

SIX PROGRAMS, SIX MODELS:

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

6TH JUDICIAL CIRCUIT EXTRACT

Jennifer Shack
Director of Research

RESOLUTION SYSTEMS INSTITUTE



RSI

ACKNOWLEDGEMENTS

RSI is grateful to the Office of Illinois Attorney General Lisa M. Madigan for generous financial support of this evaluation and the mediation programs it studied.

Many thanks are due to the program coordinators for each program involved in the study. This study would not have been possible without the efforts of Kim Ackmann, Tracey Douglas, Olga Kordonskaya, Erin Lillie, Kevin Malone and Katherine Porter to collect comprehensive data. Thanks are due, too, to the judges, housing counselors and attorneys who agreed to be interviewed. Their time and candor were valuable to the evaluation.

I would also like to thank my colleagues at RSI, Susan Yates and Shawn Davis, as well as program administrators at RSI's partner grantees, Stacey Tutt at the University of Illinois College of Law Community Preservation Clinic and Missy Greathouse at the Dispute Resolution Institute, Inc., for their cooperation and collaboration in developing the evaluation plan. I could not have designed the evaluation without their expertise. Shawn Davis' knowledge of the intricacies of foreclosure and the mediation programs was particularly valuable. Finally, thank you to Bridget Crawford for her patient and excellent copyediting.

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.

With a multi-year grant from the Office of Illinois Attorney General Lisa M. Madigan, RSI has fully implemented the advice we have offered for two decades: Seek stakeholder input. Set goals. Design clear systems. Train skilled neutrals. Collect uniform data. Share information with stakeholders. Assess programs with an expert eye. Never stop working to improve court ADR programs.

For more information about RSI, see AboutRSI.org.

© 2015 Resolution Systems Institute

6TH JUDICIAL CIRCUIT FORECLOSURE MEDIATION PROGRAM Champaign County

Overview

Launch Date	October 1, 2014
Program Size	Approximately 140 cases per year (35 of 57 foreclosures filed in the 4 th Quarter of 2014 entered the program)
Type	One-step entry
Homeowner Entry Process	Attend pre-mediation session
Intake	None; checked in by program coordinator at pre-mediation session
Pre-Mediation	Up to 3 formal pre-mediation sessions with either housing counselor or legal services representative to complete packet ; status sessions with mediator to complete document exchange
Mediation	Unlimited mediation sessions allowed by rule
Remain in Program During TPP?*	Yes
Timing of Foreclosure Stay	Date of service of process until return to court; if parties agree to TPP, stay remains until end of trial period
Homeowner Cost	None
Lender Additional Filing Fee	\$75
Mediator Payment	\$200/case
Program Staff	1 part-time program coordinator
Program Rule	Administrative Order 2014-1: Mandatory Foreclosure Mediation Program

DISTINGUISHING FEATURES OF THE PROGRAM

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

- The [lenders](#) must provide proof to the Circuit Clerk that they have scheduled a pre-mediation session in order to file a foreclosure case
- The program has a one-step entry process: the [homeowners](#) need only appear for their pre-mediation session to participate
- Housing counselors and legal services representatives conduct the initial pre-mediation sessions during a court call. In the other programs in the study, homeowners either go to the housing counseling agency for their sessions or attend court call sessions that are conducted by program staff or mediators

* Trial period plan, the term of the temporary loan modification

STATISTICS AT A GLANCE

In 2014, 21 homeowners entered the program.*

Status of Cases as of December 31, 2014	
Foreclosures Filed	57
Contacted Program	21
Entered Program	21
Closed	3
Pending	18

The program helps more than 60% of homeowners.

Program Impact	
	% of Foreclosures
Homeowners Helped	61.4%
Foreclosures Avoided	N/A
Homes Retained	N/A

Because pre-mediation sessions began in December 2014, the last month of the evaluation period, no homeowners had had time to complete the program.

Outcomes of Closed Cases		
	#	% of Closed Cases
Agreement: Retention / TPP	0	0%
Agreement: Relinquishment	0	0%
No Agreement	0	0%
Closed: Program Not Completed	3	100%

The three cases that have closed have done so, on average, in 50 days from the scheduling of the first pre-mediation session.

Average Number of Days			
Filing to Close – All Cases	Program Entry to Close	Program Entry to Close – Completed Cases	Program Entry to Close – not Completed
N/A	50	N/A	50

The few homeowners who completed the pre-mediation questionnaire had a positive reaction to their pre-mediation session.

