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July 22, 2012

The Honorable Michael A. Cherry
Chief Justice of the Nevada Supreme Court
do Tracie K Lindeman
Clerk of the Supreme Court
201 South Carson Street
Carson City, NV 89701

RE: ADKT 435 May 15, 2012 Proposed Mediation Rule Changes

To Whom It May Concern:

I wish to submit additional comments regarding the Foreclosure Mediation Program Rule Changes.

Ban Credit Reporting
One of the more egregious damages done to homeowners is that of negative reports filed by the alleged beneficiaries and/or their representatives with the credit reporting agencies/ services.

These negative reports are in reference to payments on the homeowners' properties and they result in homeowners being unable to obtain credit that might allow them to refinance their mortgages, at more reasonable rates and terms, with a lender other than the one that has filed a notice of default (NOD against them.

An ugly and ironic result of these negative reports is that, oftentimes, the lender that filed the NOD claims that the homeowner's credit is so bad that they either cannot extend credit for a refinance or they can only extend credit with high interest rates.

These negative reports also sometimes result in homeowners losing what other credit lines or credit cards they may have had prior to the filing of the notice of default, thus often causing additional and serious financial hardship for homeowners who are already in difficult financial straits.

Unless a beneficiary or its representative can provide incontrovertible proof that it has a legal right to the property in question, the beneficiary and its representative should be banned from providing any negative references to credit reporting agencies/services regarding the

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payments on the properties in question until the case is satisfactorily resolved in favor of one party or another. And the beneficiary and its representative should be banned from filing any negative report when the mediation results in no certificate being issued.

There is precedent for what I am asking. Please see the attached Order from the Third Judicial District Court in Lyon County, Nevada, in the case of Fischer v. Wells Fargo (Respondent), page 3, in which the Judge stated (see attached Exhibit 1) for the entire Order):

> "7) Respondent is required to withdraw any negative references concerning the payments on the property in question with any credit reporting service until such time as this matter is concluded at a second mediation."

I ask this Court to make it a requirement, and part of the FMP Rules, that the beneficiaries and/or their representatives not be allowed to ruin the credit of the homeowners against whom they are attempting to foreclose if they cannot prove that they have the legal right to foreclose because only the party that has the legal right to foreclose has the right to file reports, positive or negative, with the credit reporting agencies/services.

This needs to be retroactive because every homeowner who has received a notice of default has suffered serious financial harm as a result of this irresponsible and unethical habit.

Stop the Cycle of Repeat NODs and Recissions

Some homeowners are stuck in a viciously repetitious cycle in which they receive a notice of default that is later rescinded when the mediation is decided in the homeowner's favor. Then the beneficiary or its representative file another NOD, the homeowner attends another mediation, which is decided in favor of the homeowner, and another recession of NOD is filed. Then the vicious cycle begins again. Some homeowners have been through this cycle and have attended mediation 3, 4, or 5 times since the Foreclosure Mediation Program came into existence.

When mediations are decided in favor of the beneficiary, there is closure. Yet, when mediations are decided in favor of the homeowner, there is no closure.

There must be a point at which the cycle is ended. The purpose of our courts and laws is to ensure justice. There is no justice when there is no satisfactory end. There is no justice when the only time a party wins is if it is the foreclosing party. There is no justice when the foreclosing party, which cannot prove it has the legal right to foreclose, is allowed to endlessly continue to harass the homeowner who has proved, repeatedly, that the foreclosing party has no legal right to foreclose.

This vicious cycle must be stopped.

When the beneficiary and/or its representatives fail to provide proof that it has the lawful right to foreclose, at some point the homeowner must be allowed to win the case and obtain full legal right to their home.

In other words, as Mary Law suggests on page 7 of her letter to this esteemed Court, dated July 3, 2012 (see attached Exhibit 2):

> "If the holder of "notes and deeds of trust" can't prove legal chain of title before mediation or in 30 days or less after the servicer has been notified by the homeowner that they need help, the consequences are that any "beneficiary" will loose [lose—correction mine] all right to have any claim on the property or other assets. The homeowner by default would then own the home free and clear."

To some, this may seem an extreme measure. However, consider the alternative—is it not an extreme measure to expect the homeowner to live in a perpetual state of being on a hamster wheel that cycles them through receiving a notice of default, attending mediation, winning mediation, receiving a recision of notice of default, then repeating the cycle again and again ad infinitum?

This is real life and we are adults or we wouldn't have a legal right to own our own homes. At some point, there are no do-overs. You either win or lose. And when the beneficiaries have lost, then the courts must step in and do the right thing and declare the homeowner the legal and rightful owner of their home. To require a homeowner to not hold clear title to their own home when the rightful beneficiary is nowhere to be found is not justice.

These are exceptional times and exceptional times call for clear heads, creative solutions, and some exceptional measures.

In addition, the Program's and mediators' assumption that the people who attend the mediation, allegedly on behalf of the beneficiary, are there because they represent the party that has a legal right to foreclose has been debunked repeatedly. And now, I repeat, there has to be an end to this ridiculous time- and money-wasting cycle. The alleged beneficiaries, in multiple cases, have failed to prove they have a right to foreclose. The homeowners in these cases deserve closure and clear title to their homes.

If these were criminal cases, one party would win and someone would go to jail. However, because attempting to steal, no matter how misguided, is merely a demonstration of a lack of ethics and not a crime, the FMP seems to think it's okay to allow the alleged beneficiaries to continue to harass and hound homeowners who have proven their case.

The homeowners' only hope is justice provided by this esteemed Court in the form of the FMP Rules.

Bar Dishonest Mediators From the Program

Mediators who lie on the Mediator's Statement need to be barred from the Program and not allowed to continue as mediators. Allowing mediations to be taped by both parties would significantly help alleviate this problem.

On page 2 of my last letter to this Court, dated July 3, 2012, (see Exhibit 3), I wrote:

2. Homeowners also need protection from mediators who lie on the Mediators Statement and from the FMP office itself, which backs up their mediators' lies. The mediator at my second mediation lied on the Mediator's Statement and ignored the forgery of my signature on the Note.

