

Nevada Judicial Branch



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Mark Gibbons
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www.nevadajudiciary.us

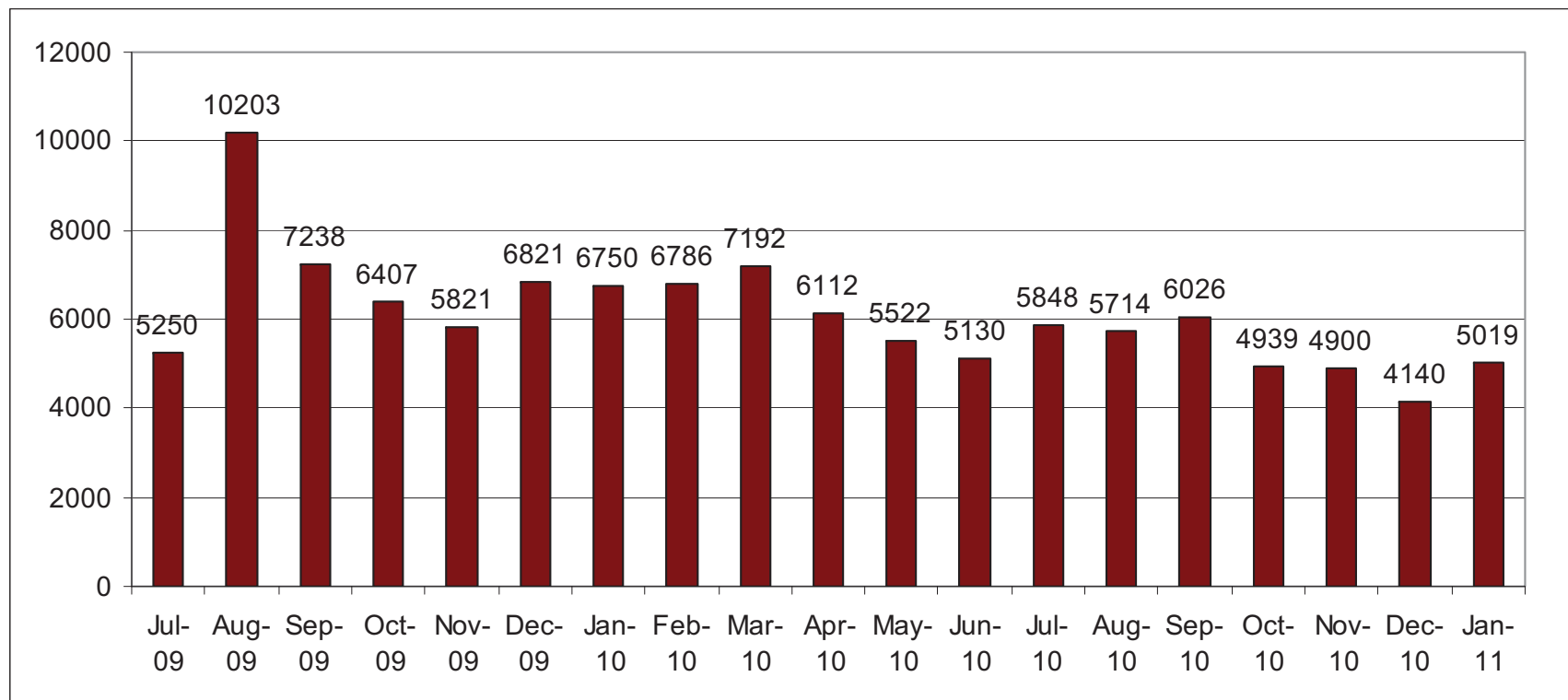
Phone: (702) 486-9382
Email: vcampbell@nvcourts.nv.gov



State of Nevada Foreclosure Mediation Program
February 2011

Verise V. Campbell, Deputy Director

Notices of Default (July 2009 - January 2011)



- Total NOD filings include all Residential, Commercial and Vacant Land properties in Nevada. HOA NODs are not included in this chart.
- County Recorders do not exclusively identify owner-occupied residential properties.

Source: Nevada's County Recorders

Program Creation

Nevada Assembly Bill 149

Passed by the Nevada Legislature during the 2009 Session

- AB 149 amended NRS 107.086, 107.087, Nevada's non-judicial foreclosure statutes
- Added a mediation requirement for owner-occupied residential properties located in Nevada. Program applicable to Notice of Default (NODs) and Elections to Sell recorded on or after July 1, 2009
- Certificate required on all owner-occupied residential properties in order for Trustee to complete foreclosure.

Purpose of AB 149

- To directly address the foreclosure crisis in Nevada
- Help keep families in their homes
- Provides forum for lenders and homeowners to discuss alternatives to foreclosure

Implementation

- **The Legislature designated the Administrative Office of the Nevada Supreme Court (AOC) as the administrative entity of the program.**

- **Program began operating on July 1, 2009 without:**
 - Staff
 - Rules
 - Forms
 - Funding
 - Offices
 - Equipment
 - Information Technology
 - Trained mediators

- **Initial startup funding provided by the AOC**
 - \$130,000 returned to AOC within first three months of operations (September 2009)

Locations and Staffing

(Program housed in existing AOC office space)

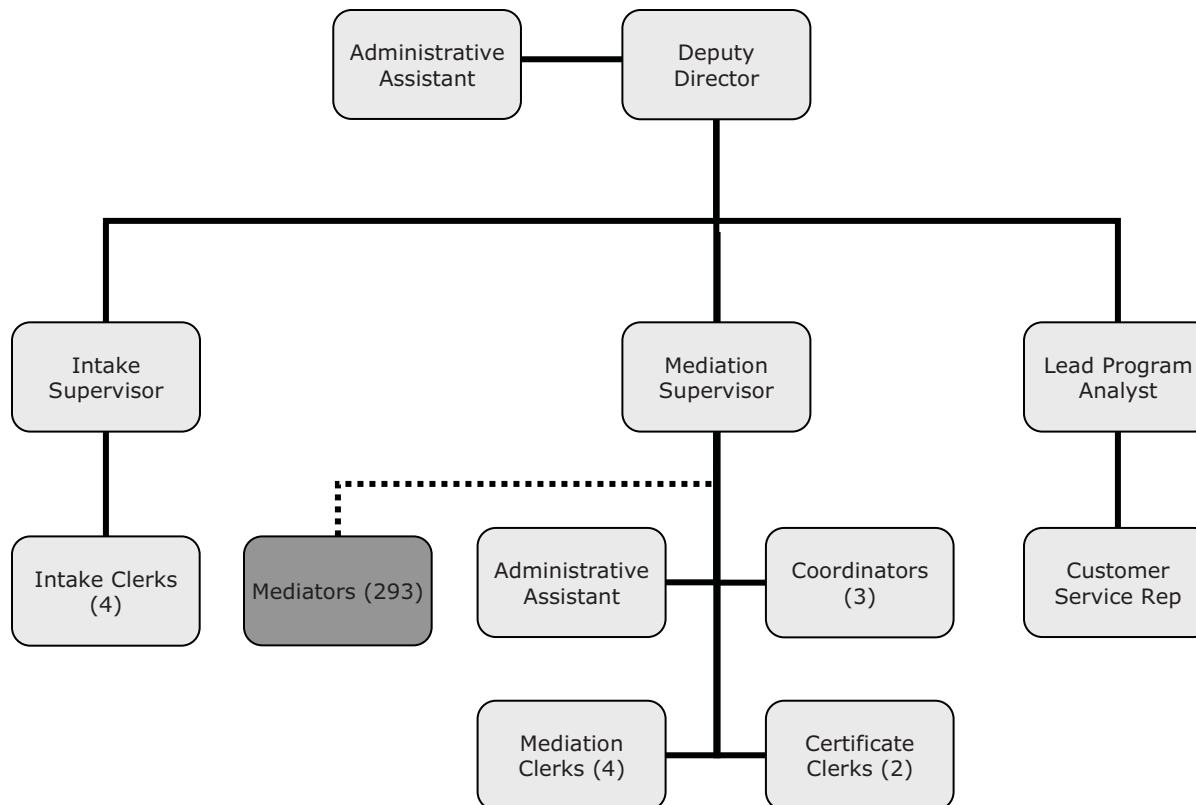
2 Locations

- Carson City
- Las Vegas

20 Staff Positions

- Carson City (5)
- Las Vegas (15)

293 Mediators



Program Participation*

- Homeowner elects to mediate or waives participation
- Lender is notified of homeowners intent to mediate
- Mediation is assigned to a trained mediator who facilitates the process of helping the parties come to a resolution
- Outcome of the mediation is memorialized in the Mediator's Statement

* For specific steps please see “Mediation Process Outline” provided as a handout.

Mediator Statement*

- Mediator reports outcome of mediation back to the program by way of a Mediator's Statement
- If an agreement is reached, it is noted in detail within the Mediator's Statement.
 - Loan modification agreements allow homeowner to stay in home.
 - Agreements to relinquish the property results in a certificate to foreclose.
 - In some cases, however, an agreement is not reached.

* A sample copy of the Mediator's Statement has been provided as a handout.

Mediator Role

- Mediators serve at the pleasure of the Nevada Supreme Court and are independent appointees (not court employees)
 - The program is a community-service tool
- The mediator is in charge of the *process*
- The parties are in charge of the *outcome*
- Mediators stress process over agreement; assist parties in finding and analyzing options; and report outcomes to the program.

Mediator Training

- Training
 - Initial three-day training focused on legislative intent, program rules, mediation skills, foreclosure process and alternatives to foreclosure such as loan modifications, government programs and relinquish-the-home alternatives such as short sales, cash for keys and deed in lieu
 - Co-mediation required before assignments
 - Continuing education throughout the year

- Training Partners
 - Nevada Foreclosure Prevention Task Force
 - Housing and Urban Development (HUD)
 - United Trustee Association
 - Clark County Neighborhood Justice Center
 - FreddieMac
 - FannieMae
 - FDIC

Benefits of Foreclosure Mediation

- **Cost Effective – No Tax \$\$\$**
 - Other than the NOD recording fee (paid by lender*), lender and homeowner equally share the cost of the \$400 mediation fee

- **Quick**
 - 4 Hour mediation sessions
 - Mediation must conclude within 135 days of FMP receiving required documentation and fees from homeowners and lenders

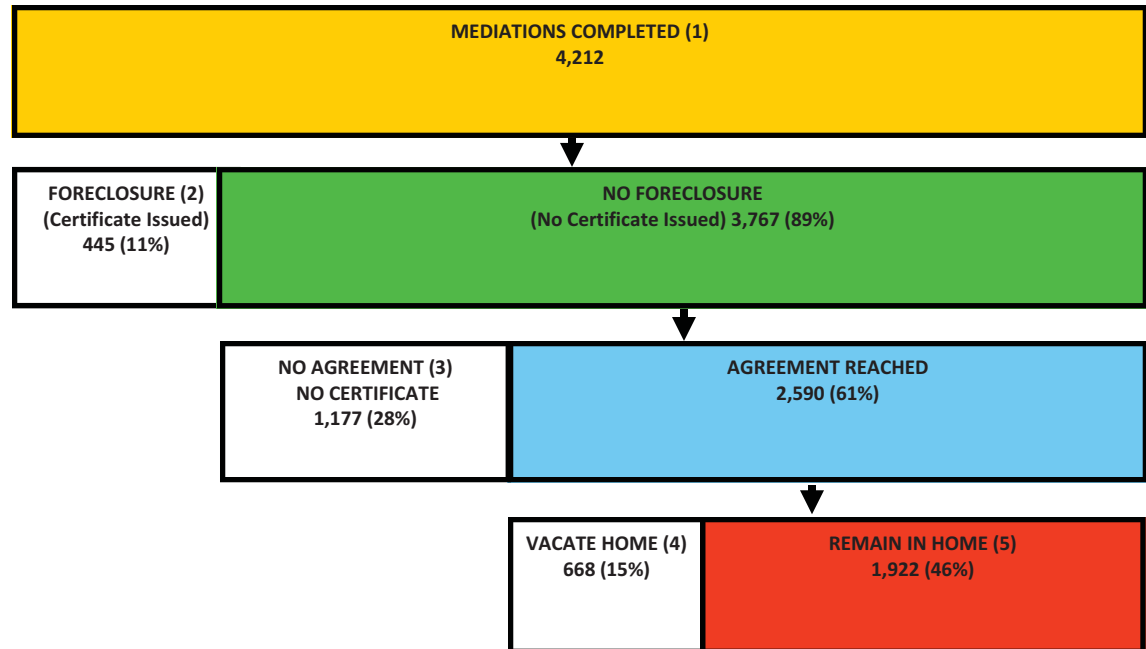
- **Efficient**
 - Decision makers must be present
 - Participate in good faith
 - Necessary documents and fees required from both parties prior to mediation

* A fee of \$200 is charged on ALL Notices of Default and Elections to Sell; approx. \$50 is applied to the FMP; approx. \$150 goes to the State General Fund (counties may take up to 1.5% of \$200 fee for processing).