Pre-Mediation: Homeowner Experience (n = 5)	
Understand Options Better Than Before	80%
Understand How to Work with Lender Better Than Before	80%
Satisfied Overall	100%

*An additional 14 homeowners whose cases were filed in 2014 entered in 2015.

IMPORTANT FINDINGS

More than 60% of eligible homeowners facing foreclosure were helped by the program

Thirty-five of 57 homeowners who had foreclosures filed against them appeared for their first pre-mediation session, at which they received an orientation and assistance from either a housing counselor or legal services representative. This 61.4% participation rate is higher than any but the 21st Circuit program.

Program Description and Procedures

WHAT NEED WAS THE PROGRAM DESIGNED TO MEET?

According to an article in *The News-Gazette*, the judge who oversees foreclosure cases repeatedly had homeowners come to court frustrated by their lack of communication with their lenders. They could not get the same person from their lender on the phone twice, and once they put together all the documents they needed and sent them to their lender, the documents were lost or became stale before they were reviewed. He also saw lender attorneys arriving in court without knowing what the status of the [foreclosure](#) was and without the authority to settle.¹⁹

PROGRAM ADMINISTRATION

This program is administered by the University of Illinois College of Law Community Preservation Clinic. A part-time program coordinator manages the program. The school's law librarian helps out by scheduling pre-mediation and mediation sessions. Program partners are Navicore Solutions, a HUD-certified housing counseling agency, and Land of Lincoln Legal Services. These organizations conduct pre-mediation sessions. The program has a panel of ten private mediators trained in foreclosure issues. Mediators are paid a flat \$200 fee per case.

ELIGIBLE CASES

All residential mortgage foreclosure cases are eligible for the program.

NOTIFICATION AND OUTREACH

Homeowners receive information about the program with their notice of [summons](#), which also tells them they are mandated to attend a pre-mediation session.

Prior to launch, the court and program staff held a press conference to announce the program. They also held meetings with the plaintiff's bar and the local bar associations. The program also has a [website](#).

¹⁹Christine Des Garennes, "Mandatory mediation on tap for foreclosure process," THE NEWS GAZETTE, August 10, 2014. Online at: <http://www.news-gazette.com/news/local/2014-08-10/mandatory-mediation-tap-foreclosure-process.html>. Last accessed on June 3, 2015.

ENTRY PROCESS

Prior to filing a foreclosure case, the lender attorney calls or emails the Champaign County Law Librarian to schedule the pre-mediation session. This session must be between 42 and 60 days from the date of summons. Once the librarian schedules the session, she communicates the date to the lender attorney, who must include that date in the foreclosure filing. The lender attorney then serves the homeowners with the notice of summons, which includes the date they must appear for the pre-mediation session and the [Notice of Mandatory Mediation](#). If the homeowners appear on the scheduled date, they enter the program. In very rare instances, the homeowners may contact the law librarian before the session if they have an extenuating circumstance and cannot attend it. In those situations, the librarian may continue the case to another date.

PROGRAM PROCESS

Pre-Mediation Phase

The pre-mediation phase includes up to three pre-mediation sessions with either a housing counselor or a legal aid representative, as well as status conferences conducted by a mediator. All sessions take place during a special call in the Self-Help Center in the Champaign County Courthouse twice a month on Tuesdays. When the homeowners appear for their first pre-mediation session, the program coordinator, along with Justice Corps volunteers, checks them in and gives them the Land of Lincoln Legal Aid screening sheet. This sheet lets them know if their income falls below the line to qualify for Land of Lincoln's services. If the homeowners do qualify for legal services, the program coordinator has them meet with the representative from Land of Lincoln. If they do not, she sends them to the housing counselor from Navicore Solutions, a HUD-certified agency. Both have people on site that day.

About 15 minutes after the call begins, the program coordinator gives an orientation to the homeowners. She describes what the program is, whom they can see and what their options are. She then starts sending people to the legal services representative or the housing counselor based on who arrived first.

If the homeowners see the Land of Lincoln attorney, the attorney walks them through Land of Lincoln's retainer agreement and explains the services that Land of Lincoln can provide. If the homeowners brought legal and financial documentation with them, the attorney reviews the documents with them. Since the homeowners generally don't bring all the necessary documents to complete the [loan modification packet](#), the representative sets up an appointment with the homeowners at the legal aid office, with the goal of completing the packet before the next pre-mediation session.

