

SIX PROGRAMS, SIX MODELS:

**AN EVALUATION OF THE FORECLOSURE MEDIATION
PROGRAMS FUNDED BY THE OFFICE OF THE ILLINOIS
ATTORNEY GENERAL**

21ST JUDICIAL CIRCUIT EXTRACT

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RESOLUTION SYSTEMS INSTITUTE

This evaluation was conducted by Resolution Systems Institute. Formed in 1995, Chicago-based Resolution Systems Institute (RSI) is a non-profit organization whose mission is to strengthen justice by enhancing court alternative dispute resolution systems through expertise in program development, research, resources, program administration and training.

Founded on the premise that collecting and disseminating reliable information about court ADR can raise the quality of court ADR, RSI has assisted state and federal courts with the design, administration, monitoring and evaluation of mediation programs, as well as training ADR neutrals. Courts and individuals across the country call on RSI for advice and make use of CourtADR.org, RSI's Court ADR Resource Center.

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21ST JUDICIAL CIRCUIT FORECLOSURE MEDIATION PROGRAM Kankakee County

Overview

Launch Date	October 1, 2013
Program Size	135 cases entered the program in its first year
Type	One-step entry
Entry Process	Attend pre-mediation session
Intake	By PC* at first pre-mediation session
Pre-mediation	Up to 3 pre-mediation sessions with mediator and lender attorney to complete packet , status sessions with mediator and lender attorney for document exchange ; HO* may also meet individually with HC* or legal services at first pre-mediation session if they are available.
Mediation	Unlimited mediation sessions allowed by rule
Remain in Program During TPP?*	Yes
Timing of Foreclosure Stay	Date of service of process until end of TPP
Homeowner Cost	None
Lender Additional Filing Fee	\$150
Mediator Payment	The filing fee is used by the court to pay the mediation provider organization; the organization is paid \$150 for every eligible case filed
Program Staff	1 part-time program coordinator
Program Rule	Not available online

DISTINGUISHING FEATURES OF THE PROGRAM

The following features differentiate this program from the others in this evaluation:

- A [lender](#) attorney must schedule a pre-mediation session before filing a residential foreclosure case
- All pre-mediation sessions are conducted by mediators
- A housing counselor is available at the pre-mediation session call
- Formal mediation is rare and only used in special circumstances
- Lender attorneys must attend pre-mediation sessions

* HC = housing counseling HO = homeowners PC = program coordinator TPP = trial period plan

STATISTICS AT A GLANCE

The program served 173 homeowners in 2014.

Status of Cases Through Dec. 31, 2014	
Foreclosures	256
Contacted Program	256
Entered Program	173
Closed	143

The program helps more than 2/3 of eligible homeowners.

Program Impact	
	% of Foreclosures
Homeowners Helped	67.6%
Foreclosures Avoided*	14.2%
Homes Retained*	12.3%

*Projected numbers based on closed cases.

21% of homeowners who participate in the program keep their homes, 39% avoid foreclosure.

Outcomes of Closed and Completed Cases			
	#	% of Closed Cases	% of Completed Cases
Agreement: Retention/ TPP	30	21.0%	33.3%
Agreement: Relinquishment	26	18.2%	28.9%
No Agreement	34	23.8%	37.8%
Closed: Program Not Completed	53	37.1%	N/A

Those homeowners who completed the pre-mediation session questionnaires left feeling they had a better understanding of their options and how to work with their lenders.

Pre-Mediation: Homeowner Experience (n = 22)	
Understand Options Better Than Before	91%
Understand How to Work with Lender Better Than Before	86%
Satisfied Overall	91%

- At the pre-mediation state, lender attorneys often meet with [homeowners](#) for a few minutes to go over where the [document exchange](#) process stands as they wait for the mediator to call them into their session; the homeowners then enter the pre-mediation session already knowing what the next steps are
- The mediator provider organization is paid \$150 for every eligible case filed

IMPORTANT FINDINGS

This program has the highest level of participation of all programs

68% of all eligible homeowners enter the program. This is 7% higher than the next highest program.

This program has the highest rate of eligible homeowners who retained their homes

A projected 14% of all eligible homes are saved through the program, which is 8% more than the next highest program.

This program has the lowest agreement rate of all the programs

50% of homeowners who complete the program do not get an agreement. This is most likely due to the high level of participation. Participants include homeowners who do not qualify for a loan modification or other option and possibly have no interest in keeping their homes.

Program Description and Procedures

WHAT NEED WAS THE PROGRAM DESIGNED TO MEET?

According to the court rule, “[t]he foreclosure mediation program is designed to alleviate the burden of costs and expenses to lenders, borrowers and taxpayers caused by Residential Mortgage Foreclosures. It is further designed to aid the administration of justice by reducing the backlog of court cases. It is also aimed at keeping families in homes to prevent vacant and abandoned houses that negatively affect property values and destabilize neighborhoods.”⁶⁹

PROGRAM ADMINISTRATION

This program is administered by the University of Illinois College of Law Community Preservation Clinic and Foreclosure Mediation Specialists, a private mediation firm. The University of Illinois received a grant from the Attorney General to manage the session calls. The program coordinator employed by the university conducts intake and orients homeowners at the bi-monthly pre-mediation session call. Foreclosure Mediation Specialists provides two mediators and collects the data. The mediators conduct all pre-mediation and mediation sessions. The 21st Circuit pays the firm \$150 per residential [foreclosure](#) filing for these services.

⁶⁹ Kankakee County Mandatory Residential Mortgage Foreclosure Mediation Program, Rule 13

The program partners are two HUD-certified housing counseling agencies, Community Service Council of Northern Will County⁷⁰ and the Institute for Consumer Credit Education. These agencies assist some homeowners with the completion of their [loan modification packets](#) and with the document exchange process.

ELIGIBLE CASES

All residential foreclosures filed after October 1, 2013, are eligible.

NOTIFICATION AND OUTREACH

The homeowners are notified about the program through the [Notice of Mandatory Mediation](#) attached to [the summons](#) served on them by the lender.

ENTRY PROCESS

The lender attorneys must schedule a pre-mediation screening session prior to filing for foreclosure. The summons they send to the homeowners instructs them to appear for a pre-mediation session. When the homeowners appear, they enter into the program.

PROGRAM PROCESS

Pre-Mediation Phase

All sessions are held during a special call at the Kankakee County Courthouse on the second and fourth Friday afternoons of the month. First appearances (pre-mediation screening sessions) must take place between 42 and 60 days of the issuance of the summons. They are all scheduled for 1:00 to 1:05 pm, while return appearances are scheduled at 1:30 and 2:30 pm. All sessions are conducted by one of two mediators, who generally rotate the call between them, and a housing counselor is sometimes available. The sessions are attended by the homeowners, the homeowner attorney if they have one and the lender attorney.

When homeowners arrive for their pre-mediation screening session, they check in with the program coordinator.⁷¹ After 1:05, she conducts a quick orientation about the program, starting with why the homeowners are there, since some do not realize what they are appearing for. She then walks them through what services are available. She tells them there is a housing counselor there who is willing to work with them. She ends by telling them what mediation is and that it can help them, whether they want to keep or relinquish their homes. The program coordinator also hands out brochures that describe the foreclosure process, including mediation. Information on Prairie State Legal Services is also available for those who qualify.

Once the program coordinator finishes the orientation, the mediator calls the homeowners into session in the order in which they arrived. In this first session, the mediator, lender attorney and homeowners discuss the homeowners' situation. They walk through the options available to all

⁷⁰ Community Service Council of Northern Will County no longer provides services to the program.

⁷¹ Starting in November 2014, a Justice Corp volunteer helped to check in homeowners.

homeowners, what is required to obtain those options and what the homeowner may qualify for. The mediator then examines the homeowners' documents and homeowner questionnaire to decide whether the homeowners meet the criteria for a loan modification. This decision is based on whether the homeowners have more income than expenses. If the homeowners do meet the criteria, then the case moves forward for a possible loan modification. If the homeowners do not meet the criteria for a loan modification, then the homeowners and lender attorney discuss the possibility of a [relinquishment](#) option. If the homeowners do not want to pursue relinquishment, the case is terminated from the program. If the case is going to proceed, the mediator informs the parties of what they need to do for the next session. If the homeowners did not bring the required documents or complete the homeowner questionnaire, the mediator schedules another screening session to go over the documents and make a decision as to whether the homeowners meet the criteria for a loan modification. This happens relatively frequently.

