

THE CIRCUIT COURT FOR THE THIRD JUDICIAL CIRCUIT
MADISON and BOND COUNTY, ILLINOIS

FILED

AMENDED PART 9 - Residential Mortgage Foreclosure Mediation

APR 30 2014

CLERK OF CIRCUIT COURT #43
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

A. Purpose

The foreclosure mediation program is designed to create an opportunity for homeowners and Plaintiffs to come together to explore mutually beneficial alternatives to foreclosure. It aims to keep families in homes and prevent vacant and abandoned homes that negatively impact property values and destabilize neighborhoods. The program also promotes greater efficiency in the administration of justice by reducing the backlog of court cases stalled in the foreclosure process.

B. Actions Eligible for Mediation

Foreclosure mediation is designed to help homeowners who are interested in exploring alternatives to foreclosure with their lender. These alternatives include retention options such as a loan modification, repayment plan, reinstatement, or forbearance agreement and non-retention options, such as a short sale, deed-in-lieu of foreclosure, or consent foreclosure. This foreclosure mediation program is mandatory and is limited to owner-occupied, residential properties that serve as the homeowner's primary residence. Foreclosures of non-residential, investment, or commercial property are not eligible for this court-sponsored mediation program.

C. Participant Program Costs

1. In all Madison and Bond County cases where a complaint is filed to foreclose a mortgage (residential, commercial, industrial, or other), the Circuit Clerk shall charge the Plaintiff an additional \$100.00 filing fee to defray the cost of the Madison/Bond County Residential Mortgage Foreclosure Mediation Program. The fees collected shall be forwarded to the Madison County Treasurer and maintained in a separate fund subject to disbursement on order of the Chief Judge of the Third Judicial Circuit. The Complaint shall clearly designate whether the case is subject to mediation, beneath the caption title "Complaint", the Plaintiff shall include "Subject to Mandatory Mediation" or "Not Subject to Mandatory Mediation". All owner-occupied residential foreclosures are subject to mandatory mediation.

2. The Madison/Bond County Foreclosure Mediation Program is free of charge to the homeowners.

D. Mediation Procedure

1. After the foreclosure complaint is filed, the homeowner is served with the summons, notice of mandatory mediation and the foreclosure mediation program initial questionnaire. With the exception of the Complaint, all other documents for mediation shall be kept in a confidential file separate from the court file.
2. The notice of mandatory mediation shall: advise the borrower to bring certain documents to the initial intake conference; contain a list of housing counselors certified by the Housing and Urban Development that may be available to assist the borrowers in foreclosure; advise the borrower of free legal assistance in the area, specifically, Land of Lincoln Legal Assistance Foundation and St. Louis University Legal Clinic; and advise the borrower that a language interpreter is available without cost upon contacting the mediation administrator.
3. The homeowner must file an answer and appearance in the foreclosure action if they wish to litigate the case. The homeowner does not have to file an answer and appearance to participate in the mandatory mediation program. No dispositive motions, including motion for default judgment, shall be allowed until mandatory mediation is completed. If a homeowner fails to appear for the initial intake conference for mandatory mediation, all motions shall be allowed, including but not limited to, a judgment by default.
4. If the homeowner is represented by an attorney, the attorney must file a notice of representation with the lender to advise if the lender may contact the borrower directly. If representation is terminated at any point in the process, a letter must be sent to the lender advising that the borrower is no longer represented.
5. In all residential foreclosure cases, the initial intake conference will take place at least thirty (30) days but not more than forty-five (45) days after the service of summons. The Circuit Clerk shall notify the Mediation Program Administrator of Summons being served. The Mediation Administrator will send the homeowner notice of the initial intake conference by mail.
6. At the initial intake conference the homeowner will meet at the Madison County Courthouse with the Mediation Administrator. If a homeowner fails to appear for the initial intake conference,

mandatory mediation will not proceed and the Plaintiff may proceed with the foreclosure. If a homeowner fails to appear at the initial intake conference, and the redemption period has not expired, the homeowner may petition the Court for entry into the mediation program. The Program Administrator will provide the Foreclosure Judge and Circuit Clerk with a list of program participants. During the initial intake conference the homeowner and administrator will discuss options available for the homeowner through the mediation program. Homeowners who are currently in bankruptcy or are not residing in the residence of which the mortgage is being foreclosed cannot proceed with mandatory mediation. The Administrator will collect the completed initial questionnaire and any necessary documents from the homeowner. After the initial intake conference the homeowner and Plaintiff will both be notified by the Mediation Program Administrator by mail of the first pre-mediation conference.