If the homeowners see the housing counselor, they go over what documents are needed, why they need them, and how to get them to the counselor. Here, too, the housing counselor sets up an appointment at his/her office with the hope of completing the packet before the next appearance.

When the homeowners appear for their second and third pre-mediation sessions, they meet with the same counselor they met with at the first session. Having homeowners appear for later sessions is meant to ensure the cases continue to move forward and that lenders are aware of this progress. Further, even though homeowners are supposed to complete their packets before the next scheduled pre-mediation date, that does not always happen. Thus, these sessions also serve the purpose of motivating homeowners by giving them a set deadline to compile their documents. Although the rule allows for three pre-mediation sessions, early cases indicate that those who see the housing counselor need only one or two.

When the packet is submitted to the lender, the case is scheduled for a status conference, which must take place within 45-60 days of the last pre-mediation session. In the meantime, the lender must provide a [detailed list](#) of missing documents within 14 days of receiving a completed packet from the homeowners, and the homeowners must supply those missing documents within 21 days. If the exchange of documents is completed before the first status conference, the case moves directly to mediation.

Status conferences are conducted by the mediator; the homeowners and lender attorney must attend in person. The purpose of the conference is to facilitate [document exchange](#) by ensuring that communication continues between the lender and the homeowners and helping to clear up misunderstandings and conflicts over what documents the homeowners have submitted. Even though the mediator takes over the case, the housing counselor or legal aid attorney continues to help the homeowners throughout the document exchange process and attend the sessions.

Status conferences continue to be scheduled if the packet is not complete or the lender has not completed its review of the packet at the time of the current conference. Once the lender completes its review and certifies the packet is complete, the lender attorney schedules a mediation and cancels the next status session.

Mediation Phase

After the document exchange is completed, the lender's attorney files the [Plaintiff's Certificate of Readiness](#) with the court. This contains the date in which the lender acknowledged the packet was complete, as well as the date of mediation. Mediation should take place within 45 days. The lender is required to provide the homeowners with a completed [Plaintiff's Questionnaire](#) within 30 days of filing the Certificate of Readiness and no later than seven days before the mediation.

The homeowners and the lender's attorney must attend mediation in person. The homeowners are accompanied by the housing counselor or legal aid attorney who assisted them during the pre-mediation phase. The lender's representative with full settlement authority must also attend, but may do so by phone. The purpose of mediation is to see if the lender and homeowners can negotiate a [temporary loan modification](#) or other [foreclosure avoidance](#) option. There is no deadline for completing mediation.

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 submit a complete packet by the end of three pre-mediation sessions
- The homeowners do not meet the criteria for any option to avoid foreclosure or do not wish to pursue the options
- 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 homeowners and lender agree to a temporary loan modification, the program keeps the case until the end of the trial period. Per the program design, a mediation will be scheduled for the end of the trial period to facilitate any issues with the conversion to a permanent loan modification. If the parties agree on the conversion and sign the documents beforehand, the mediation will be cancelled.

Program Administration Perspectives

The program coordinator was interviewed to get her perspective on the program.

WHAT IS WORKING WELL?

Most homeowners are participating in the program. The program coordinator suggested two reasons for this. First, prior to launching the program, the court and the University of Illinois Law Clinic publicized the program, so homeowners should have been very aware of the program. In addition, the county courthouse, where the sessions are held, is centrally located. Homeowners have to travel at most 20-25 minutes to attend.

Program Characteristics

The program is projected to serve about 140 homeowners annually, which puts it right in the middle of the programs in terms of size. All but one of the homeowners served had cases that were filed after the program start date, with all responding to the notification of the program that accompanies their notice of summons. The other case was filed in 2011. The homeowner in that case filed a motion to be referred into mediation.

SIZE OF PROGRAM

The program is projected to serve about 140 homeowners per year

Champaign County has the fewest foreclosure filings of any program county. However, because the 6th Circuit program's participation rate is high, it has the potential to serve more homeowners than other Attorney General-funded programs that have many more foreclosure cases.

Annual Numbers*	
Foreclosures Filed	228
Contacted/Referred	228
Entered Program	140

*These are projected numbers based on the program's first three months.

CASE CHARACTERISTICS

All cases start with a session with either a housing counselor or a legal services representative. Once the packet is complete, the mediator takes over, conducting status sessions to facilitate document exchange. When the lender reviews the packet, the mediator shifts the focus of the sessions to mediating a resolution.

