

Thomas J. Holthus CA NV NE
 Kevin R. McCarthy CA
 Paul M. Levine AZ CA
 Matthew Silverman AZ NM
 JaVonne M. Phillips CA
 Matthew E. Podmenik CA
 David C. Scott CA
 Jennifer C. Wong CA
 Angela M. Michael WA OR ID PA
 Kristin Schuler-Hintz CA NV
 Gayle Jameson CA
 Seth Harris CA
 James Hester CA
 Charles E. Bell CA
 Kelly M. Raftery CA
 Matthew B. Learned CA
 Andrew E. Hall CA
 Seth J. Adams NV
 Sasan Mirkarimi CA
 Rachel S. Opatik CA
 Melissa Robbins Coutts CA
 Jessica Partridge CA
 Kristin Zilberstein CA
 Gregory Babcock CA
 Doyna Dardon CA ID
 Merdaud Jafarnia CA
 Anna Marie Farrales CA
 Thomas J. Ruhrup CA

McCarthy & Holthus
A Limited Liability Partnership
 9510 West Sahara Avenue, Suite 110
 Las Vegas, NV 89117
 Telephone (702) 685-0329 Ext. 3748
 Facsimile (866) 339-5691
 www.McCarthyHolthus.com
 Email to all personnel:
 First initial and last name@mcCarthyholthus.com

CA Renee DeCollier
 CA Allison Dzikowski
 CA Matthew G. Garte
 CA Matthew Garte
 AZ Jessica R. Kenney
 CA Rebecca L. Lang
 NV CA Christopher K. Lorak
 CA Meshada K. Graves
 WA Edgar I. Hall
 CA ~~TRACE K. BISHOP~~
 NV ~~OFFICE OF CLERK OF SUPREME COURT~~
 BY ~~CLERK OF SUPREME COURT~~
 CA ~~Jessica L. Klink~~
 CA ~~Michelle Ann Hoskinson~~
 CA Christelle N. Ramseyer
 OR ID Holger Uhl
 NV FL Christopher Hunter
 CA Terry Loftus
 CA Laszlo Ladi
 NV Sherry A. Moore
 CA Ayana D. Guy
 CA Paul H. Kang
 WA Albert Lin
 WA Mary Stearns
 CA Joseph Chun
 NV Janice Jacovino
 NV Bonty Lonardo

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July 19, 2012

On July 9, 2012 the Nevada Supreme Court held a public hearing on the most recent proposed amendments to the Nevada Foreclosure Mediation Program Rules. McCarthy & Holthus, LLP submitted written comments regarding the proposed amendments to the Court prior to the hearing and also attended and spoke to the Justices regarding our position that the proposals, as drafted, implement numerous unfair burdens upon our Lender clients in the context of foreclosure mediation essentially transforming the process from mediation to a process far more resembling litigation.

Amongst those who also addressed the Court were Verise Campbell, Foreclosure Mediation Program Administrator and Barbara Buckley, former Nevada Assembly Speaker responsible for championing the mediation program and current attorney with the Legal Aid Center of Southern Nevada and member of the FMP Advisory Committee. Both speakers indicated that the proposals were the work product of the FMP's Advisory Committee and that the majority of the provisions were unanimously supported by the Committee, which is comprised of both Lender and Homeowner representatives.

However, our experience at the advisory committee meetings and conversations with advisory committee members indicate a vastly different perspective. The committee frequently feels strong armed and unable to comment in the presence of the advocate and author of the bill and the program manager, both of whom have a clearly vested interest in ensuring that the program continues to seem to have an extremely high success rate. The proposals were not in fact unanimous, and were especially as to the proposed changes to Rule 11, highly contested.

We respectfully urge the Supreme Court to consider the proposed changes to the Rules, which seek to turn Mediation into a forum for litigation and discovery very carefully.

Sincerely,

McCarthy & Holthus, LLP

Seth J. Adams, Esq.
Kristin A. Schuler-Hintz, Esq.

Northwestern Office
 19735 10th Avenue NE, Suite N-200
 Poulsbo, WA 98370
 (206) 319-9100
 Facsimile (206) 780-6862

San Diego Office
 1770 Fourth Avenue
 San Diego, CA 92101
 (619) 685-4800
 Facsimile (619) 685-4811

Reno Office
 200 S. Virginia St., 8th Floor
 Reno, NV 89501
 (702) 685-0329 ext. 3748
 Facsimile (866) 339-5691

Arizona Office
 3636 North Central Avenue, Suite 1050
 Phoenix, AZ 85012
 (602) 230-8726
 Facsimile (602) 230-9277

12-23085