At the end of the screening session, the parties schedule the second pre-mediation session and the date is filed with the court. After completing the screening session, the mediator walks the homeowners over to the housing counselor, if the housing counselor is present, or provides a flyer for legal assistance. If the homeowners get assistance from the housing counselor, the counselor will help them collect the necessary documents and work with them to complete the loan modification packet.

Subsequent sessions tend to be short, often five to ten minutes. They are used to facilitate document exchange and negotiate new deadlines for submission or review of the documents, some of which may already have been negotiated between the lender attorney and the homeowners while waiting for their session to begin.

There is no limit on the number of sessions allowed, but the average is four to five per case. They generally end with an agreement for a temporary loan modification or other [foreclosure avoidance](#) option, or they are terminated when the homeowners do not appear for a session without good cause, when the mediator believes the homeowners are not participating in good faith or when the parties do not agree on any foreclosure avoidance option.

Mediation Phase

Formal mediation in this program is rare, and it was designed to be that way. Unlike other programs, the court rules require that a representative for the lender attends formal mediation in person. This makes mediation more burdensome on the lender than in other programs. Mediation is only used when the mediator determines that the parties are not communicating effectively and the homeowners continue to get conflicting information. The mediator may try to avoid mediation by having the lender representative appear by phone for a pre-mediation session to help clear up any miscommunication or misunderstanding.

TERMINATION

Cases are terminated from the program and returned to court to continue the foreclosure process when:

- The homeowners do not appear for a pre-mediation session
- The homeowners do not meet the criteria for any option to avoid foreclosure or do not wish to pursue the options
- The mediator determines that the homeowners are not participating in good faith
- The parties do not agree to any option to avoid foreclosure

Cases are returned to court for dismissal if the parties agree to a [retention](#) option other than a [temporary loan modification](#), or if they agree to a relinquishment option. If the parties agree to a temporary loan modification, the case is returned to court and the court maintains jurisdiction until the end of the trial period. If the modification is made permanent, the case is dismissed. If it is not, the foreclosure process begins.

Program Administration Perspectives

The program coordinator and one of the two mediators working with the program were each interviewed to gain their perspective on the program.

WHAT IS WORKING WELL?

The program coordinator said that in order to move cases smoothly through the court call, mediators and attorneys have to work well together. They have adapted to a system in which upwards of 20 cases are dealt with in one afternoon. She particularly noted that the lender attorneys have contributed to the efficiency of the call by meeting with homeowners prior to the sessions. The mediator who was interviewed pointed to the mandatory process as a strength. It removes most barriers to participation for homeowners, who he describes as “deer in headlights” when they arrive. He also said it “forces” lenders to the table from the outset.

CHALLENGES

The main challenge, according to the program coordinator, is the timing of cases for the calls. Homeowners making their first appearances are scheduled to arrive between 1:00 and 1:05, while returning homeowners arrive between 1:30 and 2:00. Because the first session takes on average 30 minutes, the cases become log-jammed. Often, the mediators do not complete the first appearances until 3:00. This means that many homeowners wait more than an hour for their session, which often lasts only five or ten minutes. The program staff, mediators and court have discussed flipping the first and returning appearances so that returning appearances are seen first.

Program Characteristics

PROGRAM SIZE

The program helped 173 homeowners in 2014, making it the third largest program in terms of annual participants.

Annual Numbers	
Foreclosures	256
Referred	256
Appeared for Pre-Mediation	173

CASE CHARACTERISTICS

All cases were filed post-launch and all homeowners were referred by their Notice of Mandatory Mediation that accompanied their summons. Housing counseling is available for homeowners, but a counselor does not always attend the session calls. Homeowners are given information on legal services, but no legal services attorneys attend the session calls.

Program Performance

The performance of a foreclosure mediation program is determined by a number of factors as cases move through the program:

- what proportion of homeowners participates
- how many of those homeowners complete the program by having their packet reviewed and negotiating with their lender
- how many of those outcomes are positive - either retentions or relinquishments, with an emphasis on homes retained
- how well homeowners are served in other ways, including increasing their understanding of their situations and ensuring they are treated well

PERFORMANCE SNAPSHOT	
Participation	173 homeowners participated in its first year
Impact	The program serves 68% of homeowners facing foreclosure
Outcomes	21% of homeowners who entered the program kept their homes 62% of homeowners who completed the program avoided foreclosure 54% of homeowners who avoided foreclosure kept their homes
Participant Experience	Homeowners felt respected and treated fairly in their pre-mediation sessions

PROGRAM ACTIVITY

Case Status

The program had the second highest number of participants of all the programs.

Status of Cases Through December 31, 2014	
Foreclosures	256
Referred	256
Appeared for Pre-mediation	173
Closed	143
Homes Retained	30
Homes Voluntarily Relinquished	26
No Agreement	34
Program Not Completed	53
Pending	30

Sessions Held

The mediators held 338 pre-mediation sessions: 173 first sessions and 165 continuing sessions. The program coordinator reported that the first sessions generally take 30 minutes, while the continuing sessions last five to ten minutes.

PROGRAM IMPACT

Program impact is defined for this evaluation as the percentage of eligible homeowners who have been assisted in some way by each program. This includes providing information to homeowners about the foreclosure process and possible options for their home, helping them to submit their loan modification packet, and facilitating negotiations with their lender.

This is not a straightforward calculation. First, the number of foreclosures includes some in which the homeowner may not be eligible to participate in the program. Therefore, the calculated percentages may be slightly lower than they really are. Second, a number of cases that were filed during the evaluation period are still open and therefore do not have an outcome. To deal with this second factor, the percentage of homes retained and voluntarily relinquished is projected based on the percentage of closed cases that ended with a retention or relinquishment.

The 21st Circuit program has the highest impact of all the programs

The 21st Circuit program has benefitted 68% of homeowners facing foreclosure. A projected 27% avoid foreclosure, just over half of whom keep their home. In terms of percentages, this is by far the greatest impact of all the programs.

Impact – All Eligible Foreclosures		
	21 st Circuit	Comparison
Homeowners Helped	67.6%	10.9% - 67.6%
Foreclosure Avoidance*	26.5%	2.5% - 26.5%
Retention*	14.2%	2.1% - 14.2%
Voluntary Relinquishment*	12.3%	0% - 12.3%

*These are projected based on outcomes of cases already closed.

The full 68% of homeowners who are helped get assistance when they appear for their first pre-mediation session. Prior to the session, they receive a quick orientation to the services available and the mediation program. During the session, the homeowners meet with a mediator and the lender attorney to go over their financial information and determine whether they meet the criteria for a loan modification. They also hear about their other options for their home. Thus, 68% of homeowners get some information that helps them navigate the foreclosure process whether or not they move forward in the program. The program then assists homeowners who continue in the process to try to avoid foreclosure by helping them submit their loan modification packets, and then by helping them to negotiate with their lenders.

PARTICIPATION

Because the program is a [one-step entry](#) model, its participation rate is the same as its impact: 68%. This rate is the highest of all the Attorney General-funded programs.

OUTCOMES

What Happens When Homeowners Enter the Program?

The homeowners who enter the program will end with one of four outcomes:

- Leave the program before completing negotiations with their lender
- Reach an agreement to retain their home
- Reach an agreement to relinquish their home without a foreclosure judgment
- End negotiations without an agreement

As with participation, the program cannot, and should not, expect 100% of homeowners entering the program to complete it with an agreement to avoid foreclosure. Some homeowners will not qualify for any available option, some may find that they cannot afford options that are offered, and some may decide their best option is to leave the program and go through the foreclosure process. So, the effectiveness of the program at producing desirable outcomes is determined more by how it measures against other programs than against a particular ideal percentage.

Slightly more homeowners who entered the program reached agreement to avoid foreclosure than exited early. Twenty-one percent of homeowners were able to keep their homes.

Closed Cases

Almost 40% of participating homeowners avoided foreclosure

This is the second highest rate of foreclosure avoidance for participating homeowners. However, the program has the lowest rate of home retentions, at 21%. The high rate of foreclosure avoidance is due to the 18% of homeowners who reached agreement to relinquish their homes. This is 12% higher than the next highest program.

Outcomes of Closed Cases (n=143)		
	#	% of Closed Cases
Agreement: Retention/ TPP	30	21.0%
Agreement: Relinquishment	26	18.2%
No Agreement	34	23.8%
Program Not Completed	53	37.1%

Completed Cases

More than 60% of homeowners who completed the program reached an agreement to avoid foreclosure, but only 33% retained their homes. This is the lowest rate of all programs.

Outcomes of Completed Cases (n=90)		
	#	% of Closed Cases
Agreement: Retention/ TPP	30	33.3%
Agreement: Relinquishment	26	28.9%
No Agreement	34	37.8%

WHAT DOES THIS MEAN?

The low rate of home retention for participating homeowners is likely due to the high participation rate, which means that more homeowners who do not qualify for a loan modification may be participating in the program.

Types of Retentions

Most retentions are temporary loan modifications.

Retention Outcomes (n=30)		
	#	% of Retentions
Temporary Loan Modification	22	73.3%
Installment Payment Plan	4	13.3%
Reinstatement	2	6.7%
Forbearance	2	6.7%

Temporary Loan Modification Conversions

There is no information on whether temporary loan modifications convert to permanent ones.

Types of Voluntary Relinquishments

Most relinquishments are deeds in lieu or consent judgments.

Relinquishment Outcomes (n= 26)		
	#	% of Retentions
Deed in Lieu/Consent Judgment	20	76.9%
Short Sale	6	23.1%

Program Completion

According to the data, the most common reason homeowners did not complete the program was they had not appeared for a session. Others did not meet the criteria for a loan modification and decided not to move forward in the program. According to one of the program mediators, however, some homeowners did not complete their packets within the required timeframe. Early on in the program, six lender attorneys did not appear for the session; the cases were returned to court. There are no data on their disposition thereafter.

Reasons Homeowners Don't Complete Program (n= 58)		
	#	% of Retentions
Did Not Appear	30	51.7%
Did Not Meet Criteria	22	37.9%
Lender Attorney Did Not Appear	6	10.3%

WHAT DOES THIS MEAN?

As with other programs, it is not clear how many homeowners did not complete the program because they voluntarily withdrew at some point and how many did not complete it because they failed to comply with a step for some other reason. The data do show that at least 22 of 58 homeowners who did not complete the program left the program once they discovered they would not qualify for a loan modification.

PARTICIPANT EXPERIENCE

Pre-Mediation Session Questionnaires⁷²

Most homeowners had a positive experience in their first pre-mediation session

The homeowners left feeling they were treated fairly and respected. Almost all left with greater understanding and satisfied with their experience. However, the program had the lowest level of understanding gain among all programs.

⁷² The program coordinator asked homeowners to complete the questionnaires after their first pre-mediation session. However, she was unable to do so for most session calls. In all, homeowners in 22 of 173 cases responded to the questionnaire. This is a 13% response rate.

Procedural Justice

This evaluation assessed how the homeowners felt they were treated by examining their experience of procedural justice. Procedural justice is considered to be one of the most important aspects of a party's experience with the justice system. Its presence or lack thereof has a profound impact on parties' satisfaction with the justice system and their perception of its fairness.⁷³ To measure this in the pre-mediation phase, homeowners were asked about whether they felt they were treated fairly and with respect by the person conducting the session.

The homeowners all felt they were treated fairly and with respect.

Reasons Homeowners Don't Complete Program (n=58)			
	Very much	Somewhat	Not at all
Did the counselor treat you with respect? (n = 21)	100%	0%	0%
Did the counselor treat you fairly? (n=17)	94.1%	5.9%	0%

Three homeowners pointed to how they were treated when discussing what they liked:

- “Very nice to me.”
- “Everyone was very nice.”
- “The friendliness, promptness and actual concern about our situation.”

WHAT DOES THIS MEAN?

The program is providing the homeowners with an experience of procedural justice.

Satisfaction

More than 90% of homeowners were satisfied with their experience in pre-mediation

Pre-Mediation: Satisfaction (n = 22)				
	Very satisfied	Satisfied	Unsatisfied	Very unsatisfied
How satisfied are you with your overall experience?	45.5%	45.5%	4.5%	4.50%

WHAT DOES THIS MEAN?

While almost all homeowners were satisfied with their experience, only 10 of 22 were “very satisfied.” This contrasts with a much higher rate of homeowners saying they were “very satisfied” in other programs. However, the 13% response rate means that the responses may not be representative of all participants.

⁷³ Alan E. Lind, “In the Eye of the Beholder: Tort Litigants’ Evaluations of their Experiences in the Civil Justice System,” LAW & SOCIETY REVIEW, 24: 953-996 (1990).

Understanding

Almost all homeowners who completed pre-mediation left with a greater understanding of their options and how to work with their lender. However, only 27% said they understood very much better what their options were.

Pre-Mediation: Increase in Understanding (n = 22)				
	Very much	Somewhat	No, I still don't understand	No, understood before
Understand options better than before	27.3%	63.4%	4.6%	4.6%
Understand how to work with lender better than before	36.4%	50%	9.1%	4.6%

Despite the lower rate of understanding indicated by the homeowners, the few homeowners who mentioned what they liked about their experience were apt to point to the information they received. For example:

- “Leaving after pre-mediation I felt that there are many options I did not realize prior to coming!”
- “Things were explained better.”
- “Good information. Any help is greatly appreciated!”

WHAT DOES THIS MEAN?

One of the most important goals for the court and for the program is that all homeowners who enter the program gain a better understanding of their situations and how to move forward. The percentage of homeowners who felt they understood “very much better” what their options were and how to work with their lenders is much lower than the other programs, particularly the ones in which the homeowners first work with a housing counselor. This may be reason for concern. However, with a 13% response rate, it cannot be concluded that the responses are representative of all participants.

⇒ **Recommendation:** The program should look into whether homeowners need more information during their first session so that they can begin to make informed decisions. This could be done by adding a few more questions that explore this issue to the post-session questionnaire.

Participant Characteristics

The program did not collect this information.

Discussion and Recommendations

The 21st Circuit program excels at bringing homeowners into the program. The one-step entry model has the fewest hurdles to entry and the simplest message for homeowners to understand.

Once in, homeowners are almost as likely to agree relinquish their homes as to keep them. The homeowners have the lowest levels of understanding and satisfaction of all programs.

ONE-STEP ENTRY MODEL LEADS TO HIGH PROGRAM IMPACT

The program's one-step entry model, in which homeowners are told they *must* attend the pre-mediation session on a particular date and are not required to do anything further to participate, has led to 68% of eligible homeowners participating in the program. This is more than 40% higher than the [hybrid](#) and [multi-step entry](#) programs. The high participation rate, in turn, has led the 21st Circuit program to have a home retention rate of 14% of eligible homeowners, more than twice that of the program with the next highest retention rate.

RECOMMENDATION: The program should continue to tell homeowners they must attend pre-mediation and provide them with the date of the session. It also should keep the one-step entry process.

ORIENTATION OF HOMEOWNERS

In order to implement the one-step entry model, the court adopted a court call type of session appearance, in which all sessions take place on two Fridays per month. This makes scheduling and staffing the sessions more efficient. However, it can also make the sessions more chaotic. Homeowners often arrive not knowing why they were ordered to appear and with no prior orientation. They receive a five-minute orientation, and then meet with a mediator and their lender attorney for 30 minutes to go over their financial information to determine if they meet the criteria for a loan modification. Homeowners in other programs, on the other hand, are oriented prior to their session and meet with housing counselors for an hour or more. This may be why fewer homeowners leave the session understanding their options and how to work with their lenders than in these other programs.

RECOMMENDATION: To help homeowners better understand what is happening when they arrive for pre-mediation, the program should consider developing other methods for imparting information that homeowners can access prior to attending their first pre-mediation session, such as an online video.

NEED FOR INFORMED DECISIONS REGARDING RELINQUISHMENT

If homeowners do not understand their options, they may not make informed decisions, particularly in deciding whether to pursue a voluntary relinquishment or to return to the foreclosure process. Voluntary relinquishment is not always in the best interest of the homeowners, and the decision to give up one's home should be taken with care. Housing counselors may not be well equipped to help a homeowner navigate relinquishment options. There are complex legal issues that a homeowner must consider when weighing relinquishment versus the foreclosure process. Without accessible legal services, it can be difficult for a homeowner to thoroughly explore these issues, and legal services are not readily available in the 21th Circuit. This, combined with the program's high number of voluntary relinquishments, is concerning. Given the short amount of time the homeowners spend

with their mediator, and the fact that they are meeting with the lender attorney at the same time, it is possible the homeowners are deciding on relinquishment without all the necessary information.