Referral Source

All homeowners except one arrived for their first pre-mediation session in response to the notification of the session that accompanied their notice of summons. The other homeowner, whose case was filed in 2011, filed a motion to be referred into the program.

Services Received

All homeowners receive the assistance of a housing counselor or legal services attorney. There are no data on how many receive which service.

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 lenders
- 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	21 homeowners attended the first two pre-mediation sessions
Impact	The program serves 61% of homeowners facing foreclosure
Outcomes	3 homeowners did not continue to participate after their first session
Participant Experience	Homeowners felt respected and treated fairly in their pre-mediation session
Time in Program	The quickest a case will leave the program is about 50 days

PROGRAM ACTIVITY

Status of Cases

Two pre-mediation session calls were held during the evaluation period. 21 homeowners attended those calls.

Status of Cases Through December 31, 2014	
Foreclosures Filed	57
Referred to Program	57
Appeared for Pre-Mediation	21
Closed	3
Pending	19

Sessions held

There are no data on the number of sessions nor the time spent in them.

PROGRAM IMPACT

The program has the second highest impact in terms of homeowners helped

Of the 57 foreclosures filed from the program launch through December 2014, 35 homeowners eventually appeared for their first pre-mediation session. This means that the program helped 61.4% of all eligible homeowners. This is more than any other program except the 21st Circuit program. The full 61% of homeowners received assistance when they arrived for their first pre-mediation session. At this session, they received an orientation to the foreclosure process, the foreclosure mediation program and the services available to them. They then met with either a housing counselor or legal services representative to go over their financial information and what was needed in order to complete their loan modification packet.

The program also assists homeowners by helping them submit their loan modification packets to their lenders and then by facilitating communication and negotiation with their lenders. At the end of the evaluation period, homeowners had only attended their first pre-mediation sessions, so they had not received these services.

PARTICIPATION

The one-step entry model appears to be effective at maximizing participation

Thirty-five of 57 homeowners participated in the program.²⁰ The participation rate of 61.4% is the second highest of all the programs funded by the Attorney General, and 33% higher than the program with the third highest participation rate. The most likely reason for the high participation rate is the mandatory model of recruitment. This model notifies homeowners that they must attend

²⁰ Fourteen of these homeowners participated in January 2015. They are included because doing so provides a clearer picture of the participation rate.

the pre-mediation session call and has an easy, [one-step entry](#) process. Both one-step entry programs have participation rates above 60%, and more than twice as high as the [multi-step entry](#) programs.

OUTCOMES

The first pre-mediation sessions were held in December 2014. Therefore, there had not been enough time in the evaluation period for any cases to have completed the program. Of the 21 homeowners who attended the sessions, three homeowners did not continue through the program. Of those three homeowners, two decided not to participate. In the other case, the lender filed a motion to have the case be removed from the program.

TIME IN PROGRAM

The shortest time a case will stay in the program is about 50 days

The three cases that have closed have done so on average in 50 days from the scheduling of the first pre-mediation session.

Average days...		How calculated...
From filing to close	N/A*	From filing to program exit
From program entry to program exit	50	From date lender contacts program to schedule pre-mediation session to program exit
From program entry to program exit – completed	N/A**	From date lender contacts program to schedule pre-mediation session to program exit – cases that reached agreement or no agreement
From program entry to program exit – not completed	50	From date lender contacts program to schedule pre-mediation session – cases in which the homeowner withdrew or did not comply with the program requirements
In pre-mediation phase	50	From date lender contacts program to schedule pre-mediation session to date scheduled for mediation or program exit
In mediation phase	N/A	From date scheduled for mediation to program exit

*Since the cases are filed after the lender contacts the program to schedule the pre-mediation session, this statistic is not applicable.

**No cases had been completed by the end of the evaluation period.

WHAT DOES THIS MEAN?

The foreclosure process is stayed at the time of filing. This means that when homeowners do not appear or withdraw, the earliest the stay is removed just after the first pre-mediation session date. Given program timelines, in which the first pre-mediation session takes place from 42 - 60 days after the homeowner is served, 50 days is a good estimate of the shortest amount of time a case will be in the program before the stay is lifted and the foreclosure process starts. It is too early to tell how long it takes cases in general to move through the program and result in an agreement or no agreement.

PARTICIPANT EXPERIENCE

Pre-Mediation Session Questionnaires²¹

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.²² 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.