7. The Plaintiff shall provide a loan modification application packet to the borrower within fifteen (15) days of the initial intake conference. The Mediation Administrator shall provide the Plaintiff with a list of participating borrowers each week.
8. The homeowner, homeowner's attorney or designee, if any, and Plaintiff's counsel or representatives are required to attend the Pre-Mediation Conference. In addition to legal counsel, the homeowner may be assisted by any designee of their choosing, including but not limited to a family member, HUD-certified housing counselor, or trained community volunteer. Such designees may attend pre-mediations and mediation with the homeowner and provide any assistance the homeowner requests of them throughout the mediation process, including but not limited to communicating with the Plaintiff or Plaintiff's counsel on the homeowner's behalf, requesting information, or providing general support. These designees must sign an authorization form provided by the Plaintiff allowing the Plaintiff to discuss private information and requiring all attendees to keep the information confidential.
9. At the Pre-Mediation Conference, the homeowner and/or homeowner's attorney or designee and Plaintiff's counsel or representative meet with the program administrator to discuss their objectives and make sure that both parties have all the relevant documents and information needed to have a productive mediation. Plaintiff's counsel or representative will explain the review process for various options for the homeowner's specific lender and provide the homeowner with a list of any and all documents

needed to review the homeowner for those options. The homeowner may request documents relevant to mediation from the Plaintiff at any time.

10. After the initial Pre-Mediation Conference, the case may be set for Pre-Mediation Status to track review for the homeowner's options. If the case is unable to be resolved through the pre-mediation process the homeowner or Plaintiff may request full mediation. The Program Administrator will assign a mediator to the case from the list of court-certified mediators. The Mediation will be scheduled based on the availability of all parties and the amount of time needed for the parties to review the documents from the Pre-Mediation Conference. The Program Administrator shall notify the parties of the assigned mediator and the date, time and place of the Mediation. The Program Administrator will gather all relevant documents and give them to the mediator before the scheduled date of Mediation.
11. Either party may request disqualification of a mediator for good cause. Mediators may also disqualify themselves or refuse an assignment for good cause. Good cause includes, but is not limited to, a conflict of interest or the appearance of impropriety. If a mediator is disqualified, an alternate mediator will be assigned and the Mediation will be rescheduled accordingly.
12. The homeowner and the homeowner's counsel or designee, if any, are required to attend the Mediation. Plaintiff's counsel is also required to appear in person. A Plaintiff's representative with full settlement authority must participate in the mediation either in person or by telephone. The Plaintiff's representative must have full authority to enter into all settlement options, including options involving retention and non-retention of the subject property. Failure of either party to attend the Mediation or participate in good faith in the mediation process may result in sanctions by the Court.
13. The Mediator shall terminate the mediation when an agreement has been reached or, in the mediator's opinion, no purpose would be served by continuing the Mediation. If an agreement is reached through the Mediation, it shall be reduced to writing and signed by both parties and their counsel.
14. Upon the conclusion of the Mediation, the mediator shall file a report with the trial court indicating whether the parties came to an agreement through the mediation process. The mediator must also indicate to the Court whether or not the parties attended the

Mediation, fully and actively participated in the Mediation in good faith, and had all individuals necessary to facilitate settlement present at the Mediation. If a party fails in any of these regards, the Court, upon motion of either party may impose sanctions. If the parties are unable to reach an agreement after going through good faith negotiations, the mediator shall report to the court that the Mediation concluded in impasse.

15. The foreclosure case shall be set for status within [21] days after the mediator's report is submitted to the court but no later than [120] days after the initial Pre-Mediation Conference. If the Mediation has not occurred during this time period, the court may address this issue upon motion of either party. If the parties were able to reach an agreement through the mediation process, the foreclosure case shall be dismissed at the status date unless the agreement includes a trial modification. If the Mediation resulted in a good faith impasse, the court shall issue an order terminating mediation and allowing litigation to go forward. If the agreement includes a trial modification, the court will retain jurisdiction and the case will be set for review at the end of the trial period. If a homeowner has successfully complied with all requirements for the modification or loss mitigation efforts at the time of review, the foreclosure case shall be dismissed.
16. All parties are also required to complete an evaluation form about the mediation process.
17. The court shall maintain statistical data on the results of mediation, including the number of cases where the initial criteria was met and the number of cases where loans were modified or otherwise worked out between parties, and shall report the same to the Administrative Office of the Illinois Courts at such times and in such manner as may be required.