That same mediator, Kelly Chase, presided at both my second mediation and the Fischers' mediation (Fischer v. Wells Fargo). The Fischers were represented by counsel, yet Mr. Chase was not deterred from misrepresenting what occurred at mediation (see Exhibit 1).

> The mediation was held on July 14, 2010, with Kelly Chase, appointed by the Supreme Court, serving as the Mediator. Wells Fargo was represented by counsel, Michael Matuska. Wells Fargo had not delivered any documents at all to the Fischers' in advance of the mediation event and based on the unrecorded conversation at the mediation, had not intended or attempted to deliver any documents. The Fischers' had delivered the required documents to the lender and Mediator in the proscribed time period. Additionally, Wells Fargo had not prepared any "short sale value". Finally, Wells Fargo failed to consider the financial information produced in advance and supplemented at the mediation in its consideration of a loan modification or short sale.
>
> The mediation ended without resolution. The Mediator did not make a finding of "bad faith" by Wells Fargo, and the Fischers' filed their Petition for Judicial Review requesting a finding of "bad faith" and compensatory remedies.

In addition, the attorney for the Fischers wrote on page __ (see Exhibit 1):

> Mr. Chase refused to make any finding concerning the failure of Wells Fargo to provide required documents 10 days prior to the mediation even through requested to do so repeatedly by the Fischers' counsel. See the "Other" checkbox notation in the Mediator's Statement: "HO also states Bene did not provide documents w/i 10 days prior to mediation." Again, there is no further record of the proceedings. There is, however, a subsequent letter from the Wayne Pressel to Verise Campbell, the Administrator of the Program, reciting the events of the mediation. . . .
>
> The Mediator referred to the failure of the short sale value in the Mediator's Statement by checking the box: "The beneficiary failed to bring to the mediation each document required. No further action is required.". The Mediator illuminated this finding in the later checked box "Other": "Bene did not provide short sale price because of 2nd DOT on property: no short sale could be agreed w/o 2nd....".

Only Mr. Chase knows how many homeowners he has treated in this unethical manner.

I realize that the Nevada Supreme Court Justices probably had no knowledge of this matter prior to receiving this letter. Therefore, I wish to bring it to the Court's attention that on July 19, 2012, this Court reappointed Kelly Chase as a mediator. (See Exhibit 4.) I ask that this

decision and bar Mr. Chase from any further participation in the Program.

If one mediator acts this way, there is the potential that some other mediators also comport themselves unethically. Therefore, I ask that this Court provide a way for homeowners to submit complaints regarding unethical or dishonest comportment of mediators.

Thank you for your time and for your efforts to make this Program a success in helping more Nevada homeowners keep their homes and keep their lives and the lives of their families intact.

Sincerely,

Carol Ranalli, Homeowner

Exhibit 1

FILE
2010 OCT 12 PM 12:57
NIKKI A. BRYAN
LYON COUNTY CLERK
DEPUTY

Wayne M. Pressel
3094 Research Way, Suite 61
Carson City, NV 89706
775.883.4745
NV Bar No. 11685

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF LYON

PAUL AND YOLANDA FISCHER
Petitioners

Case No. CI21113

v.

Dept. II

WELLS FARGO
Respondent

FINDINGS OF FACT AND ORDER

This matter came to hearing before this Court on August 25, 2010, for consideration. The Petitioners, Paul and Yolanda Fischer, filed their Petition for Judicial Review with supporting Memorandum. The Respondent, Wells Fargo, did not file a response and did not appear at the hearing. Based on the documents filed and oral presentation at the hearing, this Court makes the following Findings of Fact and Order:

Findings of Fact

1) The Petitioners timely filed their Petition for Judicial Review;

2) Respondent was properly served and noticed of the hearing on August 25, 2010;

3) Respondent did not file any objections and did not appear at the hearing on August 25, 2010; and

Law Office of Wayne M. Pressel, Chtd.
3094 Research Way, Suite 6 - Carson City, Nevada, 89706
775.883.4745

4) The Respondent acted in "bad faith" under the provisions of AB149 and the Nevada Supreme Court's Amended Foreclosure Mediation Program Rules, Revised April 13, 2010, specifically failing to provided required documentation within the 10-day time period prior to the mediation.

ORDER

WHEREFORE THIS COURT ORDERS:

1) No Certificate of Foreclosure may issue from the Foreclosure Mediation Program authorizing foreclosure on the Petitioners until and unless there is a second mediation held;

2) A new mediation is permitted but only under adherence to the Supreme Court's Foreclosure Mediation Rules;

3) Respondent must pay to the Petitioners the attorney fees of the Petitioners in the amount of $3,200.00 relating to both the initial mediation ($1500.00) and the prosecution of this Petition ($1700);

4) Respondent must pay to the Petitioners the filing fee costs of this Petition - $275.00;

5) Respondent must pay to the Petitioners the filing fee for the mediation held ($200.00) and the filing fee ($200.00) of a second mediation if one is held;

6) The attorneys fees ($3200.00) and filing fees already expended ($475.00) must be paid by the Respondent to the Petitioners within 30 days of this Order; and

7) Respondent is required to withdraw any negative references concerning the payments on the property in question with any credit reporting service until such time as this matter is concluded at a second mediation.

This 12th Day of October, 2010.

District Court Judge

Mary Law
1930 Stardust Street
Reno, NV

Exhibit 2

July 3, 2012

The Honorable Michael A. Cherry
Chief Justice of the Nevada Supreme Court
c/o Tracie K Lindeman
Clerk of the Supreme Court
201 South Carson Street
Carson City, NV 89701

RE: ADKT 435 May 15, 2012 Proposed Mediation Rule Changes

Dear Mr. Chief Justice:

I am writing on behalf of the millions of Nevadans who have been virtually ignored during the past four years as we all struggle to understand and respond to the economic crisis we are living through. I trust that you and the Associate Justices will give thoughtful consideration to the many proposed rule changes for the Nevada Foreclosure Mediation Program that you have received from many knowledgeable sources. I hope that you will also find my attached observations and recommendations helpful.