Pre-Mediation: Respect and Fairness (n=5)			
	Very much	Somewhat	Not at all
Did the counselor treat you with respect?	100%	0%	0%
Did the counselor treat you fairly?	100%	0%	0%

WHAT DOES THIS MEAN?

All the homeowners felt they were treated very fairly and with very much respect. This indicates that they had an experience of procedural justice.

Understanding

Four of the five homeowners who completed the questionnaire left the program with a greater understanding of their options and how to work with their lender.

Pre-Mediation: Increase in Understanding (n = 5)			
	Very much	Somewhat	No, I still don't understand
Understand options better than before?	20%	60%	20%
Understand how to work with lender better than before?	20%	60%	20%

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. There is not enough information available yet to tell how well the program is doing in this respect.

²¹ Homeowners complete the pre-mediation session questionnaire at the end of the first pre-mediation session. Five of 21 homeowners completed the questionnaire during the evaluation period. This is a 24% response rate.

²² 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)

Satisfaction

All five homeowners were satisfied with their experience in pre-mediation

Pre-Mediation: Satisfaction (n = 5)				
	Very Satisfied	Satisfied	Unsatisfied	Very Unsatisfied
How satisfied are you with your overall experience?	60%	40%	0%	0%

Homeowner Comments

Three of the five homeowners said they liked that someone was willing to help or that the session was helpful. One mentioned the “very caring and patient” people, and one said the session was “informative.”

PARTICIPANT CHARACTERISTICS

Demographic data for the participants was not collected during the evaluation period.

Conclusion

The program in the 6th Circuit is still too new to know how well it is performing overall. Early data, however, show the program has a high participation rate (61.4% of eligible homeowners) and a positive response from homeowners. The high participation rate is similar to that of the other mandatory program, the 21st Circuit program, and is most likely due to the mandatory model of homeowner recruitment, in which homeowners are told they must attend the pre-mediation session call and their appearance is the only step needed to enter the program.

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. How the foreclosure mediation program works	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. How to contact AHC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please rate the presenter on the following:

	Excellent	Good	Poor	Very poor
5. Presentation of the material	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Knowledge of the material	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Organization of the material	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<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 style="width: 100%;" 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 style="width: 100%;" 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%;" 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

