opposing party despite  
12 reasonable efforts to do so. I have filed a copy of the objections I received and  
13 indicated which objections remain unresolved.

14  After conferring about objections, \_\_\_\_\_ agreed to independently file  
15 any remaining objection.

16  The relief sought is against an opposing party who has been found in default.

17  An order of default is being requested with this proposed judgment.

18  Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or  
19 otherwise.

20  This is a proposed judgment that includes an award of punitive damages and notice  
21 has been served on the Director of the Crime Victims' Assistance Section as required  
22 by subsection (4) of this rule.

23  Other: \_\_\_\_\_

24 **McCarthy & Holthus, LLP**

25 s/ Robert B. Hakari 2/22/2018

26 \_\_\_\_\_  
27 John Thomas OSB No. 024691

28 x Robert Hakari OSB No. 114082

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Of Attorneys for Plaintiff

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