

**STATE OF ILLINOIS
CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
COUNTY OF WINNEBAGO
COUNTY OF BOONE**

LOCAL RULE 2.14, AS AMENDED

WHEREAS, the 17th Judicial Circuit Court, with the approval of the Illinois Supreme Court, has established by Circuit Court Rule a Residential Mortgage Foreclosure Mediation Program (hereinafter the “Foreclosure Mediation Program”); and

WHEREAS, said program shall commence on November 1, 2014;

NOW, THEREFORE, IT IS HEREBY ORDERED that the following Administrative Procedures are established on the effective date noted above:

A. Filing Fee/Complaint: In all Winnebago and Boone County cases where a complaint is to foreclose a mortgage on residential real estate (as defined in 735 ILCS 5/15-1203, 15-1207, and 15-1219), the complaint shall clearly designate that the case is subject to mediation and the Circuit Clerk shall charge an additional filing fee to defray the cost of the Foreclosure Mediation Program. The fees collected shall be forwarded to the County Treasurer for the County in which the case is filed and maintained in a separate fund subject to disbursement on order of the Chief Judge of the Seventeenth Judicial Circuit. The additional fee for such case is set at \$150 per filing. The Chief Judge shall report quarterly to the Administrative Office of the Illinois Courts on the revenue and expenditures of the program in the manner directed by that office.

A complaint clearly designates that the case is subject to mediation if, below the title, the plaintiff includes the following: "Subject to mediation." In any complaint seeking foreclosure of property other than residential real estate as described above, the plaintiff shall include the following on the complaint, below the title: "Not subject to Mediation."

Should a complaint seeking the foreclosure of property be filed without a label that designates the case as either “Subject to mediation” or “Not subject to mediation,” the case shall be considered subject to mediation and the requirements set forth by this local rule until such time as the plaintiff files an amended complaint that designates the case as “Not subject to mediation” (see Section G).

B. Definitions:

(1) Lender and servicer shall have the same meaning as “Mortgagee” defined at 735 ILCS 5/15-1208.

(2) Homeowner shall have the same meaning as “Mortgagor” defined at 735 ILCS 5/15-1209.

C. Forms: The court-approved forms that shall be used in foreclosure mediation cases are set forth as the exhibits to this local rule. Attorneys, the court, or the Program Administrator may generate forms for use in foreclosure mediation cases as long as they are substantially similar to the forms approved by the court. If the court provides bi-lingual versions of any of these forms, those versions shall be used.

D. Summons & Attachments: In all residential real estate mortgage foreclosure cases (hereinafter "residential foreclosure cases"), plaintiffs shall use a specific summons in substantially the form set forth as Exhibit FM-1.

Plaintiffs shall also use a Notice of Mediation attached in substantially the form set forth as Exhibit FM-2. The Notice of Mediation shall be attached to, and served with, the complaint served upon the homeowner/borrower (hereinafter referred to as the “Homeowner”). Where service upon a Homeowner is made by publication, the Notice of Mediation is to be mailed by the plaintiff to the property address before the first date of publication.

E. Proof of Service: Within 7 calendar days of service of process on each Homeowner defendant in a residential foreclosure case, the plaintiff shall provide proof of service of the Summons to the Program Administrator via email to Mediation17th@gmail.com. Proof of service shall at a minimum identify the names of the served parties and provide the dates, locations, and methods of service for each. Plaintiffs may fulfill this requirement by emailing a copy of the file-stamped service returns to the Program Administrator. When service upon a Homeowner is made by publication, the plaintiff shall provide proof of service within 7 calendar days of the first date of publication.

If proof of service is not received by the Program Administrator via email within 7 calendar days of actual service of process on the Homeowner, the application deadline (described in Section K) shall be set from the date the Program Administrator receives proof of service of the Summons.

F. Entry of Judgment: In all residential foreclosure cases filed as “Subject to mediation” (as described in Section A), there shall be a mediation check as part of the judgment prove-up process. In addition to all other items required by the court for the judgment prove up, the plaintiff shall submit an Affidavit to the court representing that it has complied with the Proof of Service requirement (described in Section E), that the applicable deadline for mediation participation (described in Section K) has passed, and that the matter is not stayed due to participation in the Mediation Program (as described in Section N).

G. Amending Eligibility: If the plaintiff believes that the property in a residential foreclosure case no longer meets the definition of residential real estate set forth in 735 ILCS 5/15-1219 after filing the complaint as “Subject to mediation” (as described in Section A), the plaintiff shall request leave from the court to file an amended complaint that clarifies the case as “Not subject to mediation.” The plaintiff shall also provide notice of this change to the Program

Administrator via email to Mediation17th@gmail.com within 7 calendar days of filing the amended complaint.