RECOMMENDATION: The program should look into how it can provide homeowners access to legal assistance. Other programs have law students provide this service. This may be an option.

SCHEDULING OF SESSIONS

The court call type session also has led to homeowners waiting more than an hour to meet with the mediator for five minutes. This is because homeowners who come for their first sessions, which last 30 minutes, arrive first at 1pm. The homeowners who arrive for their continuing sessions do so between 1:30 and 2:00 pm. This does not give enough time for the first homeowners to get through their sessions before the second round arrive.

RECOMMENDATION: Since continuing sessions last only five to ten minutes, it may make more sense to have those homeowners arrive first. Alternatively, the court should consider spacing out the call, with some homeowners arriving later.

Conclusion

The 21st Judicial Circuit Residential Mortgage Foreclosure Mediation Program serves the highest percentage of eligible homeowners and helps the greatest proportion of eligible homeowners to save their homes than any other Attorney General-funded program. It also has a very high rate of homeowners who agree to relinquish their homes as well as the lowest rate of homeowner understanding. This combination is concerning. Ensuring homeowners are making informed decisions is the issue the court should most attend to.

APPENDICES

DEFINITIONS



Definitions Specific to this Evaluation

Circuit: In this evaluation, the term “Circuit” refers to one of the 24 Judicial Circuits in Illinois. Some of those circuits are made up of multiple counties and others are single-county circuits. For those circuits comprised of multiple counties, the evaluation refers to the Circuit number and then indicates which counties are served. In the 6th, 20th and 21st Circuits, only one county is served by each program, while in the 17th Circuit both counties are served by the program, but these are referred to as the 6th, 20th, 21st and 17th Circuit programs.

Foreclosure: This evaluation uses the term “foreclosure” as it is used in the vernacular, to refer to both the process of foreclosing on a home by a foreclosure action that is filed in court as well as the final act of a lender obtaining ownership of a home as the result of a court granting foreclosure.

Foreclosure avoidance: After a foreclosure lawsuit is initiated, the options are that the foreclosure process will continue, resulting in foreclosure judgement and sale, or the lender and homeowners may agree to some foreclosure alternative. Alternatives where the homeowners retain possession of their home are known as [retention](#) agreements. Alternatives where the homeowners vacate the property are known as [relinquishment](#) options.



Homeowners: The term “homeowners” is used in this evaluation – instead of other terms such for those who have borrowed via a mortgage, such as borrowers, debtors or mortgagors – because the programs studied specifically work with those who borrow money to purchase a home.

A further distinction is drawn between the use of the term “*the* homeowners” and “homeowners.” “*The* homeowners” refers to the person or people who have taken out a mortgage to own a single home. For example, “The homeowners decided to work through a foreclosure mediation program to try to keep their home.” Likewise, “homeowners” is used as the plural of “the homeowners.” For example, “Homeowners attend housing counseling sessions before meeting with lenders.” While this system may create moments of grammatical confusion, it is intended to differentiate between the owner(s) of a particular home who are defendants in a case concerning that home as compared to a group of people who all own homes. Thus, when discussing data, such as “homeowners entering the program,” the evaluation is not quantifying individual people who own homes, but rather, homes.

Lenders: The term “lenders” is used in this evaluation to refer to the various creditor entities that may be involved in foreclosure mediation, such as banks and servicers.

Foreclosure Terms

Document exchange: The term “document exchange” is used to describe the period between when the homeowners first submit a loan modification packet and the lender’s review of that packet. During that time, the lender may request additional documents from the homeowners in order to have the necessary information to review the packet. If this process does not move swiftly enough, the documents become “stale” and updated versions must be submitted.

Graceful Exit/Relinquishment: With a graceful exit or relinquishment option, homeowners avoid foreclosure, while transitioning out of the home. For example, through the federal government’s Home Affordable Foreclosure Alternatives (HAFA) Program, the homeowners may be able to receive assistance, such as with relocation, to help make it possible for them to transition to a new home after a short sale or deed in lieu of foreclosure.⁷⁷

Cash for Keys: With a cash for keys program, the lender offers the homeowners cash to vacate the property quickly, leaving it in good condition. This cash can assist the homeowners with expenses such as moving costs and security deposits in rented homes.

Consent Foreclosure: The lender and homeowners may agree to a consent foreclosure, where the homeowner will have no right of redemption and the lender agrees not to file for a deficiency judgment.

Deed in lieu: With a deed in lieu of foreclosure, the lender lets the homeowner give the title to the property back, transferring ownership back to the lender. A lender will not accept a deed in lieu of foreclosure if there are any other liens on the property. The lender may require that homeowners try to sell the property for 90 days first before approving a deed in lieu. One benefit of deed in lieu is that the lender may agree to waive the deficiency judgement, releasing homeowners of liability under the mortgage.

Short Sale: In a short sale, the lender agrees to let the homeowners sell the property to a new buyer for an amount less than what the homeowners currently owes the lender.⁷⁸

HAMP (Home Affordable Modification Program): A federal government program that helps homeowners obtain loan modifications from participating lenders. Most large lenders participate; a “HAMP review” is their first step in considering a loan modification.

Loan modification packet: In order to be considered for HAMP, homeowners must submit an “Initial Package” to their servicer.⁷⁹ The Initial Package includes a request for modification and

⁷⁷ “Home Affordable Foreclosure Alternatives (HAFA) Program,”

<http://www.makinghomeaffordable.gov/programs/exit-gracefully/Pages/hafa.aspx>

⁷⁸ Id.

← affidavit, tax forms, verification of income and a Dodd Frank certification form.⁸⁰ Lenders often ask that homeowners complete the lenders' specific Request for Mortgage Assistance (RMA) Application. The RMA Application will allow the lender to evaluate the homeowners for HAMP or other foreclosure prevention alternatives. The RMA Application requires detailed information, including borrower details, property details, income worksheets, a hardship affidavit and tax forms.

← **Retention:** An alternative to foreclosure that allows the homeowners to retain possession of the home.

Forbearance: A forbearance reduces or suspends mortgage payments for a period of time. Therefore, a forbearance can be helpful to homeowners experiencing a temporary hardship. At the end of the forbearance period, the homeowner must bring the loan current.⁸¹

Modification: Homeowners who wish to remain in their homes can ask to be evaluated for a loan modification. The lender will run a net present value test, which measures the benefit to the investor of a loan modification, part of which is the homeowners' ability to pay a new loan amount.⁸² A modification may be under [HAMP](#), but proprietary modifications may be available, as well. HAMP modifications are generally more favorable for homeowners and should be evaluated first.⁸³ Loans are modified based on a "waterfall analysis," meaning that the lender will evaluate a series of changes to the loan (capitalizing arrearages, reducing interest rate, extending amortization term, forbearing principal and/or reducing payment) to see if the homeowners' payment can be made affordable.⁸⁴

← **Redemption:** Redemption is when the homeowner pays off the whole loan. In Illinois, the right to redeem, or to pay the balance of the mortgage and fees, expires seven months after service of summons or three months after judgment, whichever comes later.⁸⁵

Reinstatement: Reinstatement is when homeowners catch up on all missed payments and fees. Reinstatement ends the foreclosure suit so that the homeowner is up-to-date on the mortgage.⁸⁶ Homeowners can only reinstate once every five years.⁸⁷

⁷⁹ "Request a Home Affordable Modification," <http://www.makinghomeaffordable.gov/get-assistance/request-modification/Pages/default.aspx>

⁸⁰ Id.

⁸¹ NOLO, Legal Encyclopedia, <http://www.nolo.com/legal-encyclopedia/whats-the-difference-between-loan-modification-forbearance-agreement-repayment-plan.html>

⁸² National Consumer Law Center, training material slides on file with Resolution Systems Institute.

⁸³ Id.

⁸⁴ Id.

⁸⁵ Id.

⁸⁶ Illinois Legal Aid Online, http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp_Content&contentID=4650#q=6

⁸⁷ Id.