I would also like to be scheduled to speak during the public hearing scheduled for July 9th at 3:00 pm in Carson City. I will do my best to respect your preference that the public limit verbal comments to two or three minutes.

Sincerely,

Mary Law

Mary Law

Attachment 1 – A Different Perspective and Observations
Attachment 2 – Proposed Fact Based Rule Changes

Attachment 1 RE: ADKT 435 May 15, 2012 Proposed Mediation Rule Changes

A DIFFERENT PERSPECTIVE AND OBSERVATIONS

As a financial analyst, planner and investor, I believe my broad based and generalist perspective of the economic crisis and the immediate issue of home foreclosures in Nevada may be of value to the Nevada Supreme Court Justices, members of the Administrative Office of the Court and the Foreclosure Mediation Program.

The first observation I would like to make is this: the majority of human beings don't like math. It is incumbent on those of us who do "like math" and use it to earn a living, do not abuse our talents in this field especially when it comes to the world of barter and exchange for goods and services. Unfortunately, some very bright and very talented folks developed extraordinary complex financial models for a host of purposes that were not tested or explained prior to being introduced into the workplace as the "next best step" in our increasing reliance on artificial intelligence instead of human intelligence. Using these models and doing a lot of fast talking, the unearned dependence on these models has led to "flash trading" and "flash crashing" of the Wall Street stock market and the ultimate "flash trading" and "flash crashing" of the delicate micro-markets for buying and selling real estate. People in positions of authority and oversight may have had doubts and questions about what was happening but for many reasons didn't do enough to stop the negative effect on the world economy and particularly the economy in the state of Nevada.

I have been concerned and frustrated since 2009 when programs began to be introduced with the good intention of "helping homeowners keep their homes". The insanity of it all is the false belief this could be done by replacing predatory sub-prime loans with more predatory sub-prime loans. By HUD definition, predatory simply means "a loan that deprives the homeowner of equity". Any qualified first level financial analyst could have looked at the examples of the programs being offered and informed the people in charge of those programs that focusing on "affordability" is not the solution, it is the cause of the crisis. Apparently, many senior level risk and business managers tried to do that but no one listened and we continue to be confronted with myths and mis-information about cause and cure.

Somehow in the middle of this confusion, individual homeowners and non-professional real estate investors were blamed, shamed and expected to pay for losses caused by risks they didn't intend to take and circumstances influenced by information they had no way of knowing. Most of us actually did our "due diligence" prior to signing our home loans but the best we could do wasn't enough to prevent being deceived by highly skilled and expert fraud and scam artist wearing expensive suits.

As taxpayers, we made a good faith effort to help the titans in the financial industry right the wrongs they had done. They have received TARP funds, immunity from prosecution for criminal offenses, and incentives to do what any other business would have to do at their own expense to succeed in a competitive market place.

This may have prevented big banks from failing but it did not stop big banks from taking undue advantage and reaping undue profits from their "retail" customers. We are the "retail customers" and are the ones who are not even allowed to invest in certain "mortgage backed securities" because they come with such high risk, require what is called "sophisticated investment wisdom" and more money than any of us will ever have. The "wisdom" is that the money they have is our money. We gave it to them when we paid interest on loans, contributed to pension plans, retirement plans and health care plans. We pay but don't get to play. Instead, retail customers and homeowners are expected to work miracles and turn one hard earned dollar into two so that we can recommit to pay twice or triple the value of what our homes are actually worth so that we will continue to support the bad habits of those at the top. This is not "wisdom", it's simply stupid. In light of all we know today and as crazy as it sounds, the truth is that the "responsible" homeowner is the one who is not paying their mortgage payment.

The questions we must ask today are not as much about the "cause" of all of our economic concerns but what we can do to turn the tide sooner rather than later.

The Nevada Foreclosure Mediation program had a marvelous "mission statement" which included the phrases "to tackle the foreclosure crisis head on" and "to help Nevada homeowners keep their homes". We may be the battle born state but after three years of "tackling" and being stonewalled by the big banks, we are battle worn. Many question the validity and vitality of the program. I believe they are wrong.

I believe the Mediation Program is an absolute necessity if there is to be any hope for Nevada homeowners to actual keep our homes. There are significant changes that must be made but the foundation is sound. At the last meeting of the Foreclosure Mediation Advisory Committee held June 21, 2012 it was obvious that everyone present from all sides is still hopeful there is a solution but they are very tired and therefore still unable to see the forest for the trees.

Their hope was expressed as a desire to have a "portal" for collecting and storing homeowner's financial information. There are many fatal flaws with that line of thinking but it would take an economist with the time and talent for making the complex simple and easy to understand to point them all out. The main one however is the same as noted above: wishful thinking isn't going to turn one dollar into two. The majority of Nevada homeowners simple do not have steady, reliable or rising incomes and no amount of data collection or manipulation is going to change that hard, harsh reality. In fact, the majority of our homeowners are aging baby boomers who are transitioning out of the workplace and are not being replaced with equal income earning families.

If collecting and analyzing homeowner's financial information down to the microcosmic level isn't going to fix the problem because it focuses on what we don't have, a better question becomes "what do we do with what we do have?"

A good place to start is with an open and honest evaluation of what is and what is not working before proceeding with further attempts to revise the Mediation Program rules and guidelines.

What's working: Good people are doing the best they can do with the time, tools and information they have been given. They need encouragement and support.

What's not working: A few bad people with undue power and influence are doing everything they can do to stop the good ones from doing the right things. They need a "proverbial slap upside the head" in the form of significant sanctions for failure to do what they are supposed to do.

Status: We are almost but not quite in "stalemate". Too many homeowners are still losing their homes and their equity in daily foreclosures and short sales. Other homeowners are living in involuntary servitude waiting for the bank to make their next move and either file a Notice of Default or take the alternative action of filing for a "judicial foreclosure". Some are already entangled in litigation that is too slow to be classified as "due process of law" and too expensive to be considered as the enactment of "justice for all".

