

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ADOPTION
OF RULES FOR FORECLOSURE
MEDIATION

ADKT No. 435

FILED

APR 22 2010

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

ORDER AMENDING FORECLOSURE MEDIATION RULES

WHEREAS, on June 30, 2009, this court adopted rules for the foreclosure mediation program established by AB 149, and

WHEREAS, this court previously amended the rules and adopted forms to be used in the program, and

WHEREAS, this court has concluded that further amendment of the rules is warranted, along with an amendment to the Election/Waiver of Mediation Form, accordingly

IT IS HEREBY ORDERED that the Foreclosure Mediation Rules are amended as set forth in Exhibit A.

IT IS FURTHER ORDERED that these rules shall be effective June 1, 2010. The clerk of this court shall cause a notice of entry of this order to be published in the State Bar of Nevada's official publication. The clerk shall publish this order by disseminating copies of it to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court that she has accomplished the above-described publication of notice of entry and dissemination of this order shall be

conclusive evidence of the adoption and publication of the foregoing rules.

Dated this 22nd day of April, 2010.

Parraguirre, C.J.
Parraguirre

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Hon. Jim Gibbons, Governor
Senator Steven Horsford
Senator William Raggio
Assemblywoman Barbara Buckley
Assemblywoman Heidi Gansert
All District Court Judges
Kathleen J. England, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Board of Governors, State Bar of Nevada
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Nevada Justice Association
Legal Aid Center of Southern Nevada
Nevada Legal Services
Washoe Legal Services
Volunteer Attorneys for Rural Nevadans
Nevada Association of Counties
Nevada Bankers Association
Nevada Land Title Association
Administrative Office of the Courts



EXHIBIT A

AMENDED FORECLOSURE MEDIATION RULES **(Revised 4/20/2010)**

I. SCOPE OF RULES

Rule 1. The Foreclosure Mediation Program.

1. *Authority and scope.* Pursuant to the jurisdictional authority provided by Chapter 107 of the Nevada Revised Statutes and the Nevada Supreme Court's inherent power to create rules for the efficient administration of justice, these rules are enacted to apply to the mediation of any owner-occupied residential foreclosure arising from the recording of a notice of default and election to sell on or after July 1, 2009.

2. *Purpose.* The purpose of these rules is to provide for the orderly, timely, and cost-effective mediation of owner-occupied residential foreclosures which shall take place within [90] 135 days [after] following actual receipt by the [recording] Administrator, or designee, of the [notice of default and election to sell] mediation fee and required documentation provided on behalf of the lender. The Foreclosure Mediation Program [will permit] encourages deed of trust beneficiaries (lenders) and homeowners [, with the assistance of a mediator,] (borrowers) to exchange information and proposals that may avoid foreclosure.

3. *Availability of program.* Subject to limited exceptions set forth in Rule 5 hereafter, the Foreclosure Mediation Program is mandatory when the grantor or person who holds title of record of an owner-occupied residence timely requests mediation.

4. *Time.* For purposes of calculating time under these rules, 6(a) and 6(e) of the Nevada Rules of Civil Procedure (NRCP) shall apply. These rules, as amended, apply to all mediations that have not yet been conducted by the mediator.

Rule 2. Mediation Administrator and Designee.

1. *Appointment.* The Foreclosure Mediation Program Administrator (Administrator) shall be appointed by the [Court or its designee.] Nevada Supreme Court (Court). The Administrator for the Foreclosure Mediation Program (Program) is the Administrative Office of the Courts (AOC).

2. *Authority.* The Administrator may appoint [staff, including] a [Mediation Supervisor,] Foreclosure Mediation Program Manager and support staff to assist in [the administration of the program] carrying out the goals and objectives of the Foreclosure Mediation Program. When the efficient administration of the program warrants, the Administrator may [contract] enter into contracts with third parties for training and other mediation-related services.

3. Foreclosure Mediation Program Manager. The Foreclosure Mediation Program Manager (FMP Manager) is the “designee” for the Administrator under these rules. In addition to his or her general duties, the FMP Manager shall:

(a) Ensure all program-approved forms are in compliance with these rules. The FMP Manager may reject any program-approved form substantially altered by a borrower, lender, trustee, or mediator and require resubmission on the appropriate program-approved form; and

(b) Take any action necessary to correct “clerical errors” in the Certificate arising from oversight or omission for which the mediator or FMP staff is responsible.

