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To: Clerk of the Nevada Supreme Court

From: Geoffrey Giles

Re: Public Comment on rules relating to AB149

FILED

MAR 11 2010

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

Dear Ms. Clerk;

ADKT 435

I would tender the following observations relating to rules the I believe should be promulgated to make the administration of this statute more efficient.

- 1) The official budget form is a 'one-size-fits-all' monstrosity that should be scrapped and replaced with something workable. Self employed persons simply can not use the forms as the stand at present. The official budget forms for chapter 13 bankruptcy would be a start as they have been refined over 25 years or so in order to give trustees an idea of that debtors can afford.
- 2) There should be some clarification about service of process of Petitions for Review. Some mortgage servicers are requiring personal service, yet they hide from process servers and are opaque as to where to find there resident agents. Federal preemption doctrine obviates the need for them to register with the Nevada Secretary of State, which would otherwise disclose their location.
- 3) One of the most important documents in the process, the Pooling and Servicing Agreement [PSA], controls the rights and duties of the servicer vis-a-vis the beneficial interest holder of the note. This is not required to be disclosed, while note endorsements, and the like, are. These documents typically provide a tolerance percentage for loan modifications and conditions of them, that the pool trustee can accept. It is vital to disclose this prior to the mediation.

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TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

The statute requires that mediators make recommendations and prepare Petitions for Review when 'bad faith' is found, while this is questionable

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law, the rules should clarify this after a policy decision is made by the court on the direction to be taken.

- 5) There might be some room for clarification about lawyers vis-a-vis the proposed rule the FTC is considering which would forbid lawyers from doing this kind of work, though I have no idea how to do this.
- 6) Finally, some consideration should be given to the 4 hour time frame for mediations. May I respectfully suggest this be 2 hours at first, with a second 2 hours in a month or so. It is frequently the case that the bank is unprepared at the first meeting, but then gets its act together and a deal is struck at some later point in time.

I have ranked these comments in what I believe to be their order of importance. Thank you. I remain....

Yours truly,



Geoffrey Giles

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