FY 2010 OUTCOME STATS

September 14, 2009 through June 30, 2010*

- **6,164** Mediations Assigned
- **4,212** Mediations Completed
- **89%** of Mediations Completed Resulted in No Foreclosure
- **46%** of Mediations Completed Resulted in Homeowners Remaining in Home
- **15%** of Mediations Completed Resulted in Homeowner's Vacating the Home



1) Mediations held September 14, 2009– June 30, 2010.
 2) Grantor (Homeowner) did not appear, had no authority or did not bring all documentation required; or both Grantor & Beneficiary did not appear, had no authority or did not bring all documentation required.
 3) Beneficiary (Lender) did not appear, had no authority or did not bring all documentation required.
 4) Homeowners agreed to vacate home during mediation.
 5) Homeowners agreed to remain in home during mediation.

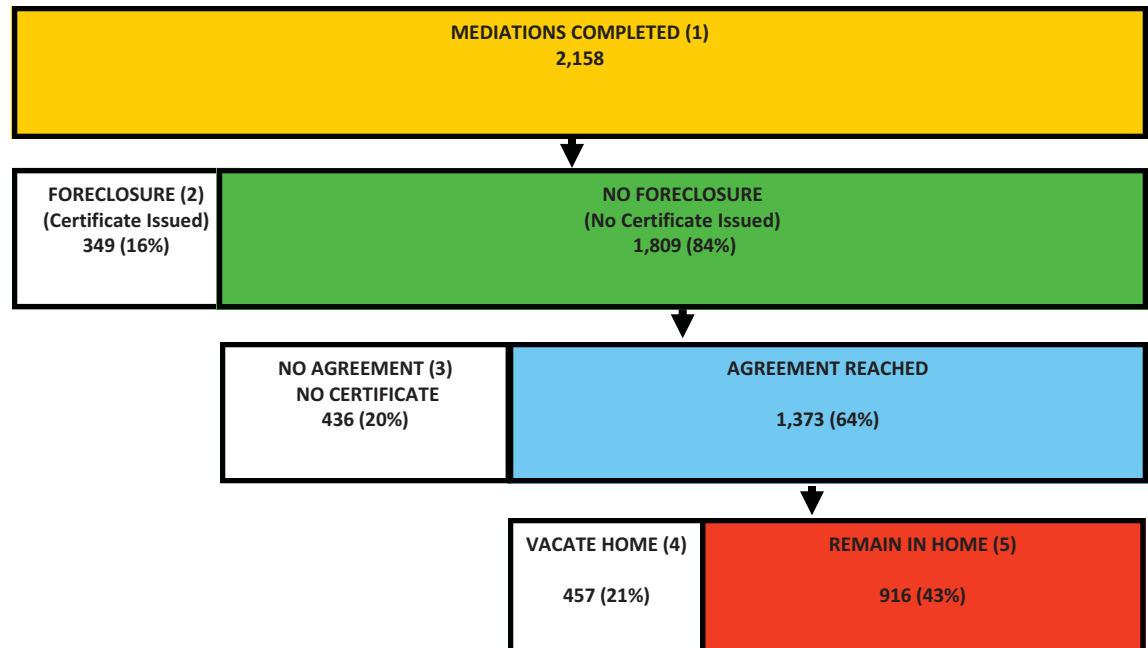
*Reflects end of the year activity totals as of September 3, 2010.

G11

1ST Quarter FY 2011 OUTCOME STATS

July 1, 2010 through September 30, 2010*

- 2,611 Mediations Assigned
- 2,158 Mediations Completed
- 84% of Mediations Completed Resulted in No Foreclosure
- 43% of Mediations Completed Resulted in Homeowners Remaining in Home
- 21% of Mediations Completed Resulted in Homeowner's Vacating the Home



1) Mediations held July 1 – September 30, 2010.

2) Grantor (Homeowner) did not appear, had no authority or did not bring all documentation required; or both Grantor & Beneficiary did not appear, had no authority or did not bring all documentation required.

3) Beneficiary (Lender) did not appear, had no authority or did not bring all documentation required.

4) Homeowners agreed to vacate home during mediation.

5) Homeowners agreed to remain in home during mediation.

*Reflects end of quarter activity totals as of December 6, 2010.

Grants

- Focus on Educating Public
 - \$300,000 earmarked each year for projects providing information about the foreclosure process and community assistance.
 - Four non-profit groups awarded grants in FY2011
 - Legal Aid Center of Southern Nevada
 - Ask-A-Lawyer Program – Civil Law Self-Help Center, Las Vegas
 - Foreclosure mediation education classes
 - Washoe County Senior Law Project
 - Outreach video
 - Nevada Legal Services
 - Community education
 - Consumer Credit Counseling Services of Nevada
 - Homeowner counseling

Customer Survey

- 80% of participants felt the foreclosure mediation process was “fair and impartial.”
- 67% of participants felt foreclosure mediation was better than adjudication.
- 57% of participants indicated satisfaction with the agreement reached at mediation.
- 53% of participants rated the program “Excellent” in Customer Service.*

503 participants completed survey between January – December 2010

* Answered by only 405 of participants completing survey

Public Hearings*

■ Issues

- Lack of resolution
- Lenders failure to provide paperwork
- Too few options offered by lender
- Lack of lender participation
- Lack of education of homeowners
- Program too paper-centric. Needs to be accessible via electronic filing and electronic payment

■ Outcomes

- Rules readily modified to improve efficiency and effectiveness of the program
- Public comments from stakeholders help shape program rules, processes and procedures
- New rules published February 16, 2011 authorize the creation of an official advisory board for the program

* Please see “Current Rules” as a handout

Program Highlights*

- **Invited by Vice President Joe Biden to participate in Middle Class Task Force meeting (Nov. 19, 2010).**
 - Invited as a “Foreclosure Mediation Program – Best Practices State”
 - Strengthening Foreclosure Mediation programs across the country

- **Presentations:**
 - United Trustee Association
 - City of Las Vegas Foreclosure Prevention Summit
 - HUD Assistance Fair
 - Reno-Sparks Association of Realtors[©]
 - Greater Las Vegas Association of Realtors[©]
 - Bank of America
 - Wells Fargo

* Please see “Middle Class Task Force” handout

Other States

- **Legislative Initiatives:**

- Other states are considering AB 149 as model legislation for their FMP initiatives, including most recently:
 - Washington
 - Utah
 - Hawaii

- **Also Contacted By:**

- | | |
|---------------|-----------------|
| ▪ California | ▪ New Hampshire |
| ▪ Connecticut | ▪ New Jersey |
| ▪ Delaware | ▪ New Mexico |
| ▪ Florida | ▪ Ohio |
| ▪ Idaho | ▪ Pennsylvania |
| ▪ Indiana | ▪ Vermont |
| ▪ Maine | ▪ Wisconsin |

At least 26 others states have some form of foreclosure mediation

Next Steps

- Detailed Statistical Reporting
- Document Management System
- E-filing/E-payment
- Stakeholder Web Portal
- Advisory Board



Foreclosure Mediation Factsheet

The Nevada Foreclosure Mediation Program (FMP) was created by the 2009 Legislature to directly address the foreclosure crisis in Nevada. Created by Assembly Bill 149, the program provides homeowners and lenders with an opportunity to discuss alternatives to foreclosure. AB 149 amended NRS 107.080 and 107.086.

Why Mediate?

Foreclosure mediation is fast, inexpensive and cost effective. Through give-and-take, homeowners and lenders, with the assistance of a trained mediator, seek a mutually acceptable resolution to a mutual dilemma. By working together to explore various options, agreements are often reached that benefit both sides and avoid foreclosure.

Advantages



Foreclosure mediation allows homeowners to sit down with a lender and talk about alternatives to foreclosure. Under the Nevada Foreclosure Mediation Program (FMP), lender representatives who attend mediations must have the authority to negotiate and modify the terms of a loan. This improves chances that a homeowner and a lender can reach an agreement that avoids foreclosure. Mediations often result in loan modification, a short sale agreement or other resolution.

In the first year of the program, 46-percent of mediation agreements resulted in homeowners remaining in their homes.

Rules

Rules passed by the Nevada Supreme Court provide for orderly, timely, and cost-effective mediations. Under the program rules, mediations must take place within 135 days of the homeowner's request for mediation, the submission of fees by both parties, and the production of required documentation by the lender and homeowner.

When mediation is scheduled, the lender must have someone present (either in person or by telephone) who has the authority to modify the terms of the loan. The mediator must approve participation via telephone prior to the date of the mediation. Homeowners must also appear and may have a representative who is an attorney licensed to practice in Nevada, a foreclosure or loan modification professional licensed under NRS 645F.310, or a U.S. Department of Housing and Urban Development (HUD) approved housing counselor employed by HUD-Approved Housing Counseling Agencies. Both the homeowner and lender must mediate in good faith.

Eligibility

The FMP applies to residential properties located in Nevada that are owner-occupied and the primary residence of the owners. Additional eligibility requirements include a Notice of Default (NOD) and Election to Sell that was filed with the County Recorder on or after July 1, 2009. Homeowners that received a NOD prior to July 1, 2009 and meet the other requirements listed above may opt into the program upon written agreement with their lender.

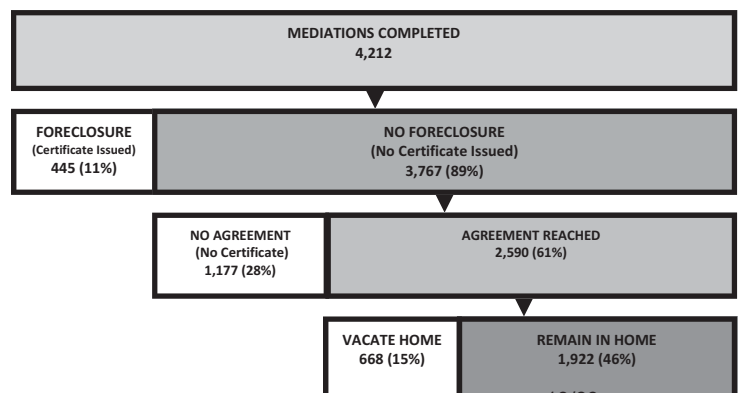
Homeowner Requirements

The eligible homeowner has thirty (30) days after receiving the notice of default to request mediation by completing the Election/Waiver Form and submitting the non-refundable mediation fee of \$200 together with the required Financial Statement and Housing Affordability Worksheet to the FMP as a packet. The Election/Waiver Form and instructions, as well as the Financial Statement and Housing Affordability Worksheet should be included in a packet when the lender serves the NOD upon the homeowner. Homeowners must mail a copy of the Election/Waiver Form to the Lender's Trustee by certified or registered mail, return receipt requested. All other forms and documentation such as the Financial Statement and Housing Affordability Worksheet, as well as required information listed on the Financial Statement (i.e. tax return, bank statements, pay stubs, and profit and loss statements) must be submitted to the mediator at least ten (10) days prior to the date of the mediation. The Homeowner must also submit a confidential non-binding proposal to the mediator to resolve the foreclosure.

Lender Requirements

Upon receipt of the completed Election/Waiver Form the homeowner, the lender has ten (10) days to submit the required Trustee Information Form; recorded copy of the NOD and the required \$200 fee. Upon notice that a homeowner has elected to participate in the FMP, lenders must participate in good faith in the mediation. Lenders must provide the following documentation to the mediator and homeowner at least 10 days prior to the mediation: original or certified copy of the deed of trust; mortgage note; and each assignment of the deed of trust and mortgage note. Additional required documentation include: an appraisal and/or a Broker's Price Opinion (with prior approval by the mediator) dated not more than sixty (60) days from the date of the mediation; a confidential proposal to resolve the foreclosure; and the evaluative method used to determine eligibility/non-eligibility for a loan modification. The non-binding proposal and evaluative methodology should be provided to the mediator under confidential cover. Any delay by the lender will extend the time it takes for the mediation to be held.

Results of Mediations FY 2010 (July 2009–June 2010)



* Report reflects results compiled on September 3, 2010



Mediation Costs

Other than a filing fee paid by the lender upon the filing of a Notice of Default (NOD), the cost of mediation is \$400, shared equally by the homeowner and the lender. Parties must pay their \$200 mediation fee prior to the scheduling of a mediation. Homeowners must initiate the mediation process within 30 days of receiving a NOD by certified or registered mail.

Mediation Scheduling

Once a homeowner elects to participate in mediation, the mediation will be calendared to take place within 135 days from the date of receipt of funds from the Lender. The Mediator will contact the Homeowner and Lender to schedule the mediation. Within ten (10) days after the conclusion of the mediation, the Mediator will file his/her Mediator Statement with the FMP. Copies of the Mediator Statement will be forwarded to the Lender, Homeowner and their respective representatives.

Petition for Judicial Review

If not satisfied with the outcome of the mediation, the Lender or the Homeowner may file a Petition for Judicial Review. The Petition for Judicial Review must be filed within thirty (30) days of receipt of the mediator's statement. Petitions must be filed with the District Court in the county where the notice of default originated.

Forms

The required homeowner and lender documents can be found on the Nevada Foreclosure Mediation Program website at www.foreclosuremediationnv.org. Homeowner financial documents and Lender-certified loan documents must be provided to the mediator in advance of a mediation. The mediator may request additional forms and documents prior to the start of a mediation.

Agreements

The parties may agree to modify a loan on a permanent or temporary basis, or the homeowner may agree to relinquish the home. All agreements must be in writing and signed by the parties. Temporary agreements must indicate an expiration or vacate date.

If the Homeowner or the Lender fails to fulfill the obligations of the agreement, either party may file a Petition for Judicial Review with thirty (30) days following the expiration or vacate date of the agreement.

Program Results

The program has successfully brought homeowners together with lenders to directly address the foreclosure crisis and to enable families to remain in their homes. In the program's first year, between July 1, 2009 and June 30, 2010, a total of 4,212 homeowners participated in mediations. Out of the total number of mediations, 89-percent did not result in foreclosure and 46-percent resulted in a loan modification or other agreement for the homeowner to remain in the home.

Additional Information

Additional information about the State of Nevada Foreclosure Mediation Program may be obtained at www.foreclosuremediationnv.org. Individuals may also call the program at (702) 486-9380 in Southern Nevada, (775) 687-9816 in Carson City, or (888) 421-3004 toll free outside the 702 area code.

Mediating a foreclosure action is fast, inexpensive, and offers a flexibility that more formal processes do not offer.

STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM

200 Lewis Avenue, 17th Floor
Las Vegas, NV 89101

201 S. Carson St., Suite 109
Carson City, NV 89701

(702) 486-9380
(775) 687-9816
(888) 421-3004 toll free outside 702 area code

NVFMP@nvcourts.nv.gov



Foreclosure Mediation Resources

The Nevada Foreclosure Mediation Program has partnered with many Agencies and Non-Profit Organizations to provide free resources and help. The following programs and resources will answer many questions and help you become better prepared:

Free Foreclosure Mediation Classes

- *What is Foreclosure?*
- *How the Foreclosure Process Works.*
- *What to Expect in Mediation.*
- *How to Make Your Best Case for Loan Modification, Short Sale or Other Resolution.*
- *Free Legal Information Manual, including forms, samples and legal information.*

Las Vegas:

- William S. Boyd School of Law on the campus of UNLV. Call (702) 386-1070 ext. 155 for weekly class schedule. Visit www.lacsn.org for more information.
- West Las Vegas Public Library. Call (702) 386-0404, ext. 511 for bi-monthly class schedule. For more information visit www.nevadalegalservices.org.

Reno:

- Reno Senior Center, 1155 E. 9th Street. Call (775) 328-2592 for weekly class schedule. For more information visit www.washoecounty.us/seniorsrv/legal.htm.
- Nevada Legal Services, 650 Tahoe Street. Call (775) 284-3491 for monthly class schedule. For more information visit www.nevadalegalservices.org.

Rural Nevada:

- Monthly classes are held throughout the rural counties of Nevada. Call (877) 693-2163 for a schedule of times and locations.

HUD-Approved Housing Counseling Agencies

Free loan modification and foreclosure mediation counseling

- Auriton Solutions - Henderson, (888) 697-7980, www.auritonnew.org
- Community Services of Nevada - Las Vegas, (702) 307-1710, www.csnv.org
- Consumer Credit Counseling Services - Las Vegas, (702) 364-0344, www.ccsnevada.org
- Consumer Credit Counseling Services - Henderson, (702) 364-0344, www.ccsnevada.org
- Consumer Credit Counseling Services - Carson City, (800) 451-4505, www.ccsnevada.org
- Housing for Nevada - Las Vegas, (702) 270-0300, www.housingfornevada.org
- NACA - Las Vegas, (702) 362-6199, www.naca.com
- Nevada Legal Services - Statewide, (877) 693-2163, www.nevadalegalservices.org.
- NID-HCA - Las Vegas, (702) 228-1975, www.nidonline.org
- Springboard - Henderson, (800) 947-3752, www.credit.org
- Women's Development Center - Las Vegas, (702) 796-7770, www.wdclv.org

Free Legal Representation

- *Foreclosure Legal Information*
- *Low-Income Legal Representation.*
- *Advice and Counsel from Volunteer Attorneys.*

Las Vegas:

- Legal Aid Center of Southern Nevada. Call (702) 386-1070 ext. 155, or visit www.lacsn.org.
- Nevada Legal Services. Call (702) 386-0404, ext. 511, or visit www.nevadalegalservices.org.

Reno:

- Washoe County Senior Law Project. Call (775) 328-2592, or visit www.washoecounty.us/seniorsrv/legal.htm.
- Nevada Legal Services. Call (775) 284-3491, or visit www.nevadalegalservices.org.

Carson City:

- Nevada Legal Services. Call (775) 883-0404, or visit www.nevadalegalservices.org.

Elko:

- Nevada Legal Services. Call (775) 753-5880, or visit www.nevadalegalservices.org.

Other Legal Resources

- State Bar of Nevada Lawyer Referral Service. Call (702) 382-0504 or (800) 789-5747, or visit www.nvbar.org.

Ask-A-Lawyer Program

Staff and volunteer attorneys at the Civil Law Self-Help Center, 200 Lewis Ave., Las Vegas, are available to answer questions about the Nevada Foreclosure Mediation Program.

For more information about how to sign-up for the Ask-A-Lawyer program, visit the Civil Law Self-Help Center or www.lacsn.org.

Useful Websites

- foreclosuremediationnv.org
- foreclosurehelp.nv.gov
- hud.gov
- makinghomeaffordable.gov
- nahac.org
- stopnvforeclosures.org

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State of Nevada
FORECLOSURE MEDIATION PROGRAM

MEDIATION PROCESS OUTLINE

1. Homeowner goes into Default
2. Notice of Default and Election to Sell
 - Recorded with the County Recorder (this starts the foreclosure process).
 - Copy is sent to the Homeowner via certified or registered mail
3. Election/Waiver of Mediation
 - The Election/Waiver Form is sent to the homeowner with the Notice of Default, along with a blank Financial Statement and a blank Housing Affordability Form.
 - Homeowner has 30 days to return the completed Election/Waiver Form, Financial Statement and Housing Affordability Form, in addition to the \$200 fee to the FMP
 - Homeowner also sends a copy of all the completed forms to the Trustee
4. FMP notifies Trustee of Homeowner's election for mediation and requests Trustees' Information Form, a recorded copy of the Notice of Default and the \$200 fee from the Lender
5. Trustee Notifies Lender and other interested parties of the request for mediation.
6. Upon receipt of all required documents from the Homeowner and the Trustee/Lender, the FMP assigns a mediator.
7. Mediator contacts both the Lender and the Homeowner.
8. Mediation Scheduling Notice is sent by the Mediator to the parties.
9. Lender and Homeowner exchange documents at least 10 days prior to the mediation.
10. Mediation is conducted, and Mediation Agreement is signed by the parties if a resolution is reached.
11. Mediator issues a Mediator's Statement and Agreement to the parties, files the originals with the FMP, and submits billing.
12. FMP reviews the Mediator's Statement to determine if a Certificate to proceed to foreclosure should be issued.
13. The lender or homeowner may file a Petition for Judicial Review with the District Court 30 days after a mediator statement is signed, or 30 days after the end date of an agreement or vacate date if parties agree the homeowner will relinquish the home.

STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM
MEDIATOR STATEMENT

PART 1: SIGN-IN SHEET

APN: _____

Mediator:	Name: _____ Print _____ Contact Info.: _____ Email _____ Telephone # _____
Homeowner(s) (Grantor):	Name: _____ Print _____ Signature _____ Contact Info.: _____ Email _____ Telephone # _____ Participated: <input type="checkbox"/> In Person <input type="checkbox"/> By Telephone
Homeowner(s) (Grantor):	Name: _____ Print _____ Signature _____ Contact Info.: _____ Email _____ Telephone # _____ Participated: <input type="checkbox"/> In Person <input type="checkbox"/> By Telephone
Homeowner Atty. or Rep:	Name: _____ Print _____ Signature _____ Contact Info.: _____ Email _____ Telephone # _____ Participated: <input type="checkbox"/> In Person <input type="checkbox"/> By Telephone
NV Bar/NRS 645F License #	
Lender (Beneficiary):	Name: _____ Print _____ Signature _____ Contact Info.: _____ Email _____ Telephone # _____ Participated: <input type="checkbox"/> In Person <input type="checkbox"/> By Telephone
Lender Atty. or Rep:	Name: _____ Print _____ Signature _____ Contact Info.: _____ Email _____ Telephone # _____ Participated: <input type="checkbox"/> In Person <input type="checkbox"/> By Telephone
NV Bar/NRS 645F License #	
Other:	Name: _____ Print _____ Signature _____ Contact Info.: _____ Email _____ Telephone # _____ Participated: <input type="checkbox"/> In Person <input type="checkbox"/> By Telephone

If needed, a separate sheet may be utilized for additional attendees.

The attending parties are signing this sheet only to memorialize their presence at the mediation. If an agreement is reached, the parties will be requested by the mediator to execute the agreement section of this Mediator Statement, which will outline the basic terms agreed upon at mediation. Neither the mediator nor the mediation administrator may be compelled to testify in any subsequent proceedings regarding the contents of an agreement.

