

# The Consumer Advocacy Group

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[www.consumersforchange.org](http://www.consumersforchange.org)

**FILED**

Tuesday, March 16, 2010

Supreme Court Justices  
Nevada State Supreme Court  
201 South Carson Street, Suite 250  
Carson city, NV 89701-4702

MAR 22 2010

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

Re: Public Hearing regarding mediation program AB149

ADKT 435

Dear Sirs and Madams:

I would like to take the opportunity to memorialize my verbal comments made at the hearing this afternoon to respectfully request that thoughtful consideration is made on behalf of our clients and a variety of homeowner's grievances.

Specifically, I addressed a need for a public educational forum. If you could provide a means for educating the public to the variety of programs available to them during a mediation hearing (including but not limited to HAMP) I believe it would be beneficial in eradicating a significant amount of needless mediation hearings. As stated this afternoon, the issue of whether or not a homeowner can afford a modified payment should first and foremost be addressed, above all things. Too many homeowners are going through the modification and/or mediation process and coming to the ultimate conclusion that they still cannot afford their mortgage payment. A public forum addressing these issues, en masse, would eliminate the need for a significant amount of homeowners to inundate our programs system with hearing requests. If implemented correctly, this would save money for the lender, the state of Nevada and the homeowner.

My office is more than happy to provide such free education. As we already do.

Secondarily, the ambiguous language must be fixed. Lenders should no longer be allowed to hide behind the ambiguity of the language of AB149. More specifically, "good faith" and "bad faith" both need to be defined, so that there is continuity among the mediators and subsequent judicial review hearings that are based upon such findings. Trial modification payments should be completely eradicated because they are nothing more than an attempt to collect arrearages. A seeming resolution is reached at the mediation hearing, a trial payment is agreed upon and happily submitted for the subsequent months by the borrower and alas, six to nine months later a permanent denial letter is given by the lender, putting the homeowner in the exact same situation they were in before the mediation hearing. If no permanent resolution is reached, the entire program will lack accountability and ultimately be a waste of time and money for all involved.

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MAR 22 2010  
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CLERK OF SUPREME COURT  
DEPUTY CLERK

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Lastly, mandating that borrowers have attorney representation will only serve to produce the opposite effect for which you are hoping. Attorneys will charge excessive fees, as they do already and it will force more homeowners to choose to not be represented by anyone in the alternative. Mediators all agree that they prefer to have borrowers represented at these hearings. Yet homeowners agree that paying a \$2500.00 retainer (which is the going rate for mediation representation by a licensed attorney) is too much to pay while they're in the middle of an obvious financial crisis.

There is no mandate that the mediators are licensed attorneys. Why should there be a specific mandate that a borrower representative is a licensed attorney? I would suggest two alternatives to an "attorney representative" mandate. My first suggestion would be a training session that consists of a mediator representative certification. I believe this should be for attorneys and non attorneys alike. In the interest of homeowner protection, in the event that only attorneys are allowed to represent a borrower, my second suggestion would be that you cap the fees that can be charged.

Homeowners across this country right now are frustrated because of the lack of accountability with the variety of public programs that have been offered as a resolution to the housing crisis. From HOPE NOW to the STIMULUS PACKAGE all programs lack continuity and accountability. Unfortunately AB149, the last glimmer of hope for homeowners, is headed down the same path. The lack of accountability for lenders, and now potentially attorneys, and the overall lack of respect for the needs of Nevada's is becoming increasingly alarming.

I believe that you have the opportunity to create change that will truly help our state get back on track financially. Please do not just consider, as everyone in this country before you has, only the lenders perspective. Nevada's are suffering from this housing crisis. The market crash has caused the worst unemployment we have seen in many years. This is a problem that has reached across economic lines and into the homes of our most responsible and able citizens that truly need your guidance.

The program was designed specifically and purposefully to help homeowners. Therefore, whether someone uses an appraisal or BPO, licensed attorney or certified mediation representative are all nominal issues compared to the true crux of the real issue before you.

Sincerely,



Kristy Sinsara  
Consumer Advocacy Group  
(702) 569-2598

cc: Regional Justice Center (RJC)  
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