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

KEYBANK NATIONAL ASSOCIATION, its
successors in interest and/or assigns,

Plaintiff,

vs.

UNKNOWN HEIRS OF ELIZABETH
LECLAIR AKA ELIZABETH E LECLAIR;
JOHN COOK; JUDY GHISELIN; JEAN
MCMAHAN; JANICE COOK; STATE OF
OREGON; AND OCCUPANTS OF THE
PREMISES,

Defendants.

Case No.: 15CV32639

WRIT OF EXECUTION IN
FORECLOSURE

TO THE JOSEPHINE COUNTY SHERIFF:

A Judgment of Foreclosure was entered and docketed in this case on 10/19/2017. A true copy of the Judgment is attached hereto. The Judgment was entered in favor of the Plaintiff:

KEYBANK NATIONAL ASSOCIATION
c/o Jeremy Clifford
Attorney for Plaintiff
McCarthy & Holthus, LLP
920 SW 3rd Ave, 1st Floor
Portland, OR 97204

1 With the adjudicated amount due of \$95,773.46, plus post judgment interest at the statutory rate
2 of 9.0% per annum from 10/19/2017 to 7/10/2018 in the amount of \$6,234.46, and continuing
3 with a per diem of \$23.62, currently totaling \$102,007.92.

4 **NOW, THEREFORE, IN THE NAME OF THE STATE OF OREGON**, you are
5 hereby commanded to sell, in the manner prescribed by law for the sale of real property on
6 execution (subject to redemption of 180 days), all of the interest that the Defendant had on or
7 about December 6, 2007, the date of the Deed of Trust, and also the interest that the Defendant
8 had thereafter, in the real property described as follows:

9 *Attached as Exhibit 1*

10 and commonly known as: 1281 E VIEW PL, GRANTS PASS, OR 97527.

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

16
17
18 JUL 24 2018

B. Aspinwall
Court Clerk



1 Dated: July 23, 2018 and submitted by:

2 **McCarthy & Holthus, LLP**

3 s/ Michael Scott

4 John Thomas OSB No. 024691

5 Jeremy Clifford OSB No. 142987

6 X Michael Scott OSB No. 973947

7 920 SW 3rd Ave, 1st Floor

8 Portland, OR 97204

9 Phone: (971) 201-3200

10 Fax: (971) 201-3202

11 jclifford@mccarthyholthus.com

12 Of Attorneys for Plaintiff

Exhibit 1

BEGINNING AT A POINT ON THE SOUTH LINE OF EAST VIEW SUBDIVISION, JOSEPHINE COUNTY, OREGON; THENCE SOUTH 89 DEGREES 40 MINUTES 28 SECONDS EAST OF AND 64.00 FEET DISTANT FROM THE SOUTHWEST CORNER OF LOT 5 OF SAID SUBDIVISION; THENCE NORTH 39 DEGREES 48 MINUTES 55 SECONDS EAST, 92.52 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF EAST VIEW PLACE; THENCE ALONG THE ARC OF 50.00 FOOT RADIUS CURVE TO THE LEFT, 86.82 FEET (THE LONG CHORD OF WHICH BEARS NORTH 80 DEGREES 04 MINUTES 24 SECONDS EAST 76.31 FEET); THENCE SOUTH 89 DEGREES 40 MINUTES 28 SECONDS EAST, 38.03 FEET; THENCE SOUTH 00 DEGREES 19 MINUTES 32 SECONDS WEST 84.98 FEET; THENCE NORTH 89 DEGREES 40 MINUTES 28 SECONDS WEST, 171.96 FEET TO THE POINT OF BEGINNING. EASEMENT AS DELINEATED OR DEDICATED ON THE RECORDED PLAT, FOR: UTILITY AND IRRIGATION AFFECTS: SOUTHERLY 10 FEET AN EASEMENT CREATED BY INSTRUMENT, INCLUDING THE TERMS AND PROVISIONS THEREOF, FOR: INSALLATION, MAINTENANCE AND REPAIR OF WATER AND ELECTRICAL LINES AND PUMP SYSTEM RECORDED: JULY 7, 1989 INSTRUMENT NO.: 89-09373 IN JOSEPHINE COUNTY, OREGON. "REVISED EASEMENT AND COMMON WELL AGREEMENT", INCLUDING THE TERMS AND PROVISIONS THEREOF, RECORDED: OCTOBER 4, 1989 INSTRUMENT NO.: 89-15019 RECORDS OF JOSEPHINE COUNTY, OREGON SITUATED IN THE COUNTY OF JOSEPHINE AND STATE OF OREGON. PERMANENT PARCEL NUMBER: R333786 FIRST AMERICAN ORDER NO: 35543371