Temporary loan modification: Under HAMP, if homeowners are approved for a modification, they must first complete a three month trial period plan (TPP). It is not necessary for homeowners to sign the trial modification agreement; they just have to start making timely payments to accept it.⁸⁸ During the TPP, the amount the homeowners owe the lender continue to accrue. Payments are held in a suspense account until the amount of a full payment under the mortgage note is reached, which is when the payments are applied. After three payments, the TPP should be converted into a permanent modification. Conversion to permanent modification can sometimes be stalled, which homeowners should not be penalized for. After the permanent modification is in place, arrearages are capitalized and interest will start to accrue at the reduced rate.⁸⁹ In the case of a proprietary modification not under a government program, the lender may still require a trial period.

Foreclosure Program Types



Hybrid: This term is used to describe the 16th Circuit program. In this program, homeowners receive a notice of mediation that says they must contact the program coordinator in order to participate, but they also must file an appearance. Thus, it is a hybrid of the one-step entry and multi-step entry models.

Multi-step entry: The term “multi-step entry” is used in this study to describe a program in which the homeowners receive a notice of mediation with their summons that tells them they have the opportunity to participate in the mediation program. They then must complete two or more steps to participate. The 17th, 19th and 20th Circuit programs use this model.

One-step entry: The term “one-step entry” is used in this study to describe a program in which the homeowners receive a summons that includes the date and time that must appear for their first pre-mediation session. When the homeowners appear for the session, they are considered to have entered the program, thus only needing one step to enter. The 6th and 21st Circuit programs have this type of program.

General Court Terms

Complaint: “A written statement by the plaintiff that starts a lawsuit. It says what the plaintiff thinks the defendant did and asks the court for help.”⁹⁰ In the foreclosure context in Illinois, the complaint

⁸⁸ National Consumer Law Center

⁸⁹ National Consumer Law Center

⁹⁰ Illinois Legal Aid Online,

http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp_Content&contentID=4650#q=6

form must comply with 735 ILCS 5/15-1504.⁹¹ The mortgage and current copy of the note should be attached. The plaintiff should identify the “capacity” in which it brings the suit, such as owner or agent.⁹² The complaint should also specify the current unpaid balance and per diem interest. Under 12 C.F.R. § 1024.41, the foreclosure complaint cannot be filed until the borrower is 120 days late.⁹³

Default: Default is defined by mortgage documents, but usually means a missed mortgage payment. Default could also result from a lack of insurance, sale of property, failure to make required repairs, etc.⁹⁴

Filing an Answer: An answer is the defendant’s response to the foreclosure complaint. The homeowners/defendant has 30 days from service to file the appearance and answer.⁹⁵ Under 735 ILCS 5/15-15-4(h), homeowners can answer or file a counterclaim.⁹⁶ If the defendant does not file an answer, the court will proceed with the foreclosure.

Filing an Appearance: By filing an appearance, a homeowner acknowledges the lawsuit, but makes no claim that he or she agrees with the lender’s suit. Having an appearance on file means the homeowner will be notified of all future court dates. There is a fee to file an appearance, but fee waivers may be available.⁹⁷

Service of Process: Service is the delivery of “legal papers to the opposing party in a case.”⁹⁸ Service gives the defendant notice of the legal action and is carried out by the sheriff or process server. If personal service is not possible, a notice will be put in the local newspaper and the homeowner will be considered served by publication. Most program deadlines start from when service is made upon the homeowner.

Summons: “A notice to a defendant that a lawsuit against him or her was filed in a court and that the defendant has to appear in court.”⁹⁹ In the foreclosure context, the summons must include a Homeowner Notice (735 Illinois Compiled Statutes 5/15-1504.5). This notice explains the homeowners’ rights in terms of possession, ownership, [redemption](#) and surplus, among other things. For jurisdictions with foreclosure mediation, a notice of foreclosure mediation is attached to the summons and complaint.

⁹¹ Id.

⁹² Id.

⁹³ Id.

⁹⁴ National Consumer Law Center

⁹⁵ Illinois Legal Aid Online

⁹⁶ National Consumer Law Center

⁹⁷ Illinois Legal Aid Online

⁹⁸ Id.

⁹⁹ Id.

EVALUATION METHODOLOGY

This evaluation is the first of two that were funded by the Office of the Illinois Attorney General. It is formative, meaning that the goal is to provide guidance to the courts and the programs about what is working well and how they can improve. It is not meant to determine if one particular model is better than any other or to determine whether the homeowners who participated in the programs were better served than those who did not. The evaluation examines program processes, participation, outcomes and the time spent in the programs. It also examines participant experience, with a focus on whether homeowners were treated fairly and with respect, and whether they gained an understanding about their situation.

Evaluation Period

The evaluation period for this study begins with the launch of each program and ends with cases that were filed by December 31, 2014. This means that there was a year or more of data for the 16th, 19th, 20th and 21st Circuit programs, but only seven months for the 17th Circuit program and three months for the 6th Circuit program. Additionally, in the 6th Circuit program, only two pre-mediation session calls had been held prior to the end of the evaluation period.

Data Collection Tools

ONLINE CASE MANAGEMENT AND MONITORING SYSTEM

One key to this evaluation was the creation and use of uniform data fields across six different program models. The evaluator worked with program coordinators, court personnel and housing counselors to customize a commercially-available online case management system to fit the foreclosure mediation programs' case management and data collection needs. The system was designed so that almost all data were collected automatically and did not require program staff to spend time entering data needed for the evaluation. For example, participant questionnaires were all scannable.

This system was used by five of the six programs in the study. In the 21st Circuit program, the mediation provider, Foreclosure Mediation Specialists, wanted to keep its data collection uniform with the other programs it was administering and declined to use the online system. The program administrator did, however, provide data the evaluator could adapt to work with the information the other programs were collecting.

Before each program launched, as well as during the evaluation period, the evaluator continued to work with each program to further customize fields to fit both their case management needs and the evaluator's need for a uniform set of definitions for each data collection field. The customized online

system enabled the five participating programs to collect the same data so that they could be assessed on the same criteria, allowing an apples-to-apples comparison.

The data collected from the online system included homeowner demographics, dates between each milestone to determine how long it was taking for cases to get through each phase of the process, the point at which each homeowner left the program, and case outcomes, including whether temporary loan modifications were converted to permanent modifications.

POST-SESSION REPORTS

The online system included online reports to be completed by the person charged with conducting the sessions. The reports collected data on whether or not the session was held, the reason it was not held and what the result of the session was if it was held. If it was the concluding session, the final outcome was recorded, as well. Finally, it included the amount of time spent in the session and whether the parties complied with the court rules.

These reports were completed after each session. In the 17th and 19th Circuit programs, the pre-mediation session report was completed by the housing counselor. In the 20th and 6th Circuit programs, the outcomes were entered by the program coordinator. The reports were not completed in the 16th or 21st Circuit programs. The mediation session reports were completed by the mediators in the 16th, 17th and 19th Circuit programs.

POST-SESSION QUESTIONNAIRES

Participant questionnaires in a paper-and-pencil format were created for pre-mediation and mediation sessions. In the 19th Circuit program, a questionnaire was created for its group informational session as well. The questionnaires were designed as optical mark recognition forms that allowed them to be scanned into software that automatically read the participants' responses into the database.

Informational Session Questionnaires

Questionnaires for the group informational session in the 19th Circuit program examined whether the goals of the session were met and provided an opportunity for homeowners to rate the presenter. They also collected the same demographic data as is collected in the online system. The questionnaires were passed out to homeowners at the end of the sessions. They were available in English and Spanish.

Pre-Mediation Session Questionnaires

The questionnaire completed after pre-mediation sessions in all programs asked homeowners about how much they learned about their options and how to work with their lender, how they were treated, and their overall satisfaction. The questionnaire was available in English and Spanish.

Programs had different practices for distributing the questionnaires:

- In the 17th and 19th Circuit programs, the housing counselor handed the homeowners the questionnaire after their last session. Homeowners completed the questionnaire after housing counselors stepped away.
- In the 6th and 21st Circuit programs, the program coordinator asked homeowners to complete the questionnaire after their first pre-mediation sessions. The homeowners had already left their session and were therefore no longer in the same room as the person with whom they met for their session.
- In the 20th Circuit program, the program coordinator asked homeowners to complete the questionnaire after the final pre-mediation sessions. This meant that they completed it after they completed the program and had negotiated with their lenders, in most cases. The program coordinator stepped away while the homeowners completed the questionnaire.