E. Mediators

1. Qualifications

The Program Administrator shall maintain a list of mediators who have sought appointment and been certified for approval by the court as mediators for the foreclosure mediation program. Mediators shall comply with general standards that may, from time to time, be established and promulgated in writing by the Chief Judge of the Third Judicial Circuit. The eligibility of each mediator to retain the status of certified mediator may be periodically

reviewed by the Chief Judge or his or her designee. Failure to comply with the rules governing mediation or the general standards provided for by the Court may result in the decertification of the mediator. Mediators must meet the following qualifications:

- a. Be licensed to practice law in the state of Illinois; or
- b. Be an experienced mediator.

2. Training

Mediators, Judges, key court personnel, and volunteers involved in mortgage foreclosure mediation shall keep themselves up-to-date on current and future laws, rules, and procedures for residential foreclosure cases. Judges assigned to the foreclosure court shall attend continuing judicial education courses offered by the Administrative Office of the Illinois Courts including during the every-other-year EDCON conference.

3. Compensation

Mediators for the foreclosure mediation program shall be compensated in the amount of \$150.00 per full mediation.

F. Confidentiality

Unless otherwise authorized by the parties, all oral and written communications made in the mediation process, other than written agreements between the parties and documents filed of record, shall be exempt from discovery and shall be confidential and inadmissible as evidence in the underlying cause of action.

G. Discovery

Unless otherwise ordered by the court, no discovery shall take place until after mediation is complete. However, both parties are required to submit documents and provide information necessary for the mediation process.

H. Immunity

Any person approved to act as a mediator under these rules, while acting within the scope of his or her duties as a mediator, shall have judicial

immunity in the same manner and to the same extent as a judge in the State of Illinois, as provided in Illinois Supreme Court Rule 99.

I. Impartiality

A mediator shall conduct mediation in an impartial manner and avoid conduct that gives the appearance of partiality or impropriety. Mediators shall not act with partiality or prejudice based on any participant's personal characteristics, background, values and beliefs, or any other reason. If at any time a mediator is unable to conduct mediation in an impartial manner, the mediator shall withdraw.

J. Conflicts of Interest

A mediator shall avoid any conflict of interest or the appearance of any conflict of interest during the mediation process. A mediator shall not mediate a foreclosure case if the mediator has any past or present, personal or professional relationship with either party involved in the mediation that reasonably raises a question of a mediator's impartiality without both parties' consent. A mediator shall disclose, as soon as possible, all actual and potential conflicts of interest that are reasonably known to the mediator and could reasonably be seen as raising a question about the mediator's impartiality. After disclosure, if all parties agree, the mediator may proceed with the mediation.

J. Sustainability Plan Including Long-Term Funding

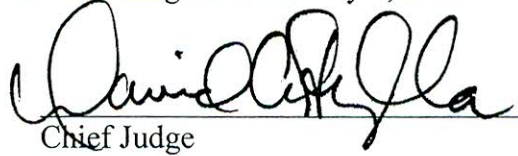
The chief circuit judge shall review the financial sustainability of this mediation plan on an annual basis. A current sustainability review of the plan since its inception in June 2011 indicates that the filing fees have sustained all of the expenses of establishing the program and that the mediation administrator is a sustained employee of Madison County. Filing fees shall now help sustain the program and administrator as well as compensate mediators and interpreters.

K. Attachments

In residential foreclosure cases, in addition to the forms required by the Illinois Supreme Court Rules, plaintiff shall use forms in substantial compliance with the following attachments: Summons (Exhibit A), Notice of Mandatory Mediation (Exhibit B), and Foreclosure Program Initial Questionnaire (Exhibit C). Attorneys may generate forms for use in foreclosure mediation cases as long as they are substantially similar to the forms approved by the court. The circuit clerk may make the

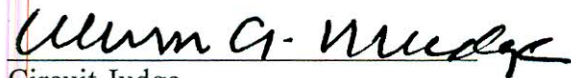
determination as to whether attorney-generated forms are substantially similar to the court-approved forms.