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

KEYBANK NATIONAL ASSOCIATION, its
successors in interest and/or assigns,

Plaintiff,

v.

UNKNOWN HEIRS OF ELIZABETH
LECLAIR AKA ELIZABETH E LECLAIR;
JOHN COOK; JUDY GHISELIN; JEAN
MCMAHAN; JANICE COOK; STATE OF
OREGON; AND OCCUPANTS OF THE
PREMISES,

Defendants.

Case No. 15CV32639

GENERAL JUDGMENT

DEFAULT JUDGMENT FOR
DECLARATORY RELIEF AND DEED OF
TRUST FORECLOSURE AND SALE
AGAINST DEFENDANTS:

- 1) UNKNOWN HEIRS OF ELIZABETH
LECLAIR AKA ELIZABETH E LECLAIR;
- 2) JUDY GHISELIN;
- 3) JEAN MCMAHAN;
- 4) JANICE COOK;
- 5) STATE OF OREGON; AND
- 6) OCCUPANTS OF THE PREMISES

1.

Plaintiff KeyBank, National Association, its successors in interest and/or assigns ("Plaintiff"),
by and through its attorneys of record, RCO Legal, P.S. and Calvin Knickerbocker, files this General
Judgment for declaratory relief and deed of trust foreclosure by default against defendants Unknown
Heirs of Elizabeth Leclair aka Elizabeth E. Leclair; Judy Ghiselin; Jean McMahan; Janice Cook; State
of Oregon; and Occupants of the Premises ("Defendants").

2.

This matter coming regularly before the Court and it appearing from the record that Plaintiff
filed its Complaint for Deed of Trust Foreclosure and Sale and Declaratory Relief against Defendants;

1 that Defendants were duly served with the Summons and Complaint as required by law; that no answer
2 or responsive pleading was filed by Defendants and an Order of Default was entered against them; that
3 defendant John Cook filed an appearance in this matter, but the record shows that John Cook is
4 deceased upon the filing of a Statement of Death pursuant to ORCP 34 D, and the matter therefore
5 proceeds against Defendants with this General Judgment by default being submitted against them.
6

7 3.

8 This General Judgment is submitted in accordance with UTCR 5.100 (3)(b) and is supported by
9 the accompanied Declaration of Plaintiff.

10 4.

11 The Court having reviewed the supporting Declaration, records, and pleadings on file, being
12 fully advised in the premise, finding good cause exists so that this General Judgment may be entered
13 without further delay against Defendants, thereby resolving all claims raised against and remaining in
14 Plaintiff's Complaint, it is hereby
15

16 **ORDERED AND ADJUDGED:**

17 5.

18 That Plaintiff is awarded judgment on its Complaint for Declaratory Relief and Deed of Trust
19 Foreclosure and Sale against Defendants and composed thereof as follows:
20

21 6.

22 On Plaintiff's First Claim for Relief, Declaratory Relief, that the deed of trust dated December
23 6, 2007, executed and delivered by Elizabeth Leclair as grantor, for the benefit of KeyBank National
24 Association as beneficiary, and recorded in the Josephine County public real property records on
25 December 19, 2007 as Instrument No. 2007-023759 (the "Deed of Trust") is reformed by striking the
26

1 legal description of the real property contained within and replacing it with the following full and
2 correct legal description of the real property it so encumbers to be maintained in the real property
3 records of Josephine County:

4 BEGINNING AT A POINT ON THE SOUTH LINE OF EAST VIEW
5 SUBDIVISION, JOSEPHINE COUNTY, OREGON; THENCE SOUTH 89
6 DEGREES 40 MINUTES 28 SECONDS EAST OF AND 64.00 FEET
7 DISTANT FROM THE SOUTHWEST CORNER OF LOT 5 OF SAID
8 SUBDIVISION; THENCE NORTH 39 DEGREES 48 MINUTES 55
9 SECONDS EAST, 92.52 FEET TO THE SOUTHERLY RIGHT OF WAY
10 LINE OF EAST VIEW PLACE; THENCE ALONG THE ARC OF 50.00
11 FOOT RADIUS CURVE TO THE LEFT, 86.82 FEET (THE LONG CHORD
12 OF WHICH BEARS NORTH 80 DEGRESS 04 MINUTES 24 SECONDS
13 EAST 76.31 FEET); THENCE SOUTH 89 DEGREES 40 MINUTES 28
14 SECONDS EAST, 38.03 FEET; THENCE SOUTH 00 DEGREES 19
15 MINUTES 32 SECONDS WEST 84.98 FEET; THENCE NORTH 89
16 DEGREES 40 MINUTES 28 SECONDS WEST, 171.96 FEET TO THE
17 POINT OF BEGINNING. EASEMENT AS DELINEATED OR DEDICATED
18 ON THE RECORDED PLAT, FOR: UTILITY AND IRRIGATION AFFECTS:
19 SOUTHERLY 10 FEET AN EASEMENT CREATED BY INSTRUMENT,
INCLUDING THE TERMS AND PROVISIONS THEREOF, FOR:
INSALLATION, MAINTENANCE AND REPAIR OF WATER AND
ELECTRICAL LINES AND PUMP SYSTEM RECORDED: JULY 7, 1989
INSTRUMENT NO.: 89-09373 IN JOSEPHINE COUNTY, OREGON.
"REVISED EASEMENT AND COMMON WELL AGREEMENT",
INCLUDING THE TERMS AND PROVISIONS THEREOF, RECORDED:
OCTOBER 4, 1989 INSTRUMENT NO.: 89-15019 RECORDS OF
JOSEPHINE COUNTY, OREGON SITUATED IN THE COUNTY OF
JOSEPHINE AND STATE OF OREGON. PERMANENT PARCEL
NUMBER: R333786 FIRST AMERICAN ORDER NO: 35543371

20 and commonly known as 1281 East View Place, Grants Pass, Oregon 97527 ("Property").

21 7.

22 On Plaintiff's Second Claim for Relief, Judicial Foreclosure, that Plaintiff's Deed of Trust
23 is superior to any and all right, title, interest, claim, or lien held on and against the Property by
24 Defendants, their successors in interest and assigns, and that said Deed of Trust is hereby foreclosed by
25 this Court on and against the Property.
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8.

That Defendants, all of them, and all parties claiming by through or under them as purchasers, encumbrancers, or otherwise, are forever barred and foreclosed of all right, interest, lien, or claim in and against the Property and every portion thereof excepting any statutory right of redemption provided by the laws of the State of Oregon.

9.

Defendants are not entitled to a homestead exemption as against Plaintiff's Deed of Trust.

10.

That all of the right, title and interest which all of Defendants have, including all of the right, title and interest all of Defendants and any successor thereafter had in and to the 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 14 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; that no deficiency judgment is awarded Plaintiff and against Defendants, even for attorney fees and costs.

11.

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 14 herein, plus interest from the date of this Judgment until sale without advancing any cash except money required for the sheriff's sale.

12.

That 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

1 and enforcement of a writ of assistance, should Defendants refuse to surrender possession of the Property
2 immediately upon the purchaser's demand for possession.

3 13.

4 That Plaintiff is entitled to, and is hereby awarded its attorney fees and costs incurred in this
5 action, and that Plaintiff's attorney fees in the amount of \$2,681.50 and its litigation costs in the amount
6 of \$2,754.20, shall be, and are hereby declared additional amounts secured by and hereinafter shall be
7 made part of the amount of the debt secured by Plaintiff's Deed of Trust
8

9 **DECLARATION OF DEBT SECURED BY DEED OF TRUST**

10 **(Pursuant to Senate Bill 368)**

11 14.