Mediation Session Questionnaires

Parties and attorneys completed separate mediation session questionnaires. The questionnaires were adapted from the model forms developed by a joint project of Resolution Systems Institute and the American Bar Association Section of Dispute Resolution. These forms were the product of a national committee of researchers and program administrators and had been tested in two mediation programs prior to their use for the Illinois foreclosure mediation programs.

The questionnaires examined procedural justice factors, mediator coercion and helpfulness, fairness and satisfaction. The questionnaire for attorneys also asked whether they would use their mediators again. The party questionnaire was available in English and Spanish.

The participants were asked to complete the post-session questionnaire at the end of each session.¹⁰⁰ The mediator asked the participants to complete the form, and then left the room. Because the representatives for the lender participated by phone, the lender attorneys read them the questions and filled out the questionnaire for them. For the evaluation, only the last questionnaire completed by each participant was used to calculate aggregate responses.

INTERVIEWS

The evaluator interviewed all program coordinators, as well as a judge in each of the programs, except the 6th and 21st Circuit programs. She also interviewed others involved in the programs if they were extensively involved in its administration. This included the housing counselor in the 17th Circuit program and a mediator who managed the cases and conducted half of the sessions in the 21st Circuit program. Two lender attorneys were also interviewed. All interviews were semi-

¹⁰⁰ The questionnaires were not used in the 21st Circuit program because formal mediation was rare. No mediations had occurred in the 6th Circuit program; therefore the questionnaire had not yet been used there.

structured and conducted over the phone. For all but the program coordinators, the interviews lasted 20 to 30 minutes. The program coordinator interviews took about two hours each.

Limitations of the Study

In setting up the online system for data collection purposes, the evaluator aimed to have uniform data and uniform definitions of what each field represented. However, the programs, at times, developed their own uses for some of those fields and definitions that did not coincide exactly with the other programs. In order to make the data more uniform, the evaluator redefined the fields when analyzing the data; however, there may be some skewing of the data because of the differences in how the data were collected.

The evaluation was conducted by an employee of Resolution Systems Institute. Her status as an employee of RSI may have led to an unconscious bias when evaluating the programs administered by RSI, although she guarded against it.

ILLINOIS FORECLOSURE MEDIATION PROGRAM
Information Session Homeowner Survey

To help us to best provide information to homeowners like you, please answer the questions below. Your responses will be kept confidential and will be used to evaluate our services.

Answer Selection: Correct = ● Incorrect = ☒ ☑ ⊖

Date of Class:

Presenter:

	Excellent	Good	Poor	Very Poor
1. How would you rate the class overall?	☐	☐	☐	☐

Please let us know how well you understand the following topics from the presentation:

	Very well	Somewhat	Not at all
2. The options available to you to save your home	☐	☐	☐
3. How the foreclosure mediation program works	☐	☐	☐
4. How to contact AHC	☐	☐	☐

Please rate the presenter on the following:

	Excellent	Good	Poor	Very poor
5. Presentation of the material	☐	☐	☐	☐
6. Knowledge of the material	☐	☐	☐	☐
7. Organization of the material	☐	☐	☐	☐

8. Are you eligible to participate in the foreclosure mediation program? This is the program where you can sit down with the bank to mediate the foreclosure.

- ☐ Yes
☐ No

9. What did you like most about the class?

10. What did you like the least about the class?

PLEASE TURN OVER ⇒

**ILLINOIS FORECLOSURE MEDIATION PROGRAM
Information Session Homeowner Survey**

Do you have a comment about this class or AHC we can share on social media (e.g., Facebook?) If so, please write it below. If we can use your first name, please write it here: _____

It is important for us to know who our program is serving. Your responses to the following questions will help us do that. You don't have to answer the questions, but your help is appreciated. Your answers will remain completely confidential.

What is your zip code?

—	—	—	—	—
-	-	-	-	-
<input type="checkbox"/>				
<input type="checkbox"/>				
◀	◀	◀	◀	◀
▶	▶	▶	▶	▶
▲	▲	▲	▲	▲
▼	▼	▼	▼	▼
◀◀	◀◀	◀◀	◀◀	◀◀
▶▶	▶▶	▶▶	▶▶	▶▶
◀◀	◀◀	◀◀	◀◀	◀◀

Ethnicity:

- American Indian/Alaskan Native
- Asian
- Black/African-American
- Latino/Hispanic
- Native Hawaiian/Pacific Islander
- White, Not Hispanic
- Multiracial
- Other: _____

Age Range:

- Under 30
- 30-39
- 40-49
- 50-59
- 60-69
- 70-79
- 80+

Household Income:

- Less than \$20,000
- \$20,000 - \$34,999
- \$35,000 - \$49,999
- \$50,000 - \$74,999
- \$75,000 - \$99,999
- \$100,000 - \$149,999
- \$150,000+

Gender

- Male
- Female

FORECLOSURE MEDIATION

Pre-Mediation Session Report

Please fill out this form after your pre-mediation session.

Final Report	<input type="checkbox"/> Yes <input type="checkbox"/> No
Type of Service	<input type="checkbox"/> Facilitated Bi-Lateral Session <input type="checkbox"/> Housing Counseling Session <input type="checkbox"/> Pre-Mediation Session <input type="checkbox"/> Legal Services (Required)
Was the session held?	<input type="checkbox"/> Yes, Service Completed (R) <input type="checkbox"/> Yes, Service Continued <input type="checkbox"/> No, Return to Court <input type="checkbox"/> No, Session Rescheduled
Session Date	<input type="text"/> mm/dd/yy 
Time Spent in Session (hours; can be in portions: 1.25 etc)	<input type="text"/>
Final Session Result	<input type="checkbox"/> Referred to mediation <input type="checkbox"/> Referred to other service <input type="checkbox"/> Accepted homeowner as client (legal services only) <input type="checkbox"/> Return to court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement <input type="checkbox"/> Other (indicate below)
Reason returned to court (check all that apply)	<input type="checkbox"/> Homeowner did not appear <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> Homeowner did not provide complete documentation in required timeframe <input type="checkbox"/> Homeowner withdrew <input type="checkbox"/> Other (indicate below)
If other reason returned to court, describe	<input type="text"/>

FORECLOSURE MEDIATION

Pre-Mediation Session Report

Reason case rescheduled or continued (check all that apply)	<input type="checkbox"/> Servicer required new packet <input type="checkbox"/> Servicer didn't have requisite documents prepared <input type="checkbox"/> Servicer didn't review homeowner documents <input type="checkbox"/> Homeowner did not provide sufficient documents <input type="checkbox"/> Homeowner's change in circumstances <input type="checkbox"/> Rescheduled at request of homeowner <input type="checkbox"/> Rescheduled at request of servicer <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> More time needed to negotiate <input type="checkbox"/> Other (indicate below)
If "other" above, reason rescheduled/continued	<input style="width: 100%;" type="text"/>
Which service was homeowner referred to?	<input type="checkbox"/> Land of Lincoln Legal Services <input type="checkbox"/> Prairie State Legal Services <input type="checkbox"/> Bankruptcy attorney <input type="checkbox"/> Credit/debt management agency <input type="checkbox"/> Social services agency (select below) <input type="checkbox"/> Other (indicate below)
If "particular agency" above, which one?	
If "other" above, which other service was the homeowner referred to?	<input style="width: 100%;" type="text"/>
Final Case Outcome	<input type="checkbox"/> Program Not Completed - Return to Court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement: Retention <input type="checkbox"/> Agreement: Relinquishment <input type="checkbox"/> No Agreement <input type="checkbox"/> Other (indicate below)
If other case outcome, please describe	<input style="width: 100%;" type="text"/>

FORECLOSURE MEDIATION

Pre-Mediation Session Report

If home retained, what was agreed to?	<input type="checkbox"/> Permanent loan modification <input type="checkbox"/> Reinstatement <input type="checkbox"/> Forbearance <input type="checkbox"/> Short payoff <input type="checkbox"/> Refinance <input type="checkbox"/> Other (indicate below)
If other retention option, please describe	<input style="width: 100%; height: 20px;" type="text"/>
If home relinquished, what was agreed to?	<input type="checkbox"/> Short sale <input type="checkbox"/> Deed in Lieu <input type="checkbox"/> Relocation assistance (cash for keys) <input type="checkbox"/> Consent judgment <input type="checkbox"/> Other (indicate below)
If other relinquishment option, please describe	<input style="width: 100%; height: 20px;" type="text"/>
Did both parties comply with program requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If not, who didn't comply? (check all that apply)	<input type="checkbox"/> Lender <input type="checkbox"/> Homeowner

**Illinois Foreclosure Mediation Program
HOUSING COUNSELING SESSION SURVEY**

To help us to maintain the quality of the housing counseling program, please answer all of the questions below. Your responses will be kept confidential and will be used to improve our services. No identifying information about you will be released.