H. Counterclaims to Foreclose a Mortgage: Where the complaint to foreclose a mortgage takes the form of a Counterclaim (i.e. the original complaint is a mechanics lien), any counterclaims to foreclose a residential mortgage must pay the extra filing fee set forth above in Section A. Within 7 calendar days of filing a Counterclaim seeking foreclosure of a residential mortgage, the counter plaintiff shall send notice of this filing to the Program Administrator via email to Mediation17th@gmail.com.

PROGRAM STAFF

I. Intake Coordinator: The Intake Coordinator shall perform an initial assessment of eligibility and whether a Homeowner should submit their loss mitigation packet indicating the Homeowner is interested in retaining or relinquishing the home. If the Homeowner is eligible, the Intake Coordinator is to assist the Homeowner in assembly of paperwork, etc., designed to make the mediation fruitful. If mediation is not a viable option, the Intake Coordinator may refer the Homeowner to other options.

The Intake Coordinator shall be appointed by the Chief Judge of the 17th Judicial Circuit. If the Intake Coordinator is a private individual or organization, any compensation it will earn for its services must be agreed to with the Chief Judge.

The Intake Coordinator will inform Homeowner applicants that legal services will not be provided, and direct those desiring but unable to afford legal assistance to contact Prairie State Legal Services.

J. Program Administrator: The position of the Program Administrator is established to oversee the daily operations of the Program, and whether or not a direct employee of the Seventeenth Circuit, serves only with the approval of the Chief Judge and the Judges presiding over the foreclosure court call and acts as an agent of the court.

The Program Administrator will inform Homeowner applicants, by notice on the intake webpage and/or in personal meetings with Homeowner applicants, that the Foreclosure Mediation Program cannot provide legal services.

APPLICATION PROCESS

K. Application Deadline: The Homeowner's application deadline for the Foreclosure Mediation Program will be determined as follows:

(1) If the Homeowner is served the Foreclosure Summons by personal, substitute, or abode service, the application deadline shall be set for 21 calendar days from the date of service.

(2) If the Homeowner is served the Foreclosure Summons by publication or posting, the application deadline shall be set for 28 calendar days from the first date of publication.

(3) If the judge issues an order referring the Homeowner to the Mediation Program, the application deadline shall be set for 21 calendar days from the issuance date of said order.

In circumstance No. 1 or No. 2 above, the application deadline is subject to change per the plaintiff's submission of proof of service of the Summons (as described in Section E).

Where there are multiple Homeowner defendants in a residential foreclosure case, the application deadline for mediation shall be determined by the date and method of service used for the final Homeowner served.

L. Submission of Application: Any Homeowner wishing to pursue mediation is to complete an application online before the application deadline set forth above in Section K. The application is to be completed online as instructed in the Notice of Mediation served with the Summons, or alternative arrangements are to be made with the Program Administrator as instructed in the Notice.

Failure to submit an application in the time prescribed shall be treated as a decision by the Homeowner to "opt out" of the program. The timely submission of the Application by the Homeowner acts as an election to utilize the Foreclosure Mediation Program; in this circumstance, participation on the part of the plaintiff is mandatory. The following relief may be sought from the Court, for good cause shown: (1) a Homeowner who fails to timely enter the program may file a motion with the Court seeking referral to mediation; and (2) a Homeowner determined to be an unsuitable candidate for mediation may petition the Court for review of that decision, including situations in which the Homeowner's circumstances have changed.

Any party to a pending residential foreclosure case filed before or after June 1, 2014, the original effective date of the program, may also ask the Court by motion to be entered into the mediation program, or the judge presiding over the case may refer the matter on the Court's own motion.

PRE-MEDIATION

M. Entry into Foreclosure Mediation Program: Upon receipt of the completed Application, the Program Administrator shall issue a Notice of Entry, substantially in the form set forth as Exhibit FM-3, advising that the foreclosure mediation process has been implemented for that case. The Notice shall be filed with the Circuit Clerk, and sent to Plaintiff's counsel, the Homeowner, and any other relevant parties (e.g., secondary lienholders). Plaintiff's counsel shall provide all servicer/lender-generated Loss Mitigation application documents for the Homeowner via email to FM@17thCircuit.IllinoisCourts.gov within 15 calendar days of the Notice of Entry.

If Plaintiff's counsel does not provide any servicer/lender-generated application documents within the required timeframe, the Program Administrator shall instruct the Intake Coordinator to

use the general Loss Mitigation application materials created by the online Application for the case. The general Loss Mitigation application materials shall include the following: (1) Financial Worksheet; (2) Dