IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ADOPTION OF RULES FOR FORECLOSURE MEDIATION

ADKT 0435

FILED

MAY 07 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER AMENDING FORECLOSURE MEDIATION RULE 3(4)

WHEREAS, on January 24, 2020, Mark Gibbons, Associate Chief Justice, filed a petition in this court seeking to amend Foreclosure Mediation Rule 3(4) related to mediator qualifications and training; and

WHEREAS, this court considered public comment on the petition; and

WHEREAS, this court has determined that the proposed rule changes are warranted; accordingly,

IT IS HEREBY ORDERED that Foreclosure Mediation Rule 3(4) shall be amended and shall read as set forth in Exhibit A.

IT IS HEREBY FURTHER ORDERED that the rule amendments shall be effective 30 days after the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order 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 as to the accomplishment of 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 rule amendments.

Dated this 7th day of May, 2020.

Pickering, C.J.
Pickering

Gibbons, J.
Gibbons

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

Cadish, J.
Cadish

Silver, J.
Silver

cc: Paul Matteoni, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Home Means Nevada, Inc.
All District Court Judges
All District Court Clerks
All Court Administrators
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Legal Aid Center of Southern Nevada
Nevada Legal Services
Washoe Legal Services
Southern Nevada Senior Law Program
Washoe County Senior Law Program
Volunteer Attorneys for Rural Nevadans
Nevada Association of Counties
Nevada Bankers Association
Nevada Land Title Association
Administrative Office of the Courts

EXHIBIT A

AMENDMENT TO FORECLOSURE MEDIATION RULE 3

Rule 3. Presiding Mediator.

1. *Authority.* A foreclosure mediation must be conducted by either a senior justice, judge, hearing master, or other designee. The presiding mediator shall have all requisite authority to conduct the foreclosure mediation. The mediator shall schedule each mediation to conclude within 90 days of receipt of the assignment and shall notify the District Court of the outcome of each mediation.

2. *Assignment of presiding mediator.* No later than 10 days after receipt of the Petition for Mediation Assistance, and the fees from both parties pursuant to Rule 1(2) herein, the District Court 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 District Court of a conflict requiring his or her recusal. Upon such notification, the District Court shall immediately and randomly select another mediator to conduct the mediation. The District Court may direct a mediator to cluster several mediations for a lender. Upon final selection of a mediator, the District Court shall send notice of the assignment to the parties.

3. *Panel of mediators.* The Administrative Office of the Courts shall maintain a list of mediators by geographic area available to hear foreclosure mediations. The list shall include persons who are appointed by the Court to serve as presiding mediators in the Foreclosure Mediation Program and are qualified pursuant to subsection 4 herein.

4. *Mediator qualifications.*

(a) Mediators must meet the following minimum qualifications and provide proof as part of the application process:

(1) Be licensed to practice law in the State of Nevada; or

(2) Be an experienced mediator. For purposes of 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 **[~~an~~]** approved **[~~annual~~]** biannual continuing education of at least 4 hours and consisting of education in the area of real property law, including but not limited to the following: deeds of trust, promissory notes, loan modifications, Nevada foreclosure **[~~laws,~~]** law, Nevada Supreme Court updates and rulings on foreclosure mediation, district court mediation process and procedures, use and operation of any Portal operated by Home Means Nevada, Inc. (or its successor), mediation process and procedures and such other **[~~topics.~~]** related topics as the court may approve. Proof of this continuing education must be submitted with the application.

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

5. *Appointment of mediators.*

(a) The Administrative Office of the Courts shall solicit applications annually and provide the Court with the names and qualifications of persons who have applied to become mediators. The Court shall review the qualifications and approve, deny, or continue the applicant's request to serve as a mediator. The term of appointment shall be 2 years.

(b) The list of Court-approved mediators shall be maintained by the Administrative Office of the Courts.

(c) The Court-approved mediator must sign a Mediator Code of Conduct biennially or as needed.