

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JANENE DICKSON and DANIEL  
DICKSON,

Plaintiffs,

Civ. No. 12-234-PA

**TEMPORARY RESTRAINING ORDER**

v.

BANK OF AMERICA NATIONAL  
ASSOCIATION and RECONTRUST  
COMPANY, N.A.,

Defendants.

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**PANNER, J.**

Plaintiffs seek an ex parte temporary restraining order to enjoin the foreclosure sale of their house. Plaintiffs allege the house is scheduled for a foreclosure sale on either February 16 or February 21, 2012, and that defendants have not complied with the legal requirements for a valid non-judicial foreclosure. Specifically, plaintiffs allege defendants failed to record all assignments of the trust deed in the county land records prior to initiating the foreclosure proceedings. In Oregon, a party initiating non-judicial foreclosure proceedings must record all assignments of the trust deed. ORS 86.735(1); Hooker v. Northwest

Trustee Services, Inc., 2011 WL 2119103, \*3 (D. Or. May 25)  
(citing Burgett v. MERS, 2010 WL 4282105, at \*2 (D. Or. Oct. 20)  
and In re McCoy, 2011 WL 477820, at \*3-4 (Bankr. D. Or. Feb. 7)).  
Plaintiffs allege MERS is listed as the beneficiary on the deed  
of trust at issue.

Because of the alleged imminent foreclosure sale, and  
because the presence of MERS demonstrates a high probability that  
defendants did not comply with the recording requirements of the  
Oregon Trust Deed Act, I grant plaintiffs' request for a  
temporary restraining order (#3). Defendants, and their officers,  
agents, etc..., and other persons in active concert or  
participation with defendants, who receive actual notice of this  
order, are restrained from conducting a foreclosure sale for the  
following property: 2151 Milford Road, Medford, Oregon, from this  
day until February 29, 2012, at 5:00 p.m. This court will hold a  
hearing on whether to issue a preliminary injunction at 8:30 a.m.  
on February 29, 2012, in the James A. Redden Courthouse in  
Medford.

IT IS SO ORDERED.

DATED this 15 day of February, 2012, at 10:00 a.m.



OWEN M. PANNER  
U.S. DISTRICT JUDGE