The right thing for the millions of Nevada residents would be for all lenders to offer both principal and interest reduction home loans to everyone – including homeowners who are current and those who are not current on their loan payments. In other words, we need a "hard reset" or as one respected securities analyst put it "nobody is going to like it, but we need to declare a national chapter 11 bankruptcy". This doesn't mean everyone has to actually declare and seek relief through a traditional bankruptcy. It simply means that we could use the same procedures to separate "secured" from "unsecured" debt with the goal to be "forgiveness" of the unsecured portion and a fresh start based on a fair evaluation of both the real market value of the home and the actual investment made by both parties. The purpose of doing this is to have a basis for negotiating that is balanced instead of tilted unfavorably toward one side as it is today.

Under the current rules, the homeowner has to give up all of their rights and rely on what the banks claim is "proprietary information" so that the bank, not the homeowner, gets to decide what is right for the homeowner. The added insult to this injury is the homeowner gets blamed again when they prove once more that the banks don't know how to make these decisions and homeowners redefault on a deal that shouldn't have been made in the first place. Does anyone but me see the downward spiral that is happening here?

The flaw in the process is that the banks have been given all of the power and all of the say so regarding who qualifies for what and who doesn't. That isn't their job. Bankers are not the ones to decide for the homeowner what is in the homeowner's best interest and what they want to choose to do. These decisions are now and always will be the right and the responsibility of the homeowner. Clear separation of roles and responsibilities is a fundamental basic in all relationships and must be well documented in order to be restored.

A better process than what we have now would be for the current value of the home to be established first so that it could be equitably prorated among all investors including the primary investor (the homeowner). This may sound too complicated and frightening to actually implement but it really wouldn't be that hard to do and would certainly be better than the prolonged agony we all currently have to endure.

Additionally, the right thing for millions of Nevada residents would be for the Nevada Supreme Court Justices to use the full powers that have been invested in this panel of seven men and women to administer and to judge wisely on behalf of all people involved in the process– including bankers. The Nevada Legislature empowered our judges to take charge and write loan modification and order sanctions if necessary. It is now necessary.

We don't have time to waste waiting for cases to trickle up and down the halls of justice. We need clear and decisive "rules" that leave no doubt in anyone's mind that in the great state of Nevada we expect bankers to adhere not only to the letter of the law but to strive to adhere to the highest spirit of the law especially those concerning our property rights such as Truth in Advertising, Truth In Lending, Real Estate Settlement Procedures, the Uniform Commerce Code, Usury Laws and Fair Debt Collection.

The 1987 The Nevada Supreme Court restated what had been ingrained in our collective conscious since the founding of our country when they wrote "real property rights and its attributes are considered unique and the loss of real property rights results in irreparable harm" {Dixon v. Thatcher, 103 Nev. 414, 742 P.2d 1029 (1987) }

Property rights are so deeply embedded in all aspects of our western culture and traditions that they are even included in most if not all faith based doctrines and disciplines.

One example is found in the United Methodist Book of Discipline under "Our Doctrinal Standards and General Rules" in Article XV which reads:

"We believe God is the owner of all things and that the individual holding of property is lawful and is a sacred trust under God...All forms of property, whether private, corporate or public are to be held in solemn trust and used responsibly for human good under the sovereignty of God."

These words of wisdom date back to1784 and the beliefs of the founding father of the United Methodist church, John Wesley. I could continue to go back in time documenting the evolving sources of this thinking but that isn't the point. I don't believe that God will punish those who have broken the "solemn trust". I do believe God expects us to hold each other justly and fairly accountable and we aren't doing a real good job of that right now. At this moment in time, bankers believe they are our adversaries instead of our trusted advisors. They are free to make that choice but it isn't the smart choice.

The main thing is to acknowledge that irreparable harm has been done. Real money has been lost and it cannot be recovered. Real lives have been changed forever. The time and energy spent on defending our property rights instead of our other more productive pursuits cannot be returned. However, we can restore our core values and move forward basing our actions on timeless and essential best business practices and standards of excellent conduct. We can move forward with inspiration from the words inscribed on the seal of the Nevada Supreme court: Fiat Justitia – let justice be done!

I appreciate anyone who has taken the time to read this far and hope you realize that I'm not claiming to have all of the answers to all of the questions much less all of the solutions to all of the problems. I do hope that what I have written might spark innovative, creative and cooperative thinking that will serve to unite us in our common quest to leave this world a better place than it was when we arrived. I sincerely believe that working together with each other and for each other this is possible.

Respectfully submitted this 3rd day of July 2012

Mary Law

Attachment 2 RE: ADKT 435 May 15, 2012 Proposed Mediation Rule Changes

PROPOSED FACT BASED RULE CHANGES

Fact 1: ALL contracts come with an implied, if not written, good faith guarantee that they are subject to renegotiation. Changing terms and conditions is not merely usual and customary, it is necessary.

Action: Change the rules for "document exchange" to focus on traditional business standards of lenders making offers and borrowers making counter offers until a contractually binding "meeting of the minds" is reached. The purpose of mediation is to bring both parties to the table to conclude what could and should be a simple real estate deal. The only three variables that are relevant are 1) current and reasonable future value of the home 2) current non-usury interest rate 3) time period covered by the contract. In some circumstances, "sunk cost" i.e. cash invested by the homeowner and cash invested by the beneficiary, may also be relevant.

Fact 2: Homeowners owe nothing to anyone who cannot show proper documents to prove their claims.

Action:
Modify Rules 8, Rule 11(10.4 a through d) and other rules as necessary, so that the required beneficiary documentation proving chain of title and decision making authority is provided to the homeowner and the AOC, NVFMP Administrator or designee as deemed proper by the Justices so that prior to proceeding with any action against the homeowner this significant first step is completed. Note: Most homeowners are not qualified to determine authenticity or accuracy of these documents and require the protection of someone who does. Title company staff would normally perform this service and provide title insurance for a typical home sale and it's possible they could expand their services to cover "in place" authentication of a clean and clear chain of title as well. This extra step and the related expense has been caused by the lenders, their investors and or agents so it is therefore a cost they must bear.

Appropriate sanctions might be stated as:

If the holder of "notes and deeds of trust" can't prove legal chain of title before mediation or in 30 days or less after the servicer has been notified by the homeowner that they need help, the consequences are that any "beneficiary" will loose all right to have any claim on the property or other assets. The homeowner by default would then own the home free and clear.

If the holder can prove legal chain of title, they then must make available to the homeowner a "single point of contact" who is actually ready, willing and able to negotiate a principal reduction loan to market value at the prevailing 3.25% interest rate.

The big stinky elephant in the room that no one wants to discuss is the fact that for the 60% to 80% of loans that are owned or guaranteed by the GSE's Fannie Mae and Freddie Mac a gentleman named Edward DeMarco is apparently the only decider available to approve principal reductions and he isn't willing to do so. I don't know what the Nevada Supreme Court or Mediation Administration can do about that but perhaps you can figure something out that would encourage Mr. DeMarco to get on board with the plan that servers the greater good of all instead of his select few.

Another point that also needs to be made clear is that the claim "taxpayers" won't pay for principal reduction" is only a half truth. The rest of the truth is that we have no obligation to pay. The alternative is that the "banks" will have to sink or swim on their own. Big banks around the world are already being broken into smaller more manageable pieces and it is inevitable that it will happen to some U.S. banks as well.

Fact 3. Homeowners have no legal, moral or ethical obligation to submit personal, private and detailed financial information to anyone or any private entity.

Action:
Delete existing Rule 11 sections 1 through 6 and any other related rules that infringe on homeowners rights and personal responsibilities. Note: the so called "hardship" letter serves no useful purpose and is a gross violation of our basic human right for maintaining our privacy and dignity under duress. Credit reporting agencies provide sufficient information necessary for loan qualification evaluation and have eliminated the need for additional financial detail.

Ammend Rule 10 Section 1(b through e) to include the right of the homeowner to have available in person or by phone, anyone the homeowner deems to be a "trusted advisor" or "supporter". This may include qualified financial planners or counselors in addition to local realtors or merely a supportive friend. The desired goal: to protect the homeowner's rights and abilities to make a reasonable and well informed decisions without fear and coercion.

If there is a persistent and unchangeable belief that homeowners "must" submit financial details then at least add a rule that is consistent and in compliance with the existing laws, rules and guidelines that apply to all internet and hard copy forms of financial information collection and storage that include 1) the disclosure of the purpose for collecting this information, 2) the possible outcomes of providing the information and 3) the retention or destruction policy for protecting this information.

Fact 4. Homeowners have the right to have ALL options for keeping or surrendering their homes presented to them simultaneously with full, open, honest and easy to understand clarity.

Action:
Empower mediators to enforce the intent of the mediation as evidenced by the mediators statement that very clearly makes it appear to the homeowner that they will have the opportunity to discuss both retention and exit options. The AOC or FMP should retain the services of a qualified CPA firm to dispel the myths regarding "tax implications".

Clarify the role and responsibilities of the mediator. Apparently no one knows or agrees on the extent or limitations of the mediator's job.

Clarify the role and responsibilities of the district judges. Apparently no one knows or agrees on the extent or limitation of the judges powers to modify loans and or impose significant sanctions.

Fact 5: Homeowners have the right to rely on simple and straightforward language in both conversation and contracts. This right also needs to be extended to the documents explaining our laws and guidelines such as ADKT 0435.

Action:
Contract with a qualified and experienced business consulting firm to write the final rules and guidelines in a format that is "user friendly". We can all appreciate the rich heritage behind our archaic legal language and format but the current format is excessively convoluted and too confusing for the general public. The northern courts might benefit from leveraging the work done in the southern courts to make templates and forms more readily available. All might benefit from relaxing the rules of proper procedure just a little more so that folks like paralegals and support staff are not so afraid of "practicing law without a license" that they don't feel they can simply share basic information and answer typical questions.

Carol Ranalli
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Sparks, NV 89434
(775) 379-3584

Exhibit 3

July 3, 2012

Nevada Supreme Court Justices
Supreme Court of Nevada
201 South Carson St.
Carson City, NV 89701

To Whom It May Concern:

As a homeowner and a concerned citizen, I very much appreciate the time and effort of the Justices to fine-tune the Foreclosure Mediation Rules.

However, I still do not see the very much needed protections for Homeowners in this set of proposed amendments and I hope the Justices will include those protections as well because without them, the FMP Rules remain seriously skewed in favor of the banks and beneficiaries, especially those that are pursuing foreclosure illegally.

1. Homeowners need the FMP Rules to provide protections that stop the vicious cycle beneficiaries put many homeowners through, which result in homeowners paying for and attending multiple mediations, some of which result in the homeowners having to file petition for judicial review, possibly more than once, all with no satisfactory outcome.

I am a homeowner who has attended 3 mediations, one of which was court ordered. To each mediation (not only mine, but to those of other homeowners I have met who are in similar situations), the alleged beneficiaries or their representatives bring the same documents each time. In one case, the documents were obviously fraudulent. In my case, the Note contains a forgery of my signature and the alleged beneficiary has admitted in a court filing that the Assignment is incorrect. Yet, even after the beneficiaries lose the mediation, they just rescind the notice of default, then file a new notice of default, starting the vicious cycle again.

The FMP Rules need some teeth that stop this vicious cycle because it puts homeowners on a hamster wheel of repeat mediations that go nowhere with a lender who obviously does not have the right to negotiate and modify the loan.

The FMP Rules need to clearly state that if a beneficiary (or their representative) cannot provide positive, verifiable proof of right to foreclose within a specified period of time, let's say one to two years (12 to 24 months), they must rescind any outstanding notice of default and they must stop filing same.

At some point, homeowners need to obtain relief from this vicious cycle because it is not resolving the issue. In fact, it leaves homeowners with homes that have a clouded title, so they cannot sell them, so they cannot move to a state where they can obtain work, and if they want to remain in their home, they live with the constant concern that at any moment they may have to pay for yet another mediation or pay to file yet another petition for judicial review.

For homeowners who have proven that the beneficiary has no standing to foreclose, the FMP Rules need to provide relief that will allow the homeowners to do what is necessary to locate and negotiate with the true beneficiary or to do what is necessary to obtain clear title to their home.

2. Homeowners also need protection from mediators who lie on the Mediators Statement and from the FMP office itself, which backs up their mediators' lies. The mediator at my second mediation lied on the Mediator's Statement and ignored the forgery of my signature on the Note.

When I brought this to the attention of the FMP office, the FMP office backed the mediator and I was told that a certificate would issue. So, I, the homeowner, who was struggling to make ends meet financially, had to pay to file a Petition for Judicial Review, which resulted in the District Court Judge ordering a third mediation, which the beneficiary lost. But why should a homeowner have to go through all this when, by simply allowing the homeowner, the mediator, and the beneficiary to record the mediation, what really occurred at mediation would be clear and no one could lie.

The same mediator who conducted my second mediation, provided incorrect information on the Mediator's Statement for another homeowner, in spite of the fact that that homeowner was represented at mediation by an attorney. When that homeowner's attorney filed petition for judicial review, the District Court Judge ruled in favor of the homeowner.

That mediator should be barred from ever conducting any foreclosure mediations again. Yet, I believe he is still conducting them. Mediators should not be suspended. They should be permanently fired from the Program when they do not comport themselves according to the Rules.

The FMP Rules need to have teeth that protect homeowners from both mediators who lie and from the FMP office itself. What those rules can, legally, be is not within the scope of my knowledge. However, I believe it would be beneficial to record mediations because I know that if I had had a recording of what occurred at that second mediation, the mediator would not have been able to get away with lying on the mediator's statement or with lying to the FMP office and I would not have had to go through Petition for Judicial Review. Homeowners need to be allowed to record the mediation, so that they have proof of what occurred and can use that proof if they need it, with the FMP office and in court.

Thank you for considering these suggestions.

In addition, I have read the entire 33 pages of the suggested amendments and I also would like to submit the following comments:

Rule 1.5 Recording
The mediation session(s) shall not be recorded.
Not cool. Especially when mediators lie...and homeowners often need proof in court of what really occurred at mediation.

Rule 3.1 mediator shall schedule mediation to *conclude* within 90 days of receipt of the assignment...

how does this dovetail with the 135 days?

(see Rule 13 Calendaring)
...a mediation will be calendared to conclude within 135 days following actual receipt by the Administrator, or designee, of the mediation fee and required documentation provided on behalf of the lender

It appears to be a discrepancy, but perhaps I do not follow how these numbers (90 and 135 days) work together.

Rule 3.2 define "cluster several mediations for a lender." (page 2)

Rule 4.3(2)(c) Mediator qualifications.
The Court, for good cause shown, may waive the minimum requirements set forth herein.

What constitutes 'good cause'? A definition would be helpful to those who want to be a mediator and are not licensed attorneys, judges, or experienced mediators.

Rule 4.6 This period of time should be extended to 3 to 5 years, just as is done in business regarding confidentiality agreements because 90 days is a minuscule amount of time for a mediator to wait and harm can still be done more easily to the party whose confidential material the mediator has in his or her possession.

Rule 4.7 Please specify to whom the phrase "the parties affected by such action(s)" refers. Does this phrase refer to the mediator whose appointment is revoked or to the homeowner who have been adversely and/or negatively affected?

Rule 4.8 The suspension of a mediator being limited to a minimum of 60 days is not reasonable because if a mediator is suspended for not doing the right thing, for lying, for example, on the Mediator's Statement, that mediator has no right to continue being a mediator in the program and should be permanently fired from the Program. Such egregious behavior does not lend credibility to the Program and to allow a mediator who behaves so egregiously to continue to be a mediator casts serious doubts about the credibility of the Program.

Rule 6. Deposits; Failure to Pay.

What relief may be awarded to the homeowner if the beneficiary fails to pay?

Rule 7.3 Eligibility for the Foreclosure Mediation Program.
Why would a Certificate be issued for any residential property for which a request for mediation was not filed?

Also, when the trustee requests a Certificate, it would be prudent for the Administrator to notify the homeowner of the request and also to notify the homeowner as to whether a Certificate is being issued in response to the trustee's request. The reasoning for notifying the homeowner is because, on more than one occasion, the Administrator has issued Certificates that were not supposed to be issued just because the trustee requested the Certificate. Why this occurred has never been made clear to those homeowners affected and could, in future, cause one or more homeowners to lose their homes when they are not supposed to lose them.

Why would the issuance of any certificate be kept confidential from the homeowner? Such clandestine behavior is what has caused some homeowners to nearly lose their homes when the Administrator issued certificates that were not supposed to be issued.

Rule 8.1 Notice of Default and Election to Mediate.
What penalties or sanctions will be placed on any trustee or other person presenting a notice of default and election to sell for recording if they do not provide these documents to the homeowner not later than 10 days? There must be sanctions because the trustees have, in many cases, consistently bombarded homeowners with as many as 3, 4, 5, and 6 copies of the notice of default and election to sell and have only provided the 2 copies of the Election to Mediate forms nearly 3 weeks after recording the notice of default and election to sell. This has left those homeowners with only 3 to 7 days to request mediation. And, in many instances, homeowners were so tired of receiving the notice of default and election to sell that they didn't look at the 5th or 6th mailing, so they never knew that they had a right to request mediation. What penalties and/or sanctions will apply?

Rule 8.4 Notice of Default and Election to Mediate.
This rule states (emphasis mine):
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.**

If the lender/trustee/beneficiary fails to attend and participate at a mediation, why would a certificate be issued and why would a foreclosure sale be noticed? Or does the phrase "eligible participant" refer only to the homeowner? If so, please clarify by stating same.

Rule 8.5 Notice of Default and Election to Mediate.
Define 'regular communication with the homeowner.' Is this written communication, which would be helpful, as well as by telephone, if the homeowner calls the Program Office? Or is it only by

telephone when the homeowner calls the Program office?