12 Under the terms of the Deed of Trust and promissory note, there is now due and owing the
13 following amounts, to be hereinafter described as the Amount Due:
14

15 **Attorneys' Fees and Costs**

16 Attorneys' Fees		\$2,681.50
17 Title Report - Litigation Guarantee	\$613.00	
18 Filing Fee - Complaint	\$531.00	
19 Recording Fee - Lis Pendens	\$71.00	
20 Publication of Summons	\$794.20	
21 Process Service Fees	\$745.00	
	Total Costs	\$2,754.20
	Total Attorneys' Fees and Costs	\$5,435.70

22 **Lenders' Principal and Interest**

23 Principal Balance	\$84,995.74	
24 Accrued interest from February 3, 2015 to 25 October 6, 2016, the date calculated by the 26 declarant in the Declaration of Plaintiff at variable contract rate of interest.	\$4,594.22	
	Total Principal & Interest	\$89,589.96

1 **Lenders' Fees and Costs**

2 Accum. Late Charges \$415.80
3 BPO \$100.00
4 Property Preservation Fees \$82.00
5 Line of Credit Annual Fee \$99.00
6 Reconveyance Fee \$51.00

7 **Total Lenders' fees and costs: \$747.80**

8 **Total Lenders' Principal, Interest, Fees, and Costs: \$90,337.76**

9 **Total Amount Due \$95,773.46**

10 Additional pre-judgment interest to accrue pursuant to
11 ORS 18.042 from October 6, 2012 until the date of
12 entry of this judgment into the Court's register at the
13 variable contract rate of interest (\$7.52 per diem)


14 Post-Judgment interest thereafter at the contract rate
15 of interest, currently 2.99%, on the Total Amount
16 Due, or 9.00% per annum, whichever is greater.

Signed: 10/18/2017 02:03 PM

17 

18 **Circuit Court Judge Pat Wolke**

19 Presented by:
20 **RCO LEGAL, P.S.**

21 By  Dated: 10-3-2017

22 Calvin Knickerbocker, OSB # 050110
23 Attorneys for Plaintiff
24 511 SW 10th Ave., Ste. 400
25 Portland, OR 97205
26 (503) 977-7840, Fax (503) 977-7963
cknickerbocker@rcolegal.com

1 **CERTIFICATE OF UTCR 5.100 COMPLIANCE**

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


- 3 A. The order or judgment was served on the opposing counsel not less than 3 days prior to
4 submission to the court, or mailed to a self-represented party at the party's last known
5 address not less than 7 days prior to submission to the court with a notice of the time period
6 to object.
- 7 B. The order or judgment is accompanied by a stipulation by opposing counsel that no objection
8 exits as to the judgment or order.
- 9 C. The judgment or order is exempt from UTCR 5.100(1) because:
10 a. The judgment or order is a proposed order or judgment presented in open court with
11 the parties present.
12 b. The judgment or order is of a kind for which service is not required by statute, rule, or
13 otherwise;
14 c. The judgment is a proposed judgment after an order for default has already been
15 entered or is being simultaneously requested against the opposing party.
16 d. The proposed judgment is subject to UTCR 10.0099
17 e. The proposed judgment or order is an uncontested probate and protective proceeding.
18 f. This matter is certified to the court under ORS 416.422, 416.430, 416.435, or
19 416.448.
- 20 D. In compliance with UTCR 5.100(2)(b), the drafting party certifies the following as to why
21 the proposed judgment or order is ready for a judicial signature:
- 22 1. Each opposing party affected by this order or judgment has stipulated to the order or
23 judgment, as shown by each opposing party's signature on the document being submitted.
- 24 2. Each opposing party affected by this order or judgment has approved the order or judgment,
25 as shown by signature on the document being submitted or by written confirmation of
26 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. Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.

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5. 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 (5) of this rule.

6. Other: _____

Dated this 3 day of October 2017.

By, 
Calvin A Knickerbocker III, OSB #050110
cknickerbocker@rcolegal.com
Attorneys for Plaintiff
511 SW 10th Ave., Ste. 400
Portland, OR 97205
P: (503) 977-7840 F: (503) 977-7963