Rule 3. Presiding Mediator.

1. Authority. A foreclosure mediation [may] must be conducted by either a senior judge, Supreme Court settlement conference judge, or other person designated by the Supreme Court. The presiding mediator shall have all requisite authority to conduct the foreclosure mediation. The mediator shall schedule each mediation to commence within 45 days of receipt of the assignment and shall notify the Administrator, or designee, of the outcome of each mediation.

[1.]2. Assignment of presiding mediator. No later than 10 days after receipt of the Election for Mediation, [as provided in Rule] and the fees from both parties pursuant to Rules 5[(4)(b)](6) and 16 herein, the Administrator, or designee, shall randomly select and assign from the applicable geographic area a mediator to preside over the mediation. The assigned mediator will have 2 business days after receiving the assignment to determine and notify the Administrator, or designee, of a conflict requiring his or her recusal. Upon such notification, the Administrator, or designee, shall immediately and randomly select another mediator to conduct the mediation. The Administrator, or designee, may direct a mediator to cluster several mediations for a lender. Upon final selection of a mediator, the Administrator, or designee, shall send notice of the assignment to the parties.

[2.]3. Panel of mediators. The Administrator, or designee, shall maintain a list of mediators by geographic area available to hear foreclosure mediations. The list shall include all senior judges, Supreme Court settlement conference judges, and other [designees] persons who are appointed by the Court to serve as presiding mediators in the Foreclosure Mediation Program and are qualified pursuant to subsection [3] 4 herein.

[3.]4. Mediator qualifications.

(a) Mediators must meet the following minimum qualifications:

(1) Be [authorized] licensed to practice law in the State of Nevada; or
(2) Be an experienced mediator. For purposes of [subsection 3] this subsection, an experienced mediator shall mean an individual who has participated in a mediation training program consisting of at least 40 hours of classroom and role playing and has conducted 10 mediations as a co-mediator or sole mediator.

(b) Additionally, all mediators must participate in a training program of at least 4 hours consisting of education in mortgages, deeds of trust, promissory notes,

loan modifications, Nevada foreclosure laws, and such other topics as determined necessary by the Court.

(c) The Court, for good cause shown, may waive the minimum requirements set forth herein.

~~[4.]~~5. *Appointment of mediators.*

(a) The Administrator, or designee, shall solicit and provide the Court with the names and qualifications of persons who have applied to become mediators. The Court shall approve, deny, or continue the applicant's request to serve as a mediator. The term of appointment shall be 1 year.

(b) The Administrator, or designee, shall receive all affidavits and issue all certificates as may be required herein. The list of ~~[e]~~Court-approved mediators shall be maintained by the Administrator.

~~[5. Authority. The presiding mediator shall have all requisite authority to conduct a foreclosure mediation. The mediator shall timely schedule a mediation and notify the Administrator of the outcome of each mediation.]~~

Rule 4. Conduct, Disqualification, and Recusal.

1. Any mediator appointed pursuant to these rules is subject to Canon[s] 1[~~;~~]; Canon 2, Rules 2.1 through 2.9, 2.11, and 2.13 through 2.16; and Canon 3[(B)2-6], Rules 3[(B)12].1, 3[(C)].3, 3.5, 3.6, and 3[(D)].9 of the Nevada Code of Judicial Conduct as adopted or amended by the Supreme Court of Nevada.

2. A mediator who has a personal or past or present significant professional relationship with any of the parties or a financial interest in the matter of the mediation shall immediately recuse himself or herself as a mediator in the particular case.

3. Mediators serve at the pleasure of the Court. Upon the recommendation of the Administrator, the Court may suspend or revoke the appointment of a mediator at any time. The suspension or revocation is effective immediately. The FMP Manager has authority to take any action necessary to accommodate the parties affected by such action(s).

II. PARTICIPATION IN THE FORECLOSURE MEDIATION PROGRAM

Rule 5. Eligibility for the Foreclosure Mediation Program.

1. The program applies to any grantor or person who holds the title of record and is the owner-occupant of a residence as to which a notice of default and election to sell has been recorded on or after July 1, 2009.

2. ~~[Owner-occupied housing]~~ "Owner-occupied housing" means housing that is occupied by an owner as his or her primary residence. This term does not include any time-share or other property regulated under NRS Chapter 119A, and/or a foreclosure initiated by a homeowner's association under NRS Chapter 116.

3. A Certificate from the Administrator, or designee, must be recorded prior to a trustee's sale being conducted on any owner-occupied housing. The Certificate may be requested by the trustee and, if requested, may be issued by the Administrator, or designee, on any residential property for which a request for mediation was not filed. However, there is no requirement that a Certificate be issued and recorded prior to a trustee's sale being conducted on any type of property other than owner-occupied housing.

4. All grantors or persons who hold the title of record who have timely elected to participate in the program may do so and are herein referenced as the eligible participants, except where:

(a) The grantor or the person who holds title of record has previously surrendered the real property that is the subject of the foreclosure proceedings, as evidenced by a letter signed by the grantor or the person who holds title of record confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust, or the mortgagee, or an authorized agent of any of these recipients; or

(b) A petition in bankruptcy under Chapters 7, 11, 12, or 13 of Title 11 of the United States Code has been filed with respect to the grantor or the person who holds title of record on or after July 1, 2009, and the bankruptcy court has not entered an order closing or dismissing the case, or granting relief from the automatic stay of the foreclosure.

~~[4.]~~5. Any trustee or other person presenting a notice of default and election to sell for recording in the Office of a County Recorder shall, no later than 10 days from presenting the Notice of Default for filing, send by certified or registered mail, return receipt requested, to the grantor or person who holds title of record of an owner-occupied residence, in addition to the documents required to be sent to the homeowner under NRS 107.080, two copies of the Election of Mediation and instructions, on a form provided by the Administrator, or designee, with the information indicated on the form to be provided by the trustee filled in~~[,]~~. The trustee must also provide the grantor with one copy of the following forms: (i) a Financial Statement; and (ii) a Housing Affordability Worksheet, which forms have been pre-approved by the Administrator, or designee, of the Program. In addition, the trustee must provide the grantor with two envelopes: one pre-addressed to the Administrator, or designee, and the other pre-addressed to the ~~[T]~~trustee.

~~[5.]~~6. The mediation process under these rules shall be initiated by the preparation and delivery of an Election of Mediation by a grantor or person who holds title of record of an owner-occupied residence on ~~[a form]~~ "forms" provided by the Administrator, or designee, and payment of the fee required by Rule ~~[14]~~16 herein.

(a) The eligible participant shall, not later than 30 days after the service upon him or her in the manner required by NRS 107.080 of the notice of default and election to sell, complete the Election/Waiver of Mediation Form. If the eligible participant elects to mediate through the Program, they must also complete and submit the Financial Statement and the Housing Affordability Worksheet. The

eligible participant must deliver [the form] these documents to the Administrator, or designee, together with the fees required under Rule [14]16, within the 30-day period.

(b) The eligible participant shall also mail a copy of the Election/Waiver of Mediation to the trustee, by certified or registered mail, return receipt requested.

~~[(b)]~~(c) As soon as the Administrator, or designee, receives an Election/Waiver of Mediation from an eligible participant, the Administrator, or designee, will notify the trustee of the receipt, including whether any fees were paid by the participant.

~~[(e)]~~(d) The trustee shall, within 10 days of notice of the receipt of the Election of Mediation, deposit with the Administrator, or designee, the signed Election of Mediation, if the trustee has received a copy; a copy of the ~~[F]~~trustee's Information on a form provided by the Administrator, or designee, including the name and address of the beneficiary of the deed of trust; a copy of the recorded Notice of Default; and the fees required in Rule ~~[14]16~~ herein, including any fees received from the grantor. Any delay by the trustee in providing the required documents and information to the Administrator, or designee, shall extend the time for mediation set forth in Rule 1(2).

~~[6:]~~7. Failure by any eligible participant to timely deliver an Election of Mediation to the Administrator, or designee, or to attend and participate at a mediation scheduled under these rules shall result in the Administrator issuing a certificate stating no mediation is required, and that a foreclosure sale may be noticed according to law.

~~[7:]~~8. Both parties to a mediation should appear in person. However, a party may be represented by another person, subject to certain limitations, as follows:

(a) Beneficiary (lender). All beneficiaries of a deed of trust sought to be foreclosed against an eligible participant who has timely delivered an Election of Mediation shall participate in the Foreclosure Mediation Program, be represented at all times during a mediation by a person or persons who have the authority to negotiate and modify the loan secured by the deed of trust sought to be foreclosed[, and]. A beneficiary or its representative shall be physically present, or, if approved by the mediator in advance, and for good cause shown, may participate in the mediation by phone. In addition to the documents required by Rule 8 herein, the beneficiary must bring to the mediation the original or a certified copy of the deed of trust, the mortgage note, and each assignment of the deed of trust and the mortgage note.

(b) ~~[The eligible participant and lender representatives with authority to modify the underlying loan shall be physically present or, if approved by the mediator for good cause shown, may participate in the mediation by phone.]~~ Eligible Participant (borrower). A borrower may also request that a representative accompany him or her and/or appear for him or her at the mediation. However, the borrower's representative must be either (i) an attorney who is licensed to practice law in Nevada, and/or (ii) a person who is

licensed to provide services as described in NRS Chapter 645F.310. The mediator may request that the borrower's representative provide proof of these requirements.

~~[(e)]9.~~ Unless extended for good cause by the presiding mediator ~~[or Administrator]~~, the mediation shall be ~~[conducted]~~ concluded within ~~[90]~~ 135 days ~~[of the recording of the notice of default and election to sell]~~ following actual receipt by the Administrator, or designee, of the mediation fee and required documentation provided on behalf of the lender. Upon the completion of the mediation, the mediator shall prepare the Mediator's Statement in accordance with Rule ~~[12]~~14 herein.

~~[(d)]10.~~ For purposes of this rule, a certified copy of the original mortgage note, deed of trust, and each assignment of the deed of trust and mortgage note is only satisfied when the mediator receives a statement under oath signed before a notary public ~~[that must include]~~ pursuant to the provisions of NRS 240.1655(2), which includes:

~~[(1)](a)~~ The name, address, capacity, and authority of the person making the certification;

~~[(2)](b)~~ The person making the certification is in actual possession of the original mortgage note, deed of trust, and each assignment of the mortgage note and deed of trust; and

~~[(3)](c)~~ The attached copy of the mortgage note, deed of trust, and each assignment of the mortgage note and deed of trust are a true and correct copy of the original mortgage note, deed of trust, and assignment of the deed of trust in the possession of the person making the certification.

~~[(e)]11.~~ In the event of the loss or destruction of the original mortgage note, deed of trust, or assignment of the mortgage note or deed of trust, the mediator shall recognize a judicial order entered pursuant to NRS 104.3309 providing for the enforcement of a lost, destroyed, or stolen instrument.

~~[(f) A party to the mediation may file a petition for judicial review with the district court in the county where the notice of default was properly recorded seeking a determination of bad faith participation and sanctions pursuant to NRS Chapter 107 as amended. All such petitions shall be filed within 15 days of the date of the mediator's statement and shall be reviewed by the district court within 60 days of the service of the petition in accordance with the Nevada Rules of Civil Procedure, NRS Chapter 107, and any local rule or administrative order adopted by a judicial district to adjudicate such petitions.]~~

Rule 6. Petition for Judicial Review.

1. A party to the mediation may file a petition for judicial review with the district court in the county where the notice of default was properly recorded. A hearing shall be held, to the extent that the court deems necessary, for the limited purposes of determining bad faith, enforcing agreements made between the parties within the Program, including temporary modification agreements, and determining appropriate sanctions pursuant to NRS Chapter 107 as amended.

2. All such petitions shall be filed within 15 days of the date of actual receipt of the mediator's statement and shall be reviewed by the district court within 60 days of the service of the petition in accordance with the Nevada Rules of Civil Procedure, NRS Chapter 107, and any local rule or administrative order adopted by a judicial district to adjudicate such petitions.

3. Petitions for judicial review shall be served on any party and/or person appearing at the mediation on behalf of a party, by certified or registered mail, return receipt requested.

4. A petition for judicial review that names the Administrator as a respondent must be served upon the Administrator at the Administrative Office of the Courts, 201 South Carson Street, Carson City, Nevada 89701, by certified or registered mail, return receipt requested.