Rule 9. Option for Inclusion.
Do you mean prior to or after July 1, 2009?

Rule 10.1(a) Representation.
Suggest adding:
The mediator, the homeowner, or the homeowner's representative may request that the beneficiary provide proof of their identity and proof that the person appearing in person or by phone has the authority to negotiate and modify the loan secured by the deed of trust sough to be foreclosed, as well as the authority to negotiate all other alternatives to foreclosure.

This is of critical importance because at several mediations, the beneficiary's representative has been allowed to the leave the room to, ostensibly, speak with the person who has the authority to negotiate and modify the loan. In other instances, the beneficiary's representative has claimed that he/she has flown into town, yet has claimed to not have his/her identification with them. This leaves the homeowner wondering with whom are they negotiating? Wondering, has the beneficiary sent a shill?

At my third mediation, the representative that the bank sent to the mediation was unknown to Bank of America employees and managers in the branch where he claimed to work. He also claimed that he did not have any identification with him, yet he claimed to have flown into Reno for the mediation. To arrive by airplane, one must have identification. He didn't even have a business card.

Just assuming that the person attending the mediation is there because they're "authorized" is not effective. If the FMP Rules require that documents be proved to be authentic, then the FMP Rules also need to require that the person(s) attending the mediations are really who they say they are.

Rule 10.1(b)(c)(d) Representation
Do the words "eligible participant' refer to both parties or only to the homeowner? Please clearly specify.

Rationale for Change: These changes seek to provide more clarity on the necessary authority of the representative appearing on behalf of the beneficiary.

The Rationale for Change still needs clarification. How is this 'necessary authority' to be provided? Preferably with a letter signed by the President and CEO of the bank the representative claims to represent.

Rule 11.3 In some instances, the beneficiary's document requests have been burdensome and homeowners have not been able to provide the requested documents in the allotted 15 days. In these instances, the homeowners should be allotted additional time without fear of penalty at the mediation.

Rule 11.5 As in Rule 11.3 above:

In some instances, the beneficiary's document requests have been burdensome and homeowners have not been able to provide the requested documents in the allotted 15 days. In these instances, the homeowners should be allotted additional time without fear of penalty at the mediation.

Rule 11.6 Five (5) days is sometimes simply not enough time for homeowners to provide clarification and/or cure identified inadequacies. Homeowners in this situation quite often are working hard to make ends meet financially and/or may be suffering from illnesses or disabilities that make it difficult for them to provide the necessary information within only 5 days. Suggest 15 days, with an allotment for additional time if homeowners have difficulty obtaining the information without fear of penalty at the mediation.

I am not asking for indulgences here. I am asking for homeowners to be treated fairly and to be given every chance to comply.

Rule 11.7 (a)(b)(c)
It is important that the beneficiary provide the original mortgage note, deed of trust, and any assignments and endorsements because these documents have changed hands multiple times and so many lenders/beneficiaries are seeking to foreclose on properties that their companies no longer own. And also because it is much too easy today to forge documents electronically, especially for beneficiaries who have the money to pay experienced computer savvy people.

What, specifically, constitutes a certified copy? If it is a notarized signature, please specify that here in this Rule.

Rule 11.8(d)
Delete 'If applicable' and state:
(d) The entire pooling and servicing agreement with the relevant portions of the pooling and servicing agreement highlighted for easy reference and power of attorney documents as provided in Rule 11.6 (a).

Rule 11 8(d) references Rule 11.6(a)
Perhaps I missed this, but I cannot find a Rule 11.6(a).

Rule 11.8(f)(1)(2)(3)(4)
Suggest adding the following:
Beneficiary/trustee/lender must negotiate short sale timelines, and terms and conditions, in Rule 11.8 (f)(1), the timeline and documents necessary in Rule 11.8(f)(2), any amounts that would be paid to the homeowner in Rule 11.8(f)(3), and any terms necessary for other alternatives to foreclosure in Rule 11.8(f)(4). Failure to do so will be considered failure to participate in good faith.

Rule 11.10
Suggest adding the following:

Beneficiary/lender/trustee must provide proof that the notary public who signs the certified copy is a

real person and legally authorized as a notary public in the state in which they sign these documents. To be considered proof, a copy of the notary public's signature on the stationery of the Secretary of State with a letter from the Secretary of State's office verifying the authenticity of the provided signature.

Rule 11.10(d)
The original signature must be in blue ink.

Rule 11.11
I realize that NRS 104.3309 was written originally to probably provide for, in ordinary times, the unexpected and rare instance in which one of these documents was destroyed or lost. However, these are not ordinary times, and may lenders have either deliberately destroyed or misplaced/misfiled these documents. Providing them with the opportunity to claim protection under NRS 104.3309 for their deliberate misconduct does serious harm to homeowners.

Rule 11.12
Suggest adding the italicized and boldface type:
The beneficiary of the deed of trust or its representative shall produce
an appraisal ***or BPO*** done no more than 60 days before the commencement date of the mediation.

What happens if the property does not sell?

Rule 11.12(b)
Why does the grantor have to file a petition for judicial review?
If the beneficiary fails to comply with the timelines, the mediation should be canceled and no certificate should issue.

Rule 11
Suggest adding a section 13
Rule 11.13 The mediator must keep the confidential proposals from both parties (the homeowner and the beneficiary) confidential at all times, unless one party or the other agrees to share it with the other party.

Rationale for Suggested Change: In some instances, mediators have shared the grantors/ homeowner's confidential proposal with the beneficiary without the homeowner's consent.

Rule 13. Calendaring
Rule 13.1 states that 'a mediation will be calendared to conclude within 135 days...'
Rule 13.2 states 'The mediation shall be scheduled to conclude within 90 days of mediator assignment.'

Which is it? 90 days or 135 days? Because if the mediator is assigned within 10 to 15 days of receipt of the Election to Mediate form by the Administrator from the homeowner, that would leave 120 to

125 days to meet the 135 day requirement.

Rule 14. Continuances.
Suggest adding a #5 to this Rule.
Rule 14.5 The mediator will provide both parties (grantor and beneficiary) with a copy of the mediator's statement and any attached agreement within 10 days of the mediation and, preferably, at the conclusion of the mediation because, generally, there is no need to delay.

Rule 15. Settlement/Resolution Before Mediation.
The mediator will provide both parties (grantor and beneficiary) with a copy of the mediator's statement and the attached agreement within 10 days of the mediation.

Rule 16. Temporary Agreements *or Agreements to Relinquish;* Expiration Date
Add a period after the word 'Date' in the Rule name.

Suggest renaming this Rule:
Agreements to Relinquish; Expiration Date because this is not a 'temporary' agreement or Agreement to Accept a Deed in Lieu of Foreclosure.
If the name of this Rule is changed, all references to Temporary Agreements throughout the Rules would need to be changed, as well.

Perhaps I have missed something, however, my questions is: If the grantor/homeowner agrees to relinquish the property, is this not the same as a Deed in Lieu of Foreclosure? And, if this is so, why would a certificate issue? There would be no foreclosure.

Rule 21.7
Add, specifically:

...the Administrator, or designee, shall refrain from taking any action, including issuance of a certificate, which will adversely affect any party to the mediation.

Rule 21
Correct the typo in the **Rationale for Change** section:
Line 5: Change the word 'endure' to 'ensure' so that the second sentence reads as follows (emphasis mine):

"This notification will also assist the parties where a temporary agreement has been reached, to **ensure** that the parties know their rights to Petition for Judicial Review..."

Rule 22.2
Correct the typo in the first sentence.
Line 1: Change the word 'members' to 'member' so that the first sentence reads as follows (emphasis mine):
"Each appointed **member** serves . . . "

Suggest that members may not be reappointed within 2 years of their first term because to do otherwise is to contaminate the freshness of the board. Only the Foreclosure Mediation Program Manager should continue to serve to provide continuity.

Rule 22.2
Correct the typo in Line 4: Change the word 'filed' to 'filled' so that sentence 3 reads as follows (emphasis mine):
"Any vacancy occurring in the membership of the Committee must be **filled** in the same manner...

Rule 22.3
Suggest changing this Rule to read:
The Committee shall meet at least once every 2 months and may meet at such further times as deemed necessary by the Chair or by a majority vote of the members.

Rule 22.4
What is an 'office action'?
Is this phrase supposed to be 'official action'?
If so, please define what constitutes an "official action."

Rule 23.2 Post-Mediation Procedures.
Suggest that all mediation files be retained indefinitely by mediators, into perpetuity because these cases are taking an extraordinarily long time, sometimes years, to reach resolution.

The Program should provide a list of available programs to all homeowners who request mediation. The Program should mail this list to homeowners and should also keep this list available on the Program's web site.

Addendum B
Argues that short sales require a Title Insurance Carrier to review the title ... to determine if the sale can be insured with good title to the new owner. Research and news articles have repeatedly reported since, approximately, 2008 that the majority of the homes facing foreclosure do not have clear title. So how can a short sale or any solution other than to work out a solution that allows the homeowner to keep their home be satisfactory?

Regarding not allowing beneficiaries to use wholly-owned subsidiaries for appraisals is a good thing because it has come to public knowledge that many appraisers skewed the appraisals they wrote in favor of the beneficiaries/lenders/banks because they were afraid they'd lose the business from the beneficiaries/lenders/banks if they did not do so.

Attachment C
Timeline Summary:
Paragraph 2, Line 6, Sentence 3 (last sentence) mentions the beneficiary "obtaining their certificate." Once again, I do not understand why a certificate would be issued in response to a short sale.

I thank the Justices for their time and for considering my comments and suggestions.

Sincerely,

Carol Ranalli

Exhibit 4

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ADOPTION OF RULES FOR FORECLOSURE MEDIATION.

ADKT 0435

FILED

JUL 19 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER REAPPOINTING MEDIATORS

The following individuals have applied to this court for reappointment to the panel of mediators, and this court has determined that they are qualified to continue to serve as mediators in the Foreclosure Mediation Program.

Accordingly, the following individuals are hereby reappointed as mediators for the Foreclosure Mediation Program and may continue accepting cases:

Apple, Robert
Atwood, Adrienne
Baker, James
Belcove-Shalin, Janet
Bloom, Janette M.
Blumenfeld, Stewart N.
Broussard, Carolyn
Buchanan, William F.
Buyer, Dennis
Cashill, Wm. Patterson
Chase, Kelly

12-22860

Clouser, Justin M.
Cohen, Larry J.
Conboy, Anita
Crabb, Yangcha (Soyoung)
David, Ira W.
Drobkin, Ileana
Eisenberg, David C.
Estes, Robert
Garcia-Mendoza, Eva
Gould, Dean J.
Gugino, Salvatore C.
Hamilton, Paul F.
Hamilton, David
Hardy, Del
Hemingway, Colleen
Hoppe, Craig A.
Huston, David
Jimmerson, James J.
Kunin, Israel L.
Lamboley, Paul H.
Mancino, Renee'
McKnight, Patrick K.
Meador, Shawn
Mikrut, Denise
Neu, Michael C.
Newberry, Tara
Nork, William E.
Pagni, Albert F.
Parnell, Richard
Pergament, Ira
Richwine, Jerry R.
Roitman, Howard
Schofield, Paul H.
Segel, Marc Nelson
Shipman, Madelyn
Singer, Michael H.
Stoebling, E. David
Stromberg, Leah E.
Sullivan, Mike
Trautmann, Susan G.
Trost, Janet

Weaver, Robert A.
Welsh, Darren J.

DATED this 19th day of July, 2012.

Cherry, C.J.
Cherry

Douglas, J.
Douglas

Saitta, J.
Saitta

Gibbons, J.
Gibbons

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: All District Court Judges
Francis C. Flaherty, 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
All Appointed Mediators
Administrative Office of the Courts
Verise Campbell