Case Number:

Date:

The following questions ask about your experience with the pre-mediation counseling session. Please fill in one circle for each question.

Answer Selection: Correct = ● Incorrect = ☒ ☑ ⊖

	Not at all	Somewhat	Very much
1. Did the counselor treat you with respect?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. Did the counselor treat you fairly?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. Do you understand how to work with your lender better than you did before the session?			
<input type="radio"/>	No, I still don't understand.		
<input type="radio"/>	No, because I understood before the session.		
<input type="radio"/>	Yes, somewhat better.		
<input type="radio"/>	Yes, very much better.		
4. Do you <u>understand the options</u> you have regarding your home better than you did before the session?			
<input type="radio"/>	No, I still don't understand my options.		
<input type="radio"/>	No, because I understood my options before the session.		
<input type="radio"/>	Yes, somewhat better.		
<input type="radio"/>	Yes, very much better.		
4. How satisfied are you with your <u>overall experience</u> with the counseling session(s)?			
<input type="radio"/>	Very unsatisfied		
<input type="radio"/>	Unsatisfied		
<input type="radio"/>	Satisfied		
<input type="radio"/>	Very satisfied		
5. Please let us know what you <u>liked</u> about the session(s):			
6. Please let us know what you <u>didn't like</u> about the session(s):			

FORECLOSURE MEDIATION PROGRAM

Mediator Report

Final Report?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Was mediation held?	<input type="checkbox"/> Yes, Mediation Completed <input type="checkbox"/> Yes, Mediation Continued <input type="checkbox"/> No, Return to Court <input type="checkbox"/> No, Mediation Rescheduled
If not held, reason returned to court (check all that apply)	<input type="checkbox"/> Homeowner did not appear <input type="checkbox"/> Homeowner did not provide complete documentation in required timeframe <input type="checkbox"/> Homeowner withdrew <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> Other (indicate below)
If other reason returned to court, describe	<input type="text"/>
Reason mediation rescheduled or continued (check all that apply)	<input type="checkbox"/> Servicer required new packet <input type="checkbox"/> Servicer didn't have requisite documents prepared <input type="checkbox"/> Servicer didn't review homeowner documents <input type="checkbox"/> Homeowner didn't provide sufficient documentation <input type="checkbox"/> Homeowner's change in circumstances <input type="checkbox"/> Rescheduled at request of homeowner <input type="checkbox"/> Rescheduled at request of servicer <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> More time needed to negotiate <input type="checkbox"/> Other (indicate below)
If other reason rescheduled or continued, describe	<input type="text"/>
Date of mediation session	<input type="text"/> mm/dd/yy 
Time spent in mediation session (in fractions of hours - e.g., 1.25)	<input type="text"/>
Time spent on case outside of mediation session	<input type="text"/>

FORECLOSURE MEDIATION PROGRAM

Mediator Report

Final Case Outcome	<input type="checkbox"/> Program Not Completed - Return to Court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement: Retention <input type="checkbox"/> Agreement: Relinquishment <input type="checkbox"/> No Agreement <input type="checkbox"/> Other (indicate below)
If other case outcome, please describe	<input type="text"/>
If home retained, what was agreed to?	<input type="checkbox"/> Permanent loan modification <input type="checkbox"/> Reinstatement <input type="checkbox"/> Forbearance <input type="checkbox"/> Short payoff <input type="checkbox"/> Refinance <input type="checkbox"/> Other (indicate below)
If other retention option, please describe	<input type="text"/>
If home relinquished, what was agreed to?	<input type="checkbox"/> Short Sale <input type="checkbox"/> Deed in lieu <input type="checkbox"/> Relocation assistance (cash for keys) <input type="checkbox"/> Consent Judgment <input type="checkbox"/> Other (indicate below)
If other relinquishment option, please describe	<input type="text"/>
Did both parties comply with program requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If no, who didn't comply (check all that apply)	<input type="checkbox"/> Lender <input type="checkbox"/> Homeowner

**ILLINOIS FORECLOSURE MEDIATION PROGRAM
EVALUATION FOR PARTIES**

Case Number:

Date:

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

Answer Selection: Correct = ● Incorrect = ☒ ☑ ☐

1. What is your role in the case?

- Lender/Servicer
 Homeowner
 Other: _____

The following questions ask about your experience during the mediation session. Please fill in one circle for each question.

2. Were you able to talk about the issues and concerns that were most important to you?

- I was able to talk about **none** of the issues and concerns that were most important to me.
 I was able to talk about **some** of the issues and concerns that were most important to me.
 I was able to talk about **most** of the issues and concerns that were most important to me.
 I was able to talk about **all** of the issues and concerns that were most important to me.

3. Was the mediator active enough in helping you to work out the issues in the dispute?

- No
 Yes

Not at all Somewhat Very much

4. How much did the mediator understand what was important to your side?

5. Did the mediator treat you with respect?

6. Did the mediator treat you fairly?

7. Did the mediator push too hard to get you to settle?

- No
 Yes

8. To the best of your knowledge, were any of the following true at the time of the mediation? Please fill in the circle for all that apply

- A. Some information that would have been helpful in the settlement discussions was not available at the mediation.
- B. When mediation began, the other party and I were very far apart in what we wanted the outcome of the case to be.
- C. The time we had to mediate was too short.
- D. One or more participants did not have authority to settle.
- E. There was anger/hostility between the other party and me.
- F. There was a large power imbalance between the other party and me.

	Very Unsatisfied	Unsatisfied	Satisfied	Very Satisfied
9. How satisfied are you with the <u>outcome</u> of the mediation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. Regardless of the outcome, how satisfied are you with your <u>overall experience</u> in the mediation session(s)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

11. Overall, was the mediation process fair?

- Not at all
- Somewhat
- Very much

Please let us know more about your experience:

12. Please let us know what you liked about the mediation:

13. Please let us know what you didn't like about the mediation:

**ILLINOIS FORECLOSURE MEDIATION PROGRAM
EVALUATION FOR ATTORNEYS**

Case Number: Date:

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

Answer Selection: Correct = ● Incorrect = ☒ ☑ ⊖

1. Which party did you represent in the case?

- Lender/Servicer
 Homeowner
 Other: _____

The following questions ask about your experience during the mediation session. Please fill in one circle for each question.

2. Was your side able to talk about the issues and concerns that were most important to you?

- We were able to talk about **none** of the issues and concerns that were most important to us.
 We were able to talk about **some** of the issues and concerns that were most important to us.
 We were able to talk about **most** of the issues and concerns that were most important to us.
 We were able to talk about **all** of the issues and concerns that were most important to us.

3. Was the mediator active enough in helping the parties work out the issues in the dispute?

- No
 Yes

Not at all Somewhat Very much

4. How much did the mediator understand what was important to your side?

5. Did the mediator treat you with respect?

6. Did the mediator treat your side fairly?

7. Did the mediator push too hard to get your side to settle?

- Yes, the mediator pushed too hard

- No, the mediator did not push too hard

8. To the best of your knowledge, which of the following were true at the time of the mediation?

Please fill in the circle for all that apply

- A. Additional documents were needed.
- B. A question of law needed to be determined.
- C. The time scheduled for mediation was too short.
- D. The case required a mediator with a different skill set.
- E. One or more participants did not have authority to settle.
- F. There was a high level of anger/hostility in the relationship between the parties.
- G. There was a large power imbalance between the parties.

	Very Unsatisfied	Unsatisfied	Satisfied	Very Satisfied
9. How satisfied are you with the <u>outcome</u> of the mediation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. Regardless of the outcome, how satisfied are you with your <u>overall experience</u> in the mediation session(s)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

11. Overall, was the mediation process fair?

- Not at all
- Somewhat
- Very much

12. If given the choice, would you use this mediator again?

- Yes
- No
- Possibly

Why or why not?