On this 30th day of April, 2014, the Circuit Judges of the Third Judicial Circuit, State of Illinois, approve the above amended rules by the majority of the Circuit Judges of the Third Judicial Circuit, this Amended Court Rule will become effective July 1, 2014.



Chief Judge


Circuit Judge


Circuit Judge


Circuit Judge


Circuit Judge


Circuit Judge


Circuit Judge


Circuit Judge


Circuit Judge

IN THE CIRCUIT COURT
FOR THE THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

))	
))	
vs.)	PLAINTIFF)	-CH-
))	
))	
))	JUDGE
))	
)	DEFENDANTS,)	

DUPLICATE ORIGINAL SUMMONS

To Each Defendant:

YOU ARE SUMMONED and required to file an answer in this case, or otherwise file your appearance in the Office of the Clerk of this Court,
Mark Von Nida
Clerk of the Court
155 North Main Street
Edwardsville, Illinois 62025

within 30 days after service of this summons, not counting the day of service. IF YOU FAIL TO DO SO, AND YOU DO NOT PARTICIPATE IN THE MANDATORY MEDIATION PROCESS, A JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT, A COPY OF WHICH IS HERETO ATTACHED.

YOU MAY BE ABLE TO SAVE YOUR HOM. DO NOT IGNORE THIS DOCUMENT.

You will receive notice of your MANDATORY MEDIATION INITIAL INTAKE CONFERENCE DATE via mail. You MUST appear for this conference or your right to mediation will be terminated.

To the Officer:

This summons must be returned by the Officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This Summons may not be served later than 30 days after its date.

Attorneys for the Plaintiff

WITNESS, _____

Clerk of the Court

Date of service _____,
(To be inserted by officer on copy left with defendant or other person)

NOTICE OF MANDATORY MEDIATION

IT MAY BE POSSIBLE TO SAVE YOUR HOME

FREE FORECLOSURE MEDIATION IS AVAILABLE

You have been served with a foreclosure complaint that could cause you to lose your home. The Madison County Circuit Court has adopted a rule establishing a Mandatory Mediation Program to assist homeowners in foreclosure. This program is available to all homeowners whether or not they file an appearance in the foreclosure case and it is *free of charge*.

WHAT DOES THIS MEAN?

The Mandatory Madison County Foreclosure Mediation Program involves a series of pre-mediation conferences in which the homeowner and lender come together to explore mutually beneficial alternatives to foreclosure. If no agreement is reached during the pre-mediation conferences, the case can be set for full mediation. Full mediation is a process where a neutral mediator communicates with borrowers and lenders to try to assist them to reach a voluntary and mutual agreement to resolve a delinquency. In the event the loan terms cannot be re-negotiated; the mediator will also discuss non-retention options which involve you giving up the house in exchange for the lender releasing you from any further liability. All of your discussions with the mediator will be kept confidential.

WHERE DOES THE MEDIATION TAKE PLACE?

In order to take advantage of this *free* mediation program you **must** appear at the Madison County Courthouse located at 155 North Main Street, Edwardsville, Illinois, for the Initial Intake Conference. ***You will be notified of the date of the Initial Intake Conference by mail.*** FAILURE TO APPEAR AT THE INITIAL INTAKE CONFERENCE WILL RESULT IN THE TERMINATION OF THE MEDIATION PROCESS. YOUR CASE WILL BE SENT BACK TO THE COURT FOR A POSSIBLE JUDGMENT AGAINST YOU.

In order to assist the Mediation Administrator in determining your ability to keep your home, you **must** bring the enclosed completed questionnaire and two utility bills showing proof of residence.

REMEMBER

While no court action will be taken against you while the mediation process is ongoing, there is no guarantee that an agreement can be reached between you and your lender. If you dispute your lender's claims, you should consult an attorney and fully participate in the foreclosure litigation.