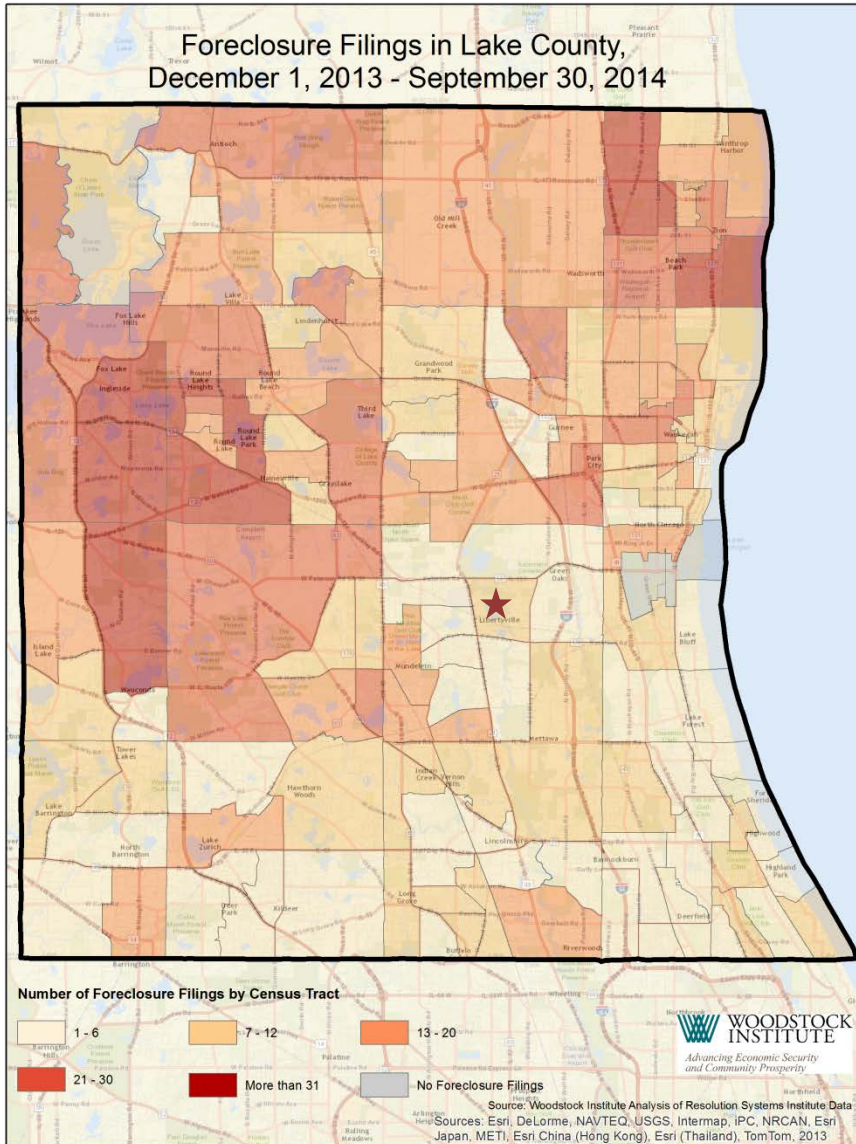
More than 100

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

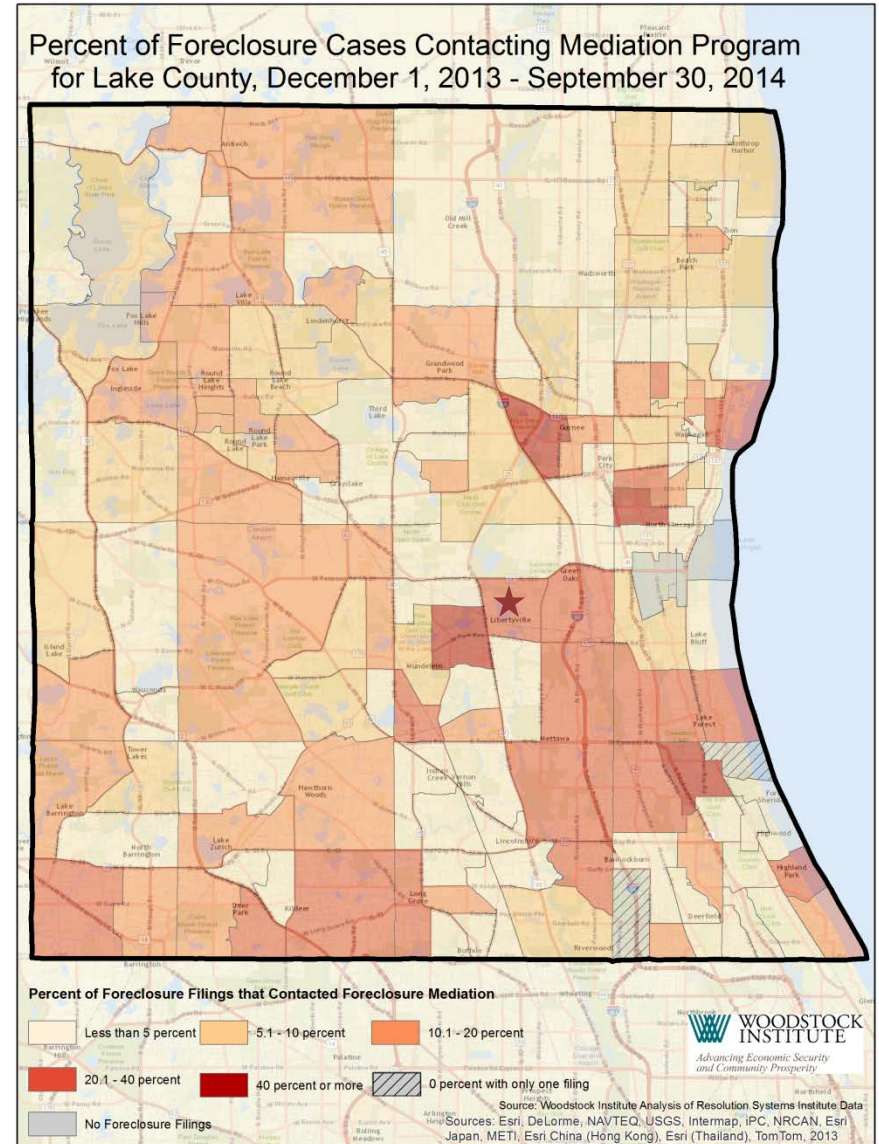
15. What could have improved the mediation?

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*.