5. Proceedings in the district court on a petition for judicial review shall be conducted de novo.

6. Upon receipt of notice of the filing of a petition for judicial review by the Administrator, and until final resolution of that action, the Administrator, or designee, shall refrain from taking any action which will adversely affect any party to the mediation.

Rule 7. Option for Inclusion.

1. For any owner-occupied property located in Nevada where a Notice of Default is recorded prior to July 1, 2009, the grantor or person who holds the title of record (eligible participant) and the beneficiary of the deed of trust may agree in writing to enter the Foreclosure Mediation Program governed by NRS Chapter 107 and these rules. Notice and a copy of the agreement must be provided to the Administrator, or designee.

2. If the Administrator, or designee, in his or her discretion accepts the stipulation for mediation, ~~[the Administrator]~~ he or she will notify the parties who shall, within 10 days, forward the fees required in Rule ~~[14]~~ 16 herein to the Administrator, or designee. Upon acceptance of the mediation and receipt of the required fees, the Administrator, or designee, shall appoint a mediator and the mediation process shall be conducted ~~[within 10 business days]~~ consistent with these rules.

III. MEDIATION PROCEDURES

Rule ~~[7-]~~8. Documents to Be Presented for the Mediation.

1. In addition to the documents set forth in Rule 5, the parties shall prepare such papers and provide to the mediator, and exchange the items required to be exchanged with each other party, using the most expeditious method available, at least ~~[7]~~ 10 days prior to the mediation, and such other documents or estimates as the mediator may later direct, but which at a minimum shall include the following:

~~[1-]~~ 2. The homeowner shall prepare and submit a Financial Statement and Housing Affordability Worksheet to include the information set forth in forms

provided by the Administrator, or designee, and in accordance with Rule 5(6)(a) herein.

[2.]3. The beneficiary of the deed of trust or its representative shall produce an appraisal done no more than 60 days before the commencement date of the mediation with respect to the real property that is the subject of the notice of default and shall prepare an estimate of the "short sale" value of the residence that it may be willing to consider as a part of the negotiation if loan modification is not agreed upon.

4. The mediator may, in his or her discretion, accept a broker's price opinion letter (BPO) in addition to or in lieu of the appraisal described in this rule. In that case, the BPO must comply with the new provisions of NRS 645.2515.

[3.]5. Both parties to the mediation shall prepare and submit to the mediator under confidential cover a nonbinding proposal for resolving the foreclosure. Additionally, the beneficiary of the deed of trust shall, under confidential cover, provide to the mediator the evaluative methodology used in determining the eligibility or noneligibility of the grantor or the person who holds the title of record for a loan modification.

6. The parties are prohibited from recording the mediation session for purposes for making a record for judicial review.

7. The mediator may conduct more than one mediation in a day, but in no case shall the mediator conduct more than 3 mediations in a day without express written approval by the Administrator, or designee. Mediations shall take place between the hours of 8 a.m. and 5 p.m., Monday through Friday (excluding legal holidays), unless otherwise agreed upon to by the parties.

Rule [8.]9. Settlement/Resolution Before Mediation. In the event the foreclosure issues are resolved before the scheduled mediation, the parties must, no later than 2 business days prior to the scheduled mediation date, advise the mediator of their settlement. Any settlement will not result in the refund of fees.

Rule 10. Temporary Modification Agreements; Expiration Date.

1. The parties may enter into a temporary modification agreement as a result of mediation under these rules. The temporary modification agreement must be in writing and signed by the parties. The temporary modification agreement must also include an "expiration date." The expiration date is a date certain, and upon which the parties shall have complied with their obligations under the agreement.

2. If either party to a temporary modification agreement described in this rule, fails to fulfill the obligations of that agreement, the aggrieved party may file a petition for judicial review as set forth in Rule 6 herein. The petition must be filed within 15 days following the expiration date of the temporary modification agreement, and regardless of whether the mediation has been concluded.

Rule [9.]11. Calendaring.

1. Unless otherwise stipulated by the parties and approved by the presiding mediator, or for good cause shown, a mediation will be calendared to ~~[commence no later than 10 days prior to the 90th day following the recording of the notice of default, pursuant to NRS 107.080]~~ conclude on the 135th day following actual receipt by the Administrator, or designee, of the mediation fee and required documentation provided on behalf of the lender.

Rule [10.]12. Continuances.

1. No request for a continuance of a mediation scheduled in the Foreclosure Mediation Program may be granted, except upon a showing of extraordinary circumstances ~~[- A motion]~~, or upon a written agreement of the parties and the mediator. Notice of such agreement shall be provided by facsimile, electronic mail, and/or regular mail.

2. Absent a written agreement as provided herein, a request for a continuance must be in writing, served on the presiding mediator and opposing party, and set forth the extraordinary circumstances with particularity. A ruling by the presiding mediator granting a continuance must state the nature of the extraordinary circumstances and provide at least 3 dates within the ensuing 10 days when the parties can conduct the mediation. The presiding mediator will then calendar the case for mediation on one of the specified dates and provide the Administrator, or designee, with notice of the new mediation date and the reasons for the granting of the continuance. Conflicts in the schedule of counsel shall not constitute extraordinary circumstances.

Rule [11.]13. Location of Mediation.

1. The presiding mediator shall designate the ~~[location]~~date, time, and place for the mediation in coordination with the parties and shall notify the parties in writing and forward a copy of the Mediation Scheduling Notice to the Administrator, or designee.

2. Upon request from the presiding mediator, the ~~[Administrator]~~ Program Manager shall assist in ~~[designating]~~ determining a suitable location for the mediation.

Rule [12.]14. Time Limits and Mediator's Statement.

1. Unless extended by the presiding mediator, the parties will be allowed ~~[a total of]~~ up to 4 hours to present and conclude the mediation.

2. Within 10 days after the conclusion of the mediation, the mediator must file with the Administrator, or designee, and serve on all parties a copy of the Mediator's Statement on a form provided by the Administrator, or designee, and provide a courtesy copy of the Statement to the trustee by regular mail, email, or facsimile. The Mediator's Statement must include a true and correct copy of any agreement, including a temporary modification agreement, entered into between the parties during mediation.

Rule [13.]15. Interpreter Services.

1. Any party requiring interpreter services is responsible for contacting, scheduling, and insuring an interpreter is present for the mediation. The interpreter's compensation is the responsibility of the party requesting the service.

2. The Administrator, or designee, shall maintain a list of interpreters qualified to interpret in mediations. The list must be made available to the presiding mediator and parties.

Rule [14.]16. Fees for Presiding Mediators.

1. Mediators shall be compensated in the amount of \$400, paid equally by the parties unless otherwise stipulated. Each party must pay its respective fee (\$200) at the entry point into the Foreclosure Mediation Program. The payments are nonrefundable. Payment by the grantor or person who holds title of record must occur by cashier check, money order made out to the "State of Nevada Foreclosure Mediation Program," or, when available, electronic payment, or from an attorney's trust account and be made directly to the Administrator, or designee.

2. If a grantor makes payment directly to a trustee, the trustee shall immediately forward the payment, whether made in cash, by check, cashier's check, or money order, to the Administrator, or designee, together with the beneficiary of the deed of trust's payment of fees. However, if the payment to the trustee is made payable to the trustee, the trustee shall immediately deposit the funds in its account and submit the payment to the Administrator, or designee, together with the beneficiary of the deed of trust's portion of the fees.

Rule [15.]17. Deposits; Failure to Pay. If a party to a mediation fails to pay the \$200 toward the mediator's fee, the mediation may be terminated and relief awarded to the nondefaulting party, as may be deemed appropriate.

Rule [16.]18. Confidentiality.

1. All documents and discussions presented during the mediation shall be deemed confidential and ~~[, except in an action to review a petition for judicial review for sanctions under these rules, shall be presumed to be]~~ inadmissible in any subsequent actions or proceedings, except in an action for judicial review according to these rules. In that case, non-privileged evidence submitted for mediation is discoverable to the extent that it is relevant to a determination of bad faith, enforceability of agreements made between parties within the Program, including temporary modification agreements, and appropriate sanctions pursuant to NRS Chapter 107, as amended.

2. Nothing contained herein shall prevent the disclosure of such limited information by the mediator or parties as required by NRS Chapter 107.

Rule 19. Facsimiles. A facsimile of the Administrator, or designee's signature for purposes of filing Foreclosure Mediation Program documents with the County Recorder, may be accepted as an original.