NEED MORE ASSISTANCE

Free Legal Assistance: Land of Lincoln Legal Assistance Foundation: 618-462-0029

St. Louis University Legal Clinic: 314-977-2796

HUD Certified Housing Counselors: Justine Peterson Agency: 314-533-2411

Karen Drayton-Fowlkes: 314-378-9407 CDBG Operations Corporation 618-274-7832

Language Assistance: Should you require language assistance, or an interpreter, assistance can be arranged through the Program Administrator, Jennifer Dunham, who can be reached at 618-296-4760 or jedunham@co.madison.il.us

MORE QUESTIONS: Please contact Jennifer Dunham, Program Administrator, at 618-296-4760 or jedunham@co.madison.il.us

IN THE CIRCUIT COURT
FOR THE THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

)	
)	
Plaintiff,)	
)	
vs.)	No. ____-CH-____
)	
)	
)	
Defendant.)	

HOMEOWNER'S FINANCIAL QUESTIONNAIRE

Please complete this form and bring it with you to the Initial Intake Conference. Notice of the date, time and location of that meeting will be provided to by mail. The information you provide will be used by the mediation administrator to make an initial determination if the case is suitable for mediation. **This information will not be shared with anyone else unless you agree, and then only with a representative of your lender.**

Borrower:

Name: _____

Address: _____

Phone: _____ Email: _____

Date of Birth: _____

Marital status: ☐ Married ☐ Separated ☐ Unmarried (single, divorced, widowed)

Number of People in Household: _____

Co-Borrower (if applicable):

Name: _____

Address: _____

Home Phone: _____ Cell Phone: _____

Date of Birth: _____

Marital status: ☐ Married ☐ Separated ☐ Unmarried (single, divorced, widowed)

Borrower's Attorney or Housing Counselor (if applicable):

☐ Attorney ☐ Housing Counselor

Name: _____

Address: _____

Phone Number: _____

E-mail: _____

Mortgage Loan Information:

Current Servicer: _____

Loan Number: _____

Original Purchase Price: _____

Estimated Current Value of the Home: _____

Condition of the Property: ☐ Excellent ☐ Good ☐ Fair ☐ Poor

Term of Mortgage: _____

Interest Rate: _____ Fixed or Adjustable? _____

Monthly Payment: _____ Number of missed payments: _____

Does the monthly payment include property taxes and insurance? ☐ Yes ☐ No

If not, what is the amount of your monthly taxes and insurance? _____

Are you current on taxes and insurance? _____

Are there any other mortgages or liens on this property (i.e. home equity loans, tax liens, child support liens, judgments from lawsuits)? ☐ Yes ☐ NoIf yes, please list the type of loan, the lender, the amount of the loan, and whether it is past due: _____
_____**What caused you to miss payments (check all that apply):**☐ Injury/Illness☐ Adjustable Interest Rate/Balloon Payment☐ Loss of Employment☐ My Expenses Exceed My Income☐ Other, please explain: _____

_____If you missed payments due to injury or illness, are you now well? ☐ Yes ☐ No,
please explain: _____
_____If you missed payments due to unemployment, do you have a job now? ☐ Yes ☐ No**Household Assets:**

Checking Accounts: _____

Savings: _____

Stocks/Bonds: _____

Other Cash on Hand: _____

Other Real Estate: _____

Monthly Household Income:

Monthly Gross Wages: _____

Social Security: _____

Child Support/Alimony: _____

Pensions/Annuities/Retirement Plans: _____

Tips/Commissions/Bonuses/Self employed Income: _____

Rents Received: _____

Unemployment Income: _____
Food Stamps/Welfare: _____
Other (investment income, royalties, interest, dividends, etc): _____
Total Monthly Income: _____

Monthly Household Expenses:

Monthly Mortgage Payment (including taxes and insurance): _____
Credit Card/Installment Loans (total minimum payment per month): _____
Alimony/Child Support: _____
Car Payments: _____
Car Insurance: _____
Car Gas and Maintenance: _____
Utilities: _____
Communications (telephone and internet): _____
Food: _____
Medical Expenses: _____
Student Loans: _____
Miscellaneous: _____
Cable: _____
Health Insurance: _____
Total Monthly Expenses: _____

Are you in the process of filing bankruptcy or are you thinking about bankruptcy? _____

Is there any other information that would be helpful in determining whether your case would be suitable for mediation? If so, please describe: _____

I affirm, under penalty of perjury, that the foregoing statements are a true, accurate, full and complete reporting of all my assets and liabilities. I consent to disclosure of this information to the plaintiff's representative.

Homeowner's Signature

Date

Co-Owner's Signature (if applicable)

Date