STATE OF NEVADA
 FORECLOSURE MEDIATION PROGRAM
MEDIATOR STATEMENT

HOMEOWNER'S NAME: _____	BENEFICIARY: _____
CO-OWNER'S NAME: _____	TRUSTEE: _____
ASSESSOR PARCEL NUMBER (APN) _____	TS # _____
PROPERTY ADDRESS _____	Loan # _____
	DoT Doc # _____
	Book #: _____ Page # _____ Inst # _____

- **If no mediation is held:** Please ensure the Mediation Summary, Mediation Certification and Mailing Certification (Parts 2, 2A & 4) are completed.
- **If no agreement is reached:** please ensure the Attending Parties, Mediation Summary, Mediator Certification and Mailing Certification (Parts 1, 2, 2A & 4) are completed.
- **If an agreement is reached by the parties:** please ensure **all applicable parts** of this form are attached.

PART 2: MEDIATION SUMMARY (Please check all that apply)

- A Foreclosure Mediation was held on: _____
- A Foreclosure Mediation was **not** held (Explain): _____
- Parties came to an agreement prior to mediation (Explain): _____

The Mediator files the following report of the mediation (please check all that apply):

- The parties resolved this matter. If this box is marked, please complete **PART 3: MEDIATION AGREEMENT**.
- The parties participated but were unable to agree to a loan modification or make other arrangements.
- Lender (Beneficiary or designated representative) failed to attend the mediation.
- Lender (Beneficiary or designated representative) failed to bring to the mediation each document required. Please specify which document(s) were not provided: _____

- Lender (Beneficiary or designated representative) did not have the authority to fully negotiate and modify the loan.
- Lender (Beneficiary or designated representative) failed to participate in good faith. Please explain: _____

- Homeowner (grantor or person who holds the title of record) failed to attend the mediation.
- Homeowner (grantor or person who holds the title of record) failed to bring to the mediation each document required. Please specify which document(s) were not provided: _____

- Homeowner (grantor or person who holds the title of record) failed to participate in good faith. Please explain: _____

- Other: _____

STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM
MEDIATOR STATEMENT

PART 2A: MEDIATOR CERTIFICATION

The Mediator hereby certifies, under the penalty of perjury, that the foregoing is true and accurate of the proceedings as required by NRS Chapter 107.

DATED this _____ day of _____, 20____.

Mediator Signature: _____

Print Name: _____

STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM
MEDIATOR STATEMENT

All documents and discussions presented during the mediation are confidential except in an action for Judicial Review as set forth in the applicable State of Nevada Foreclosure Mediation Rules and NRS Chapter 107.

PART 3: MEDIATION AGREEMENT (Sections A-G)

THE PARTIES AGREED TO THE FOLLOWING (Please Check all that apply):

A. RETAIN THE HOME

- 1. Reinstatement
- 2. Repayment Plan
- 3. Extension
- 4. ARM to Fixed Rate
- 5. Amortization Extended
- 6. Interest Rate Reduction
- 7. Principal Forbearance
- 8. Other Forbearance
- 9. Principal Reduction
- 10. Refinance
- 11. Temporary Modification
Expiration Date : _____
- 12. Permanent Modification
- 13. Short payoff: \$ _____
When: _____
Conditions: _____
- 14. Gov't. Program: _____
- 15. Other: _____

B. RELINQUISH THE HOME

- 1. Deed in Lieu of Foreclosure
- 2. Short Sale
- 3. Voluntary Surrender
- 4. Cash for Keys \$ _____
When: _____
Conditions: _____
- 5. Gov't. Program: _____
- 6. Other: _____

C. DETAILS

- Lender/Beneficiary will report the loan as paid in current status effective as of: _____
- Treatment of arrearages: _____
- Waiver of Fees and Penalties: _____
- Other treatment of fees/costs (list and outline details): _____
- Rescind Notice of Default: _____

D. THE FOLLOWING TERMS REMAIN UNCHANGED (Please check all that apply.)

- The balance due as shown on beneficiary's books, which is _____
- The interest rate stated in the original Note, which is _____
- The loan term stated in the original Note, which is _____

STATE OF NEVADA
 FORECLOSURE MEDIATION PROGRAM
MEDIATOR STATEMENT

E. LOAN MODIFICATION (Please complete all that apply)

	Temporary Modification	Permanent Modification
1. Loan Balance	Total loan balance shall be modified to \$ _____ Effective date _____	Total loan balance shall be modified to: \$ _____ Effective date: _____
2. Interest Rate	Period 1 a. Interest rate will be temporarily modified to ___% b. Effective as of _____ c. For the Period of _____ months Period 2 a. Interest rate will be temporarily modified to ___% b. Effective as of _____ c. For the Period of _____ months *	Period 1 a. Interest rate will be temporarily modified to ___% b. Effective as of _____ c. For the Period of _____ months Period 2 a. Interest rate will be temporarily modified to ___% b. Effective as of _____ c. For the Period of _____ months*
3. Loan Term	There are _____ monthly payments remaining as of _____ Begin Date: _____ End Date: _____	There are _____ monthly payments remaining as of _____ Begin Date: _____ End Date: _____
4. Payment	Resulting initial payment: \$ _____ Principal & Interest: \$ _____ Escrow: \$ _____ Total: _____	Resulting initial payment: \$ _____ Principal & Interest: \$ _____ Escrow: \$ _____ Total: _____

5. Fees & Costs	The aforementioned loan balance includes fees & costs for temporary and permanent modifications as follows:	
	Incurred	Waived
	Interest \$ _____	Interest \$ _____
	Costs \$ _____	Costs \$ _____
	Fees \$ _____	Fees \$ _____
	Other \$ _____	Other \$ _____
	TOTAL: \$ _____	TOTAL: \$ _____

Other: _____

Comments: _____

*If additional Periods agreed upon by the parties, please indicate on a separate sheet and attached hereto.

STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM
MEDIATOR STATEMENT

F. DEFICIENCY & TAX LIABILITY

Please be advised that the mediator is not permitted to provide any legal or tax advice to the parties on any issues related to the mediation or the terms of any potential settlement agreement. It is suggested that the parties contact a licensed professional of their choice for legal or tax advice related to this mediation and any potential settlement.

1. Deficiency:

The settlement agreement will include a provision waiving any deficiency resulting from recovery by the Trustee/Beneficiary of less than the full amount the Trustee/Beneficiary claims now to be due on the loan.

Comments: _____

2. Other deficiency and/or tax liability terms not mentioned above:

Additional terms, details are as follows: _____

3. Is this agreement contingent upon the signing of other documents and/or forms (i.e. updated financial information; tax returns, divorce decree, etc.)?

If yes, please provide a detailed list and/or attach: _____

STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM
MEDIATOR STATEMENT

G. SIGNATURE OF PARTIES

IN WITNESS WHEREOF, each of the participants in this mediation has executed this mediation agreement on the date set forth. The parties agree to separately prepare and execute the documents necessary to accomplish the terms of this agreement.

Date _____
Homeowner (Grantor)

Date _____
Homeowner (Grantor)

Date _____
Homeowner's Attorney/Representative

Date _____
Lender (Beneficiary)

Date _____
Lender's Attorney/Representative

Date _____
Other (Please specify relationship to Lender or Homeowner)

Date _____
Other (Please specify relationship to Lender or Homeowner)

STATE OF NEVADA
FORECLOSURE MEDIATION PROGRAM
MEDIATOR STATEMENT

PART 4: MAILING CERTIFICATION

I hereby certify that I served the foregoing Mediator Statement on the _____ day of _____, 20____, by placing true and correct copies thereof in the U.S. mail, postage prepaid, addressed to the following:

Homeowner (Grantor):

Homeowner's Attorney/Representative:

Trustee:

Trustee's Attorney/ Representative:

Lender (Beneficiary):

Lender's Attorney/Representative:

Other:

Other:

Signature: _____

Print Name: _____

Title: _____

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ADOPTION
OF RULES FOR FORECLOSURE
MEDIATION

ADKT No. 435

FILED

FEB 16 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER AMENDING FORECLOSURE MEDIATION RULES

WHEREAS, on June 30, 2009, this court adopted rules for the foreclosure mediation program established by AB 149, and has subsequently amended those rules as necessary, and

WHEREAS, this court held a public hearing to consider further amendments to the rules on December 6, 2010, and

WHEREAS, this court has concluded that further amendment of the rules is warranted, accordingly

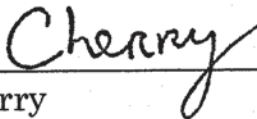
IT IS HEREBY ORDERED that the Foreclosure Mediation Rules are amended as set forth in Exhibit A.


IT IS FURTHER ORDERED that these amendments shall be effective March 1, 2011. The clerk of this court shall cause a notice of entry of this order to be published in the State Bar of Nevada's official publication. The clerk shall publish this order by disseminating copies of it to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court that she has accomplished the above-described publication of notice of entry and dissemination of

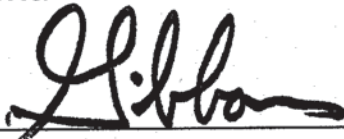
this order shall be conclusive evidence of the adoption and publication of the foregoing rule amendment.

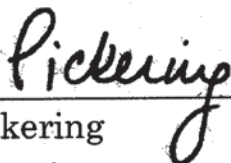
Dated this 16th day of February, 2011.

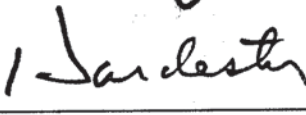
, C.J.
Douglas

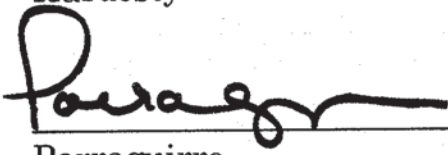
, J.
Cherry

, J.
Saitta

, J.
Gibbons

, J.
Pickering

, J.
Hardesty

, J.
Parraguirre

cc: Hon. Brian Sandoval, Governor
Senator Steven Horsford
Senator Mike McGinness
Assemblyman John Ocegüera
All District Court Judges
Cam Ferenbach, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Board of Governors, State Bar of Nevada
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Nevada Justice Association
Legal Aid Center of Southern Nevada
Nevada Legal Services
Washoe Legal Services
Volunteer Attorneys for Rural Nevadans
Nevada Association of Counties
Nevada Bankers Association
Nevada Land Title Association
Administrative Office of the Courts

EXHIBIT A

AMENDED FORECLOSURE MEDIATION RULES

I. SCOPE OF RULES

Rule 1. The State of Nevada Foreclosure Mediation Program.

1. *Authority and scope.* Pursuant to the jurisdictional authority provided by Chapter 107 of the Nevada Revised Statutes and the Nevada Supreme Court's inherent power to create rules for the efficient administration of justice, these rules are enacted to apply to the mediation of any owner-occupied residential foreclosure arising from the recording of a notice of default and election to sell on or after July 1, 2009.

2. *Purpose.* The purpose of these rules is to provide for the orderly, timely, and cost-effective mediation of owner-occupied residential foreclosures which shall take place within 135 days following actual receipt by the Administrator, or designee, of the mediation fee and required documentation provided on behalf of the lender. The State of Nevada Foreclosure Mediation Program (hereafter referred to as the Foreclosure Mediation Program) encourages deed of trust beneficiaries (lenders) and homeowners (borrowers) to exchange information and proposals that may avoid foreclosure.

3. *Availability of program.* Subject to limited exceptions set forth in ~~[Rule 5]~~ Rule 8.5 hereafter, the Foreclosure Mediation Program is mandatory when the grantor or person who holds title of record of an owner-occupied residence timely requests mediation.

4. *Time.* For purposes of calculating time under these rules, 6(a) and 6(e) of the Nevada Rules of Civil Procedure (NRCP) shall apply. These rules, as amended, apply to all mediations that have not yet been conducted by the mediator.

5. *Recording.* ~~[Rule 8.6 The parties are prohibited from recording the mediation session for purposes for making a record for judicial review.]~~ The mediation session(s) shall not be recorded.

Rule 2. Mediation Administrator and Designee.

1. *Appointment.* The Foreclosure Mediation Program Administrator (Administrator) shall be appointed by the Nevada Supreme Court (Court). The Administrator for the Foreclosure Mediation Program (Program) is the Administrative Office of the Courts (AOC).

2. *Authority.* The Administrator may appoint a Foreclosure Mediation Program Manager and support staff to assist in carrying out the goals and objectives of the Foreclosure Mediation Program. When the efficient administration of the program warrants, the Administrator may enter into contracts with third parties for training and other mediation-related services.

3. *Foreclosure Mediation Program Manager.* The Foreclosure Mediation Program Manager (FMP Manager) is the "designee" for the Administrator under these rules. In addition to his or her general duties, the FMP Manager shall:

(a) Ensure all program-approved forms are in compliance with these rules. The FMP Manager may reject any program-approved form substantially altered by a borrower, lender, trustee, or mediator and require resubmission on the appropriate program-approved form; **[and]**

(b) Receive all affidavits and issue all certificates as may be required herein;
and

(c) Take any action necessary to correct "clerical errors" in the Certificate arising from oversight or omission for which the mediator or FMP staff is responsible.

Rule 3. Presiding Mediator.

1. *Authority.* A foreclosure mediation must be conducted by either a senior judge, Supreme Court settlement conference judge, or other person designated by the Supreme Court. The presiding mediator shall have all requisite authority to conduct the foreclosure mediation. The mediator shall schedule each mediation to commence within 45 days of receipt of the assignment and shall notify the Administrator, or designee, of the outcome of each mediation.

2. *Assignment of presiding mediator.* No later than 10 days after receipt of the Election for Mediation, and the fees from both parties pursuant to ~~[Rules 5 (6) and 16]~~ Rules 5 and 8.2 herein, the Administrator or designee shall randomly select and assign from the applicable geographic area a mediator to preside over the mediation. The assigned mediator will have 2 business days after receiving the assignment to determine and notify the Administrator or designee of a conflict requiring his or her recusal. Upon such notification, the Administrator or designee shall immediately and randomly select another mediator to conduct the mediation. The Administrator or designee may direct a mediator to cluster several mediations for a lender. Upon final selection of a mediator, the Administrator, or designee, shall send notice of the assignment to the parties.

3. *Panel of mediators.* The Administrator or designee shall maintain a list of mediators by geographic area available to hear foreclosure mediations. The list shall include all senior judges, Supreme Court settlement conference judges, and other persons who are appointed by the Court to serve as presiding mediators in the Foreclosure Mediation Program and are qualified pursuant to subsection 4 herein.

4. Mediator qualifications.

(a) Mediators must meet the following minimum qualifications:

(1) Be licensed to practice law in the State of Nevada; or

(2) Be an experienced mediator. For purposes of this subsection, an experienced mediator shall mean an individual who has participated in a mediation training program consisting of at least 40 hours of classroom and role playing and has conducted 10 mediations as a co-mediator or sole mediator.

(b) Additionally, all mediators must participate in a training program of at least 4 hours consisting of education in mortgages, deeds of trust, promissory notes, loan modifications, Nevada foreclosure laws, and such other topics as determined necessary by the Court.

(c) The Court, for good cause shown, may waive the minimum requirements set forth herein.

5. *Appointment of mediators.*

(a) The Administrator or designee shall solicit and provide the Court with the names and qualifications of persons who have applied to become mediators. The Court shall approve, deny, or continue the applicant's request to serve as a mediator. The term of appointment shall be 1 year.

(b) ~~[The Administrator or designee shall receive all affidavits and issue all certificates as may be required herein.]~~ The list of Court-approved mediators shall be maintained by the Administrator.

Rule 4. Mediator Conduct, Disqualification, Recusal, Suspension and Termination

1. Any mediator appointed pursuant to these rules is subject to Canon 1, Canon 2, Rules 2.1 through 2.9, 2.11, and 2.13 through 2.16; and Canon 3, Rules 3.1, 3.3, 3.5, 3.6, and 3.9 of the Nevada Code of Judicial Conduct as adopted or amended by the Supreme Court of Nevada.

2. A mediator who has a personal or past or present significant professional relationship with any of the parties or a financial interest in the matter of the mediation shall immediately recuse himself or herself as a mediator in the particular case. Any mediator who has received material concerning a party that is designated confidential under Rules 11.8 and/or 11.9 may not undertake representation adverse to that party in connection with a mediation under this program for a period of 90 days after the mediation, unless the party providing the confidential material waives this rule. In no event may a mediator, at any time, use confidential information provided to him or her as a mediator under Rules 11.8 and/or 11.9 in the later representation of a party to a mediation.

3. Mediators serve at the pleasure of the Court ~~[. Upon the recommendation of the Administrator, the]~~ and the Court may suspend or revoke the appointment of a mediator at any time. The suspension or revocation is effective immediately. The FMP Manager has authority to take any action necessary to accommodate the parties affected by such action(s).

4. The Administrator or designee may suspend or terminate a mediator from the program without cause at any time and may recommend to the court revocation or suspension of the appointment. Any suspension of a mediator by the Administrator or designee is limited to a maximum of 60 days.

[Rule 16.] Rule 5. Fees for Presiding Mediators.

1. Mediators shall be compensated in the amount of \$400, ~~[paid equally by the parties unless otherwise stipulated.]~~ with \$200 of the fee to be paid by the

owner-occupant (as defined in Rule 7), and \$200 to be paid by the lender, unless otherwise stipulated. Each party must pay its respective ~~[\$200]~~ \$200 fee at the entry point into the Foreclosure Mediation Program. ~~[The payments are nonrefundable.]~~ Payment by the grantor or person who holds title of record must occur by cashier check~~[,]~~ or money order made ~~[out]~~ payable to the "State of Nevada Foreclosure Mediation Program," or, when available, electronic payment, or from an attorney's trust account ~~[and be made directly to the Administrator, or designee.]~~ and be made payable to the "State of Nevada Foreclosure Mediation Program."

2. An assigned mediator who recuses from participation at any time may not be compensated.

~~[2]~~ 3. If a grantor makes payment directly to a trustee, the trustee shall immediately forward the payment, whether made in cash, by check, cashier's check, or money order, to the Administrator, or designee, together with the beneficiary of the deed of trust's payment of fees. However, if the payment to the trustee is made payable to the trustee, the trustee shall immediately deposit the funds in its account and submit the payment to the Administrator, or designee, together with the beneficiary of the deed of trust's portion of the fees.

4. For those limited situations where a refund may be appropriate, the Administrator shall establish refund policies and procedures.

~~[Rule 17.]~~ **Rule 6. Deposits; Failure to Pay.** If a party to a mediation fails to pay the \$200 toward the mediator's fee, the mediation may be terminated and relief awarded to the nondefaulting party, as may be deemed appropriate.

II. PARTICIPATION IN THE FORECLOSURE MEDIATION PROGRAM

~~[Rule 5.]~~ **Rule 7. Eligibility for the Foreclosure Mediation Program.**

1. The program applies to any grantor or person (homeowner) who holds the title of record and is the owner-occupant of a residence as to which a notice of default and election to sell has been recorded on or after July 1, 2009. For purposes of these rules, an owner-occupant includes the trustee of a revocable or irrevocable trust if the trustor or a beneficiary of that trust resides in the residence at the time of the recordation of the notice of default and election to sell. In such event, the trustee of the trust or his authorized representative shall represent the owner-occupant at the mediation and must execute all documents and forms required of owner-occupants by these rules.

2. "Owner-occupied housing" means housing that is occupied by an owner as his or her primary residence. This term does not include any time-share or other property regulated under NRS Chapter 119A, and/or a foreclosure initiated by a homeowner's association under NRS Chapter 116.

3. A Certificate from the Administrator or designee must be recorded prior to a trustee's sale being conducted on any owner-occupied housing. The Certificate may be requested by the trustee and, if requested, may be issued by the

Administrator or designee on any residential property for which a request for mediation was not filed. However, there is no requirement that a Certificate be issued and recorded prior to a trustee's sale being conducted on any type of property other than owner-occupied housing. Any program-issued certificate is considered confidential until recorded.

Rule 8. Notice of Default and Election to Mediate.

[5]1. Any trustee or other person presenting a notice of default and election to sell for recording in the Office of a County Recorder shall, not later than 10 days from presenting the Notice of Default for filing, send by certified or registered mail, return receipt requested, to the grantor or person who holds title of record of an owner-occupied residence, in addition to the documents required to be sent to the homeowner under NRS 107.080, ~~[two]~~ 2 copies of the Election of Mediation and instructions, on a form provided by the Administrator or designee with the information indicated on the form to be provided by the trustee filled in. The trustee must also provide the grantor with one copy of the following forms: (i) a Financial Statement; and (ii) a Housing Affordability Worksheet, which forms have been pre-approved by the Administrator, or designee, of the Program. In addition, the trustee must also provide the grantor with two envelopes: one preaddressed to the Administrator, or designee, and the other pre-addressed to the trustee.

2. The mediation process under these rules shall be initiated by the preparation and delivery of an Election of Mediation by a grantor or person who holds title of record of an owner-occupied residence on "forms" provided by the Administrator or designee and payment of the fee required by ~~[Rule 16]~~ Rule 5 herein.

(a) The eligible participant shall, not later than 30 days after the service upon him or her in the manner required by NRS 107.080 of the notice of default and election to sell, complete the Election/Waiver of Mediation Form. If the eligible participant elects to mediate through the Program, they must also complete and submit the Financial Statement and the Housing Affordability Worksheet. The eligible participant must deliver these documents to the Administrator or designee together with the fees required under ~~[Rule 16]~~ Rule 5, within the 30 day period.

(b) The eligible participant shall also mail a copy of the Election/Waiver of Mediation to the trustee, by certified or registered mail, return receipt requested.

(c) As soon as the Administrator or designee receives an Election/Waiver of Mediation from an eligible participant, the Administrator or designee will notify the trustee of the receipt, including whether any fees were paid by the participant.

(d) The trustee shall, within 10 days of notice of the receipt of the Election of Mediation, deposit with the Administrator, or designee, the signed Election of Mediation, if the trustee has received a copy; a copy of the trustee's Information on a form provided by the Administrator or designee including the name and address of the beneficiary of the deed of trust; a copy of the recorded Notice of Default; and the fees required in ~~[Rule 16]~~ Rule 5 herein, including any fees received from the grantor. Any delay by the trustee in providing the required documents and

information to the Administrator or designee, shall extend the time for mediation set forth in Rule 1.2.

3. If grantors or persons who hold the title of record have timely elected to participate in the program and the trustee presents a Rescission of a Notice of Default and Election to Sell for recording in the Office of a County Recorder, the lender must obtain the written agreement of grantors or persons who hold title of record to stop the mediation from proceeding. The lender shall, within 10 days of the recording of the Rescission, deposit with the Administrator, or designee, the signed agreement between the lender and grantors or persons who hold title of record to withdraw from the Foreclosure Mediation Program process together with a copy of the recorded rescission. Should the Administrator not receive the signed agreement within the time provided, the mediation process will continue as provided herein.

4. Failure by any eligible participant to timely deliver an Election of Mediation to the Administrator or designee or to attend and participate at a mediation scheduled under these rules shall result in the Administrator issuing a certificate stating no mediation is required, and that a foreclosure sale may be noticed according to law.

5. All grantors or persons who hold the title of record who have timely elected to participate in the program may do so and are herein referenced as the eligible participants, except where:

(a) The grantor or the person who holds title of record has previously surrendered the real property that is the subject of the foreclosure proceedings, as evidenced by a letter signed by the grantor or the person who holds title of record confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust, or the mortgagee, or an authorized agent of any of these recipients; or

(b) A petition in bankruptcy under Chapters 7, 11, 12, or 13 of Title 11 of the United States Code has been filed with respect to the grantor or the person who holds title of record on or after July 1, 2009, and the bankruptcy court has not entered an order closing or dismissing the case, or granting relief from the automatic stay of the foreclosure.

[Rule 7.] Rule 9. Option for Inclusion.

1. For any owner-occupied property located in Nevada where a Notice of Default is recorded prior to July 1, 2009, the grantor or person who holds the title of record (eligible participant) and the beneficiary of the deed of trust may agree in writing to enter the Foreclosure Mediation Program governed by NRS Chapter 107 and these rules. Notice and a copy of the **[agreement] option for inclusion letter signed by both parties** must be provided to the Administrator or designee.

2. If the Administrator or designee in his or her discretion accepts the **[stipulation] option for inclusion letter** for mediation, he or she will notify the parties who shall, within 10 days, forward the fees required in **[Rule 16] Rule 5** herein to the Administrator or designee. Upon acceptance of the **[mediation]**

written stipulation and receipt of the required fees, the Administrator or designee shall appoint a mediator and the mediation process shall be conducted consistent with these rules.

[Rule 5.] Rule 10. Representation

1. Both parties to a mediation should appear in person. However, a party may be represented by another person, subject to certain limitations, as follows:

(a) Beneficiary (lender). All beneficiaries of a deed of trust sought to be foreclosed against an eligible participant who has timely delivered an Election of Mediation shall participate in the Foreclosure Mediation Program, be represented at all times during a mediation by a person or persons who have the authority to negotiate and modify the loan secured by the deed of trust sought to be foreclosed. A beneficiary or its representative shall be physically present, or, if approved by the mediator in advance, and for good cause shown, may participate in the mediation by phone. In addition to the documents required in Rule ~~[8]~~ 11 herein, the beneficiary must bring to the mediation the original or a certified copy of the deed of trust, the mortgage note, and each assignment of the deed of trust and each endorsement of the mortgage note.

(b) Eligible Participant (borrower). A borrower may also request that a representative accompany him or her and/or appear for him or her at the mediation. However, the borrower's representative must be either (i) an attorney who is licensed to practice law in Nevada, and/or (ii) a person who is licensed to provide services as described in NRS Chapter 645F.310, or (iii) a U.S. Department of Housing and Urban Development (HUD) approved housing counselor employed by HUD certified Housing Counseling Agencies. The mediator may request that the borrower's representative provide proof of these requirements.

(c) An eligible participant may represent him or herself. In any circumstance where the eligible participant retains representation, his or her representative must meet the qualifications provided in Rule 10.1(a) and (b).

(d) An eligible participant may give power of attorney to someone else to represent them in mediation. If an eligible participant gives a power of attorney to someone to represent them in mediation and if that person is receiving any form of compensation, including commissions or fees associated with the sale or transfer of the property, then they must meet the qualifications provided in Rule 10.1(a) and (b).

III. REQUIRED MEDIATION DOCUMENTS

[Rule 8.] Rule 11. Documents to Be Presented for the Mediation.

1. ~~[In addition to the documents set forth in Rule 5, the]~~ The parties shall ~~[prepare such papers and]~~ provide to the mediator, and ~~[exchange the items required to be exchanged with each]~~ exchange with [each] the other party the required documents using the most expeditious method available, at least 10 days prior to the mediation, ~~[and such other documents or estimates as the~~

~~mediator may later direct, but which at a minimum shall include the following:]~~ The mediator may request additional documents or estimates, which may be required by the lender for a party to participate in a government program. These documents at a minimum shall include the following, as outlined in Rules 11.2, 11.3 and 11.4:

2. The homeowner shall prepare and submit ~~[a Financial Statement and Housing Affordability Worksheet to include the information set forth in forms provided by the Administrator, or designee, and in accordance with Rule 5(6)(a) herein:]~~ to the mediator and provide to the lender the following documents:

(a) Financial Statement Form;

(b) Housing Affordability Form;

(c) Confidential Proposal document to resolve the foreclosure as provided in Rule 11.9.

3. The trustee or beneficiary of the deed of trust must prepare and submit the following documents to the mediator:

(a) The original or a certified copy of the deed of trust, the mortgage note, and each assignment of the deed of trust and each endorsement of the mortgage note that satisfies the requirements provided in Rule 11.4 or 11.5.

(b) Appraisal and/or Brokers Price Opinion (BPO) not more than 60 days old (prior to the date of mediation) that satisfies the requirements provided in Rule 11.6 and/or 11.7.

(c) Evaluative Methodology used to determine eligibility or no eligibility of the homeowner for a loan modification as provided in Rule 11.8.

(d) Confidential Proposal document to resolve the foreclosure as provided in Rule 11.9.

4. ~~[For purposes of this rule, a]~~ The requirement for a certified copy of the original mortgage note, deed of trust, and each assignment of the deed of trust and each endorsement of the mortgage note is only satisfied when the mediator receives a statement under oath signed before a notary public pursuant to the provisions of NRS 240.1655(2), which includes:

(a) The name, address, capacity, and authority of the person making the certification;

(b) The person making the certification is in actual possession of the original mortgage note, deed of trust, and each assignment of the mortgage note and deed of trust; and

(c) The attached copy of the mortgage note, deed of trust, and each assignment of the mortgage note and deed of trust are a true and correct copy of the original mortgage note, deed of trust, and assignment of the deed of trust in the possession of the person making the certification.

(d) The certification shall contain the original signature of the certifying party and the original seal and signature of the notary public. Each certified document must contain a separate certification.

5. In the event of the loss or destruction of the original mortgage note, deed of trust, or assignment of the mortgage note or deed of trust, the mediator shall recognize a judicial order entered pursuant to NRS 104.3309 providing for the enforcement of a lost, destroyed, or stolen instrument.

6. The beneficiary of the deed of trust or its representative shall produce an appraisal done no more than 60 days before the commencement date of the mediation with respect to the real property that is the subject of the notice of default and shall prepare an estimate of the "short sale" value of the residence that it may be willing to consider as a part of the negotiation if loan modification is not agreed upon.

7. The mediator may, at his or her discretion, accept a Broker's Price Opinion letter (BPO) in addition to or in lieu of the appraisal described in this rule. In that case, the BPO must comply with the provisions of NRS 645.2515.

8. ~~[Additionally]~~ The beneficiary of the deed of trust shall, under confidential cover, provide to the mediator the evaluative methodology used in determining the eligibility or noneligibility of the grantor or the person who holds the title of record for a loan modification.

9. Both parties to the mediation shall prepare and submit to the mediator in writing under confidential cover a nonbinding proposal for resolving the foreclosure.

IV. MEDIATION PROCEDURES

~~[Rule 13.]~~ Rule 12. Location of Mediation.

1. The presiding mediator shall designate the date, time, and place for the mediation ~~[in coordination]~~ after coordinating with the parties and then shall notify the parties in writing and forward a copy of the Mediation Scheduling Notice to the Administrator, or designee.

2. Upon request from the presiding mediator, the Program ~~[Manager]~~ Administrator or designee shall assist in determining a suitable location for the mediation.

~~[Rule 5.9 & 11.]~~ Rule 13. Calendaring.

1. ~~[Unless extended for good cause by the presiding mediator, the mediation shall be concluded within 135 days following actual receipt by the Administrator, or designee, of the mediation fee and required documentation provided on behalf of the lender.]~~ Unless otherwise stipulated by the parties and approved by the presiding mediator, or for good cause shown, a mediation will be calendared to conclude ~~[on the 135th day]~~ within 135 days following actual receipt by the Administrator, or designee, of the mediation fee and required documentation provided on behalf of the lender. Upon the completion of the mediation, the mediator shall prepare the Mediator's Statement in accordance with Rule ~~14~~ 17 herein.

2. Mediators shall schedule each mediation for a minimum of 4 hours. Unless extended by the presiding mediator, the parties will be allowed up to 4 hours to present and conclude the mediation.

3. The mediator may conduct more than one mediation in a day, but in no case shall the mediator conduct more than 3 mediations in a day without express written approval by the Administrator or designee. Mediations shall take place between the hours of 8 a.m. and 5 p.m. Pacific Standard Time (PST), Monday through Friday (excluding legal holidays), unless otherwise agreed upon to by the parties.

[Rule 12.] Rule 14. Continuances.

1. No request for a continuance of a mediation scheduled in the Foreclosure Mediation Program may be granted, except upon a showing of extraordinary circumstances, or upon a written agreement of the parties and the mediator. Notice of such agreement shall be provided by facsimile, electronic mail, and/or regular mail.

2. ~~[Absent a written agreement as provided herein,]~~ A request for a continuance must be in writing and served on the presiding mediator and opposing party. ~~[and set forth the extraordinary circumstances with particularity.]~~ The request must set forth the extraordinary circumstances with particularity. A ruling by the presiding mediator granting a continuance must state the nature of the extraordinary circumstances and provide at least 3 dates within the ensuing 10 days when the parties can conduct the mediation. The presiding mediator will then calendar the case for mediation on one of the specified dates and provide the Administrator, or designee, with notice of the new mediation date and the reasons for the granting of the continuance. Conflicts in the schedule of counsel shall not constitute extraordinary circumstances.

[Rule 9.] Rule 15. Settlement/Resolution Before Mediation.

In the event the foreclosure issues are resolved before the scheduled mediation, the parties must, no later than 2 business days prior to the scheduled mediation date, advise the mediator of their settlement. Any settlement will not result in the refund of fees.

[Rule 10.] Rule 16. Temporary [Modification] Agreements; Expiration Date

1. The parties may enter into a temporary modification agreement to modify any term(s) of the loan agreement as a result of mediation under these rules. Temporary agreements include those where the owner-occupant agrees to retain the home or relinquish the home after a measurable time frame. The temporary **[modification]** agreement must be in writing and signed by the parties. The temporary **[modification]** agreement must also include an "expiration date." The expiration date is a date certain, and upon which the parties shall have complied with their obligations under the agreement.

2. Any agreement to relinquish the home must include a date or measureable time frame for the borrower to vacate the premises (e.g., "Vacate 10 days after the foreclosure sale"). The date or measureable time frame, so identified shall be herein referenced as the "Vacate Date." The Administrator may issue the certificate on the day following the vacate date. Nothing herein prevents a party from invoking Rule 21.

3. If either party to a temporary modification agreement described in this rule fails to fulfill the obligations of that agreement, the aggrieved party may file a petition for judicial review as set forth in ~~[Rule 6]~~ Rule 21 herein. The petition must be filed within ~~[15]~~ 30 days following the expiration date of the temporary modification agreement, and regardless of whether the mediation has been concluded.

~~[Rule 14.]~~ **Rule 17. Mediator's Statement.**

~~[1. Unless extended by the presiding mediator, the parties will be allowed up to 4 hours to present and conclude the mediation.]~~

~~[2.]~~ Within 10 days after the conclusion of the mediation, the mediator must file with the Administrator, or designee, ~~[and serve on all parties a copy of the Mediator's Statement]~~ on the form provided by the Administrator, or designee, the original Mediator's Statement. [and provide a courtesy copy of the Statement to the trustee by regular mail, email, or facsimile.] The Mediator's Statement must include a true and correct copy of any agreement, including a temporary ~~[modification]~~ agreement, entered into between the parties during mediation. A copy of the Mediator's Statement and agreement must be served on all parties, at the conclusion of mediation or by regular mail, email or facsimile. A courtesy copy must be provided to the trustee by regular mail, email or facsimile.

~~[Rule 15.]~~ **Rule 18. Interpreter Services.**

1. Any party requiring interpreter services is responsible for contacting, scheduling, and ensuring an interpreter is present for the mediation. The interpreter's compensation is the responsibility of the party requesting the service.

2. The Administrator or designee shall maintain a list of interpreters qualified to interpret in mediations. The list must be made available to the presiding mediator and parties.

~~[Rule 18.]~~ **Rule 19. Confidentiality.**

1. All documents and discussions presented during the mediation shall be deemed confidential and inadmissible in any subsequent actions or proceedings, *except* in an action for judicial review according to these rules. In that case, non-privileged evidence submitted for mediation is discoverable to the extent that it is relevant to a determination of bad faith, enforceability of agreements made between parties within the Program, including temporary ~~[modification]~~ agreements, and appropriate sanctions pursuant to NRS Chapter 107, as amended.

2. Nothing contained herein shall prevent the disclosure of such limited information by the mediator or parties as required by NRS Chapter 107.

[Rule 19.] Rule 20. Facsimiles.

A facsimile of the Administrator, or designee's signature for purposes of filing Foreclosure Mediation Program documents with the County Recorder, may be accepted as an original.

[Rule 6.] Rule 21. Petition for Judicial Review.

1. A party to the mediation may file a petition for judicial review with the district court in the county where the notice of default was properly recorded. A hearing shall be held, to the extent that the court deems necessary, for the limited purposes of determining bad faith, enforcing agreements made between the parties within the Program, including temporary **[modification]** agreements, and determining appropriate sanctions pursuant to NRS Chapter 107 as amended.

2. All such petitions shall be filed within ~~[15]~~ 30 days of the date ~~[of actual receipt of]~~ that the party to mediation received the Mediator's Statement, ~~[and]~~ The Mediator's Statement shall be reviewed by the district court within 60 days of the service of the petition in accordance with the Nevada Rules of Civil Procedure, NRS Chapter 107, and any local rule or administrative order adopted by a judicial district to adjudicate such petitions.

3. Petitions for judicial review shall be served on any party and/or person appearing at the mediation on behalf of a party, by certified or registered mail, return receipt requested.

4. A petition for judicial review that names the Administrator as a respondent must be served upon the Administrator at the Administrative Office of the Courts, 201 South Carson Street, Carson City, Nevada 89701, by certified or registered mail, return receipt requested.

5. Proceedings in the district court on a petition for judicial review shall be conducted de novo.

6. Upon receipt of notice of the filing of a petition for judicial review by the Administrator, and until final resolution of that action, the Administrator, or designee, shall refrain from taking any action which will adversely affect any party to the mediation.

7. The District Court Clerk shall provide to the Administrator or designee a copy of any Petition for Judicial Review and disposition thereof filed in accordance with these rules, within 10 days of the filing of such pleading or disposition. Also, the District Court Clerk may provide electronic access to these records for the Administrator or designee.

Rule 22. Advisory Committee on the Foreclosure Mediation Program.

1. There is hereby created the Advisory Committee on the Foreclosure Mediation Program. The Committee, which shall be appointed by the Nevada Supreme Court, shall consist of:

(a) The Foreclosure Mediation Program Manager, who shall serve as the Committee's chair;

(b) Two persons who serve as mediators in the Foreclosure Mediation Program;

(c) One person who is a representative of an organization or association that conducts business as a title company or serves as a trustee on deeds of trust;

(d) Two persons who regularly conduct residential mortgage lending in the State of Nevada;

(e) Two persons who have previously participated in the Foreclosure Mediation Program as owner-occupants of a residence;

(f) Two persons who are attorneys licensed in the State of Nevada and who regularly represent lenders in the Foreclosure Mediation Program;

(g) Two persons who are attorneys licensed in the State of Nevada and who regularly represent owner-occupants in the Foreclosure Mediation Program; and

(h) Two persons who are licensed real estate agents in the State of Nevada.

2. Each appointed member serves a term of 1 year. Members may be reappointed for additional terms of 1 year in the same manner as the original appointments. Any vacancy occurring in the membership of the Committee must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

3. The Committee shall meet at least once every 2 months and may meet at such further times as deemed necessary by the Chair.

4. A majority of the members of the Committee constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Committee.

5. The Committee shall:

(a) Study the Foreclosure Mediation Program rules and make such recommendations to the Nevada Supreme Court as it deems appropriate;

(b) Evaluate the effectiveness, operation, policies and practices of the Foreclosure Mediation Program and make such recommendations to the Nevada Supreme Court as it deems appropriate; and

(c) Identify state and federal programs related to the foreclosure of residences in Nevada, the modification of residential home loans or the resolution of mortgage foreclosures and make such recommendations to the Foreclosure

Mediation Program and its mediators and participants as the Committee deems appropriate.



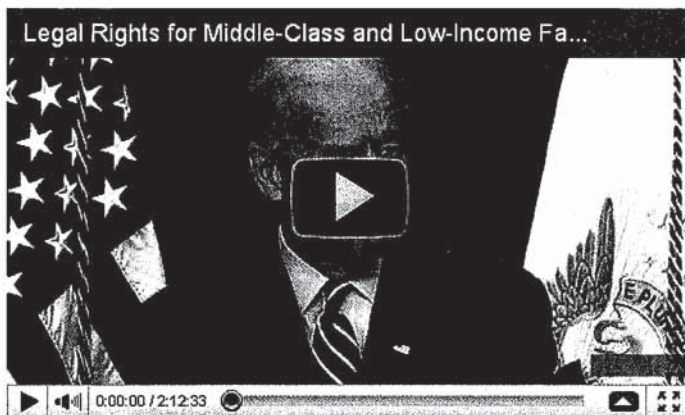
Middle Class Task Force
THE VICE PRESIDENT of the UNITED STATES

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Helping Middle-Class Families Pursue Justice

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Posted by Brian Levine on November 19, 2010 at 04:31 PM EST



This morning, the Vice President spoke at a Middle Class Task Force Event that was co-hosted by the Department of Justice's Access to Justice Initiative. He announced new steps that our Administration is taking in partnership with the legal community to strengthen foreclosure mediation programs, help veterans cope with legal challenges, and make it easier for workers to find a qualified attorney when they believe their rights have been violated.

First, the Department of Labor (DOL) and the American Bar Association (ABA) are launching a new partnership to help workers resolve complaints received by DOL's Wage and Hour Division, such as not getting paid the minimum wage or overtime, or being wrongfully denied family medical leave. DOL resolves more than 20,000 of these complaints every year, but because of limited resources, there are thousands more they are unable to pursue. Starting next month, people whose cases cannot be pursued will be provided with a newly created toll-free number that will connect them with an ABA-approved attorney referral service so they can find a qualified lawyer to help with their claims.

Second, the Vice President announced a collaboration between the Department of Veterans Affairs (VA) and the Legal Services Corporation (LSC). In communities across the country, the VA's Vet Centers provide counseling services to combat veterans. We are now connecting more than 50 of these Vet Centers with the LSC's network of local legal aid offices, which provide free legal advice to folks who can't afford to hire a lawyer. So when veterans come to Vet Centers and need help with problems ranging from foreclosure to employment issues, the staff will know where to send them.

The Legal Services Corporation also announced the launch of a new website – www.statesidelegal.org. This website is designed specifically for veterans and their families and they will be able to find information on everything from estate planning to disability benefits to the GI Bill.

Finally, the Vice President announced new steps to strengthen foreclosure mediation programs, which allow homeowners to meet face-to-face with lenders and discuss alternatives to foreclosure under the supervision of a neutral third-party mediator. The Department of Housing and Urban Development (HUD) and the Access to Justice Initiative issued a [report on mediation strategies that are working](#). In addition to outlining some best practices, the report includes a list of jurisdictions with successful programs that are eager to share their experiences with communities that are developing or expanding mediation programs.

HUD and NeighborWorks, the nation's largest funder of foreclosure counseling services, also announced that they will each be providing new training for housing counselors, homeowners, attorneys, and mediators in order to make

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- Middle Class Task Force
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- Council on Environmental Quality
- Council on Women and Girls
- Office of Management and Budget
- Office of Public Engagement
- Office of Science & Tech Policy
- Office of Urban Affairs
- Open Government
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- Social Innovation and Civic Participation
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As the Vice President said today, "In difficult economic times, we want to make sure all Americans—regardless of income or status—have access to the resources they need to pursue justice."

Brian Levine is the Deputy Domestic Policy Advisor to the Vice President

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Mediation process leaves both homeowners, lenders unhappy

By Frank Geary

LAS VEGAS REVIEW-JOURNAL

Posted: Jan. 30, 2011 | 2:00 a.m.

The Nevada Supreme Court, which oversees the Foreclosure Mediation Program, has several times in the past 18 months updated program rules in response to concerns that have arisen, but bank officials and homeowners say the program still has problems that must be addressed.

For complete article see the Las Vegas Review-Journal.
<http://www.lvrj.com/>

Article on file at the Research Library.
library@lcb.state.nv.us

when the program administrator issues a certificate of foreclosure or not. She should know when she can and when she can't without having to make legal decisions. Leave that for a judge."

For complete article see the Las Vegas Review-Journal.
<http://www.lvrj.com/>

litigation before the state Supreme Court because the court oversees the program.

For complete article see the Las Vegas Review-Journal.
<http://www.lvrj.com/>

only to learn later that the home is not owner-occupied, and is thus ineligible, Uffelman said.

For complete article see the Las Vegas Review-Journal.
<http://www.lvrj.com/>

Find this article at:

<http://www.lvrj.com/news/mediation-process-leaves-both-homeowners-lenders-unhappy-114891564.html>

Check the box to include the list of links referenced in the article.

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<http://www.huffingtonpost.com/>

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November 16, 2010



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David M. Abromowitz

Senior Fellow at the Center for American Progress

Posted: November 7, 2010 04:15 PM

Lemons Into Lemonade? Turning Flawed Foreclosures Into Mediated Modifications

Is anyone surprised? A mortgage finance industry built on sloppy paperwork, which reaped record profits processing consumers as if they were so many sheep to be fleeced, is caught churning out foreclosures built on sloppy paperwork, so homeowners can be dispossessed on the cheap.

foreclosure?

Do the lenders want to simply keep insisting they have done nothing wrong that really matters in the hopes of simply adding to the tidal wave of foreclosures? Or do they want to clear the air, restore the public's confidence in them, and move forward to alternatives to foreclosure?

For complete article see the Huffington Post.
<http://www.huffingtonpost.com/>

Las Vegas Sun

In Nevada, a fight over foreclosure paperwork

By **Steve Kanigher** ([contact](#))

Monday, Oct. 25, 2010 | 2 a.m.

Many times a lender's representative shows up at a home foreclosure mediation hearing with the wrong documents, a homeowners' lawyer says. Not true, a banking executive counters: The percentage of foreclosures based on flawed paperwork is virtually nil.

For complete article see the Las Vegas Sun.
<http://www.lasvegassun.com/>

Article on file at the Research Library.
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Hoffman doesn't attempt to resolve whether the bank seeking the foreclosure actually owns the loan. Many banks use the Mortgage Electronic Registration Systems, which stores mortgage loan information for lenders, including loans that were transferred from original lenders to other banks. But the system, known as MERS, come under fire from homeowners and their attorneys nationwide who question whether it has the legal authority to initiate foreclosure.

For complete article see the Las Vegas Sun.
<http://www.lasvegassun.com/>

foreclosure documents to the wrong address.

For complete article see the Las Vegas Sun.
<http://www.lasvegassun.com/>

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Extracted from:
DAVID Magazine,
November 2010



BY THE RULES ...

COMMUNITY RELIEF

MORTGAGE FORECLOSURE
PROGRAM ENSURES PROPER
CONDUCT DURING
ARBITRATION



By Pat Teague

Nevada has gotten used to being at the back of the line when it comes to receiving kudos for state-fostered social programs. In fact, it's often the butt of jokes for an occasional worst-in-the-country rating.

But these days, just about everyone agrees that the Silver State's nascent Foreclosure Mediation Program, administered under the aegis of the Nevada Supreme Court, is a model for the rest of the country.

It should be.

For several years now, Nevada has led the nation in the rate of residential foreclosures, the hard-edged legacy of a real estate investment boom that long ago went bust. California, Arizona and Florida also have paid dearly for past real estate avarice.

Now, many other states are starting to experience the dislocation and social disintegration that a raft of residential foreclosures can inflict on a neighborhood. Of course, many of these latest foreclosures

the FMP will not issue a certificate of foreclosure, and the process must begin anew—though either side can ask a judge to review the case. When the program was brand new, some lender representatives failed to show up for mediations, a practice that seems to have ended for the most part.

In the days before the FMP, a desperate homeowner might have had trouble finding anyone in authority at a bank call-in center or a branch willing to listen to a plea for leniency. And the lenders found delinquent homeowners reluctant to answer the phone or open a letter from the bank. Meaningful communication between the parties was simply unlikely to occur.

Verise Campbell has lived in Nevada about 10 years and used to work in the gaming industry. Last year she accepted the challenge of running the newly minted and Legislature-created FMP, a battle-born agency if ever there was one.

Based on what she had to work with at the start, and the

unprecedented scope and complexity of the foreclosure problem in Nevada, it seems remarkable that the New Jersey native accepted the job. She went to work on July 1, and it was a lonely start.

"We had no staff. We had no designated offices," she says, chuckling at the memory. "We had no mediators. We had no funding. So we had to devise the full process as we were operating. But we did have the undergirding of the Administrative Office of the Courts, which is the administrative arm of the Supreme Court."

That included access to its information technology, finance, administrative and legal departments, she says, which collectively gave "us structure to the point of where we (could) start operating. So we did that. And we trained our mediators."

All of which took time.

Although a year has passed since the FMP officially opened its doors, the anniversary of its first-ever mediation didn't occur until Sept. 14. About 4,000 mediations have been conducted since September last year, each typically taking a few hours to complete.

A backlog equal to that number still exists, and the FMP is still a few weeks from

getting all of its units—intake, mediation and certification—automated via a case management system. And Campbell says it'll be another year after that before homeowners can file their paperwork with the agency electronically, "as opposed to 'snail mail.'"

"So we were (and still are) doing all of this manually. There was a lot of paper. The Supreme Court had to devise rules, and rules had to be changed as we were operating, just to make sure that they were functional. And it was a whirlwind.

"So for us to be able to claim any success or to be able to achieve a full operation at this point is nothing short of miraculous. ... But we had a lot of assistance from key community stakeholders.

"We had Supreme Court justices, we had judges, we had homeowner representatives and banks, trustee representation. And we had (experienced) mediators who provided input on procedures, rules, operations. And that was really a testament to the State of Nevada. It was a collaborative effort in getting this program up and running."

Campbell also lauds Nevada Assembly Speaker Barbara Buckley, D-Las Vegas, for her leadership in shepherding Assembly Bill 149—the law that got the FMP up and running—through the Legislature quickly.

She also points to the creativity involved in funding the program, a bit of legislative engineering that avoided using scarce tax dollars.

"We're actually funded by Notice of Default (and Election/Sell) fees," the money that a lender must pay for the state to notify a

COMMUNITY RELIEF

"SO FOR US TO BE ABLE TO CLAIM ANY SUCCESS OR TO BE ABLE TO ACHIEVE A FULL OPERATION AT THIS POINT IS NOTHING SHORT OF MIRACULOUS. ... BUT WE HAD A LOT OF ASSISTANCE FROM KEY COMMUNITY STAKEHOLDERS."



- VERISE CAMPBELL

are more likely the result of unemployment, stagnation and a flagging economy than overzealous investment and questionable lending practices.

At least two dozen states have established foreclosure mediation programs, but none with the potential efficacy of Nevada's.

It is against this economic backdrop locally and nationally that the FMP has found its legs, essentially an effort by the State of Nevada to foster good faith communication between the owner-occupant of a residence and his lender, with a trained mediator there to ensure that both sides play by court-established rules.

Through such mediation, the beleaguered homeowner hopes to remain in his domicile either by obtaining a lower interest rate or a smaller monthly payment; the bank, or other mortgage holder, is looking for the best possible balance sheet outcome, or simply a one-stop procedure to induce an often angry, demoralized occupant to exit a home "gracefully." The bank sees the process as "loss mitigation," knowing that it will lose money one way or another.

The mediator, typically an attorney or retired judge, acts as an impartial referee, not as an advocate or adviser to either side.

As an officer of the court, the mediator also is empowered to report to the state whether the lender and borrower have met their statutory obligation to bargain in good faith, and whether the mediator believes the transaction involves a "predatory loan."

If the mediator determines the lender is not negotiating in good faith,

homeowner officially that his property is targeted for foreclosure, and that he has an opportunity for mediation.

The Legislature set the default notice fee at \$200, with \$150 of that earmarked for state budget deficit reduction. The remaining \$50 funds the mediation program Campbell runs.

"Just in our first year alone ... there's about \$4 million of Notice of Default fees (that were) collected," she says, a funding stream many other states surely must covet.

"We are going to be in this (foreclosure) situation for a very long time," Campbell says. "As long as we have the problem, we'll have funding to facilitate at least one part of the solution."

The homeowner and lender involved in a sit-down session must chip in \$200 apiece to pay the mediator. Out of that \$400, the mediator must cover the costs of the meeting space, reports and mailings to the state. Mediators may convene up to two sit-downs a day but only during regular business hours. Four-hour blocks are set aside for the sessions, but they typically last two to three hours.

Stewart Blumenfeld, a public health doctor by training and an experienced mediator, was one of the original 52 people sworn in as FMP mediators by Chief Justice Jim Hardesty. There are about 270 FMP mediators now, most of them in Southern Nevada, but 100 more are needed to deal with a continuing flow of mediation requests.

"You can't be doing this too much for the money," says Blumenfeld, who 10 years ago earned more per hour as an international consultant.

"First of all, it's somewhat draining. I mean, to me, if you really care about these folks, it's a bit draining. But you have these highs and lows. When you succeed and you get a (loan) modification, and it looks like you've saved somebody's home, you're on a real high when you walk out of the mediation. When it's pretty obvious that nothing much has happened, or people have to try a short sale, then you figure, 'Oh, that was not very successful.'

"I've been a mediator for Clark County for 11 years. So when you're a mediator, you ultimately learn that the outcome is not your responsibility. So you can't take it personally as a win or a loss. Otherwise, when you've obviously got to what looks like a good modification, to help someone stay in their house, you can't help but feel good about it."

As a mediator, he says, "You're still human. And so you do have a lot of sympathy for people who, for the most part from no fault of their own, have wound up in horrible situations economically."

"Very often it's a lost job. Sometimes it's a job where the hours have been cut. A lot of these people bought their homes at the height of the bubble here in Nevada. And now their house is worth, maybe two-thirds, maybe only half, of what they paid. And one of the calculations they have to make is whether or not it would be better to try to just walk away from the house—although there are a lot of complications that involve the (Internal Revenue Service) when you do that."

For the borrower, he says, there is often emotion tied up in the analysis. But for the bank—most Nevada residential mortgages are held by Bank of America—"it's pure economics," sad story or otherwise, Blumenfeld says.

"The computer algorithm that they use to calculate their benefit and loss has no place where it says, 'Is this a nice person? Is it a bad person? You know, are these people going to suffer horribly if we kick them out or take their house? Or are they going to benefit?' There's no place in the algorithm where you can fit that in ... all that's being plugged in is numbers.

"If this were a private bank, you know, a small bank locally, you could go in and they could kind of assess you and say, 'Well, looks to me like, yeah, you're probably going to pay us back. You look like an honest guy. Eventually, you'll pay us back.'

"When you're dealing with someone on a telephone in Indianapolis ... or in Lancaster, California ... they have | *continued p.44*

What is the Foreclosure Mediation Program?

- A program that allows homeowners, joined by a trained mediator, to sit down with mortgage lenders to discuss alternatives to foreclosure.
- It's open to homeowners of owner-occupied houses who received foreclosure notices after July 1, 2009. If you got a notice before that date, you can only join the program if your lender agrees.
- If you don't live in the house you own or you've already surrendered your house to a lender, or if you're in bankruptcy proceedings, you can't participate.
- If you receive a foreclosure notice, there should be a form attached to allow you to seek mediation. You've got 30 days after being served to elect to participate and notify the trustee, who'll then notify the other parties. Lenders have to participate (if you faced foreclosure after 7/1/2009).
- Mediation forms and instructions also are available at the Nevada Supreme Court website, nevadajudiciary.us/index.php/foreclosuremediation, or you can call 702-486-9380, or 775-687-9816.

The mediation fee is \$400, to be shared equally by the homeowner and the lender. Mediators, who are randomly appointed to a case, can't give legal advice, so you may want to consult an attorney. The mediator will set the time and place for the sit-down after consulting both sides. Mediations must begin within 135 days after payment from both sides is received. If you're not satisfied with the outcome, you've got 15 days to ask for judicial review.

Foreclosure

From p.33 | no idea who you are and they really don't care, because they just have to put the numbers into their algorithm. ... They judge that on the basis of your present income and on your employment history and on your credit score, frankly. All that goes into their consideration. But, you can see, those are all numbers."

As empathetic as a mediator can be, his role is "strictly as a neutral person, not an advocate for either party," Blumenfeld says. "And they are there simply to guide the process. I make it clear to the homeowner that I'm not providing any kind of advice, that I'm not telling them what I think they ought to do. If I put out a suggestion, it's simply to make sure that both sides consider all of the possibilities."

He says about one in three mediations results in a loan modification that allows the occupant to remain in the house.

Blumenfeld and others say homeowners need to realize that losing a house is not the end of the world, that a person can still rent and try to improve his economic situation and buy another home some day.

"The world has not come to an end because they got foreclosed," he says. Sometimes he says he feels inclined to offer just such a pep talk, a reality check of sorts to the dejected

homeowner who is going to experience "dis-accommodation" for a while.

Bill Uffelman is chief executive officer of the Nevada Bankers Association. He is circumspect when asked if bankers are enthusiastic about the program or find it onerous.

"I mean, overall from the bankers, I think, the program is working. ... there are people who, in fact, through the process have gotten (loan) modifications. Other people, having had the face-to-face discussions or whatever, came to the conclusion that ... they weren't going to be able to save the house due to income reductions and other things. So, you know, overall the system's working.

"The best thing that you can say is it is a program," Uffelman says. "I mean there are programs in other states. There are different systems. You know, it had teething pains at the beginning like any new program would. But I think now most of the lenders and servicers have learned, you know, to work with the system and accommodate them.

"Nobody (from the banking industry) has called me up and said, 'God, this is the worst thing we've ever been involved in. You've got to figure out a way ...'. They've learned to work with it, and that's where we're at. ... It's another law, another set of rules, another way,

you know, to deal with stuff."

Uffelman sees a change in the profile of the person facing residential foreclosure.

"The first huge wave of foreclosures here truly were the people who like to think of themselves as 'investors'—most of them weren't—they had the really bad loans. Those are gone. What you're seeing now ... in so many cases, are people, you know, with loss of income. I saw a story yesterday, on a national basis, of the number of prime loans now that are going bad. Those are people who normally you would not expect to default on a mortgage.

"I think in the beginning it was bad loans. Now, it's a function of, you know, reduced income having an impact. We're probably entering an era of 'strategic defaults.' Every day I get information on how 'You, too, can walk away from your mortgage,' and why on a financial basis you should do that."

He cites a recent New York Times story about "obviously, high net worth individuals, who ... have a home and it's an investment and it's not performing, you get rid of it, the same way you'd get rid of a stock. And that's what they're doing. So it's a true mix of stuff going on.

"The trouble with Las Vegas, of course, is until the rest of the country's economy is doing well, our economy isn't going to do well."