13. How many mediations have you participated in prior to this mediation?

- None
- 1-10
- 26-50
- 51-100

11-25

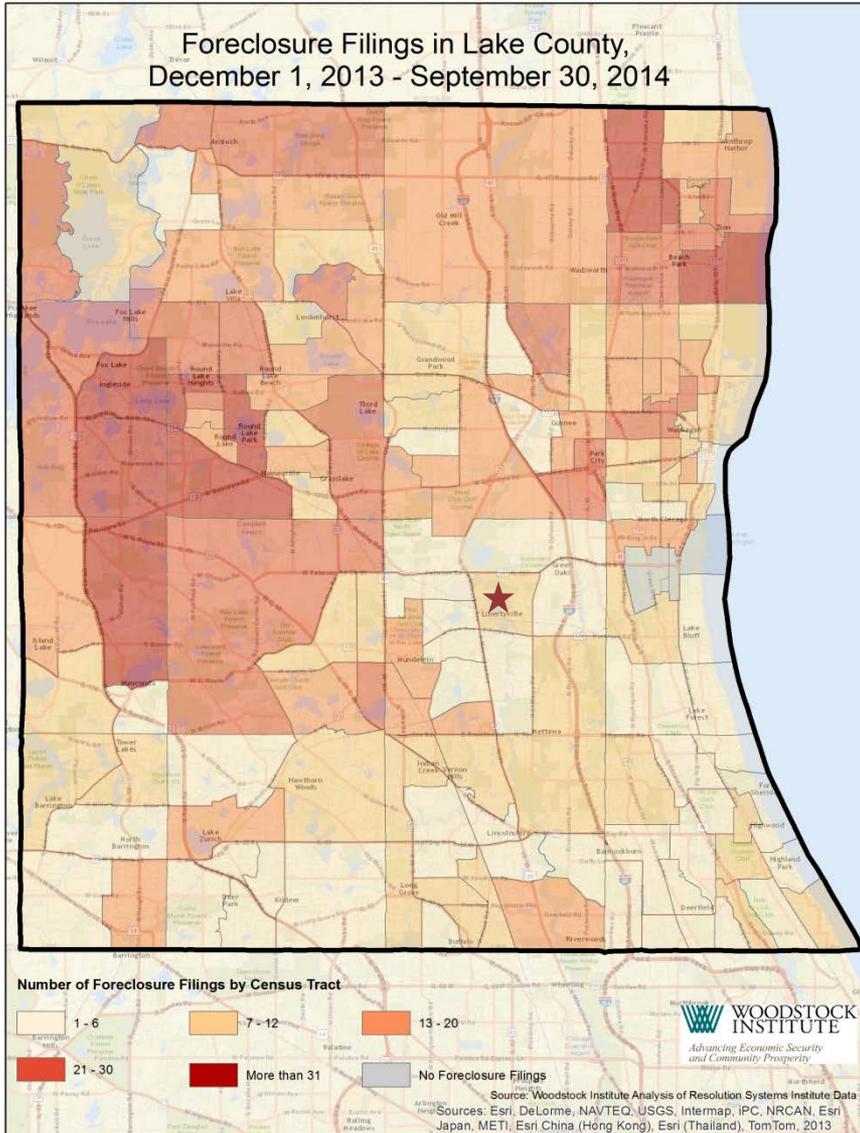
More than 100

14. What, if anything, made the mediation effective?

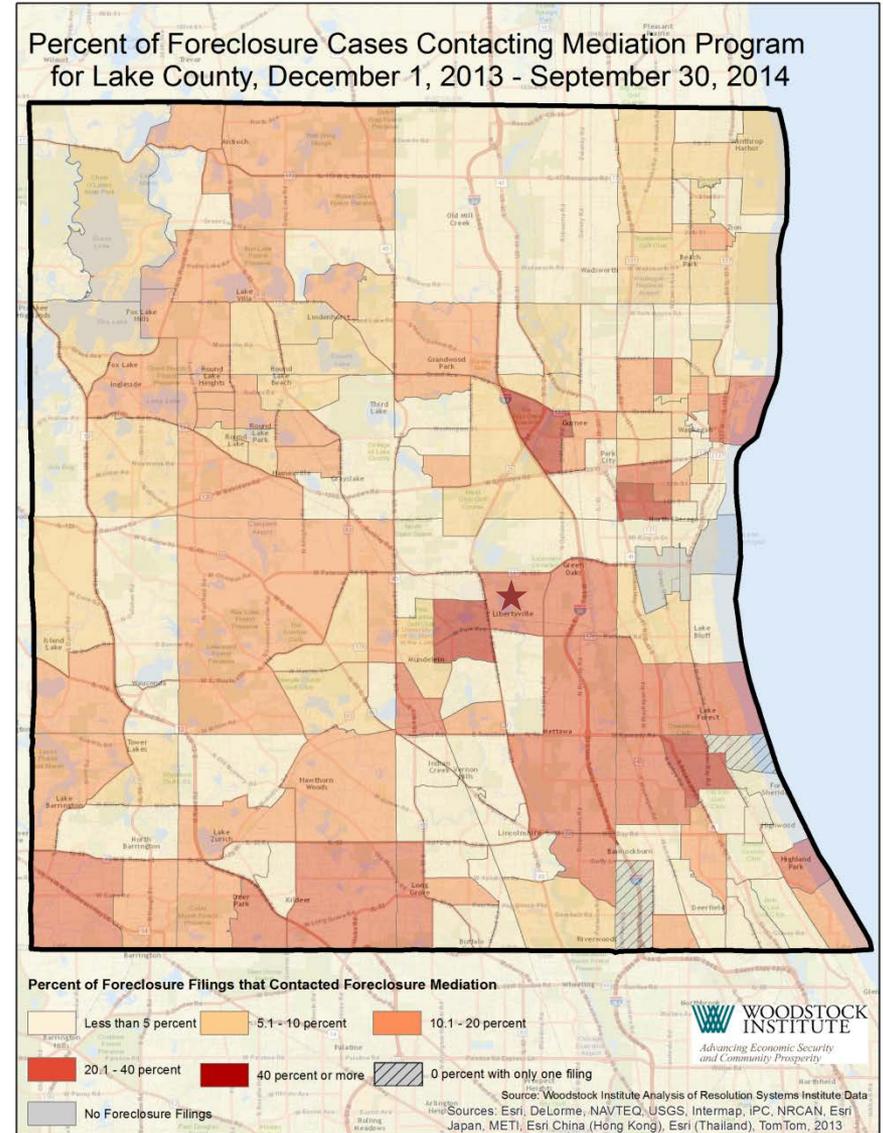
15. What could have improved the mediation?

19TH CIRCUIT

FORECLOSURE FILINGS v. HOMEOWNERS ATTENDING INFORMATIONAL SESSION



★ Location of Housing Counseling Services



ABOUT THE AUTHOR

Jennifer Shack has been Director of Research at Resolution Systems Institute since 2000. In this role, she conducts complex evaluations of court-based mediation programs and researches the effectiveness of mediation in court settings. As part of RSI's efforts to help courts to monitor the functioning of their mediation programs, she has designed data collection systems that are in use around Illinois. This includes the cloud-based case management and monitoring system used by the Attorney General-funded foreclosure mediation programs.

Nationally, Ms. Shack has led a national committee to develop model evaluation forms for civil case mediation programs and serves on the American Bar Association Section of Dispute Resolution Research Task Force. Over the past decade, she has presented on program monitoring and evaluation at numerous conferences.

Ms. Shack's evaluations include a comprehensive evaluation of the Child Protection Mediation Program in Cook County, Illinois, and evaluations of the mediation programs in the U.S. District Court for the Northern District of Illinois. Ms. Shack has also written a number of articles, including "Mediation in Courts Can Bring Gains, But Under What Conditions?" in *Dispute Resolution Magazine*, Winter 2004, and the co-authored, "Judicial Settlement Databases: Development and Uses," *Judges' Journal*, Winter 2004. Most recently, she co-authored two articles on foreclosure mediation: "Foreclosure Dispute Resolution Programs: Do They Work?" in *Probate and Property*, December 2013, and "A (Mortgage) Crisis in Communication: Foreclosure Dispute Resolution as Effective Response?" in *Arkansas Law Review*, Spring 2013. Ms. Shack also discusses issues related to research on issues related to court ADR on RSI's blog, *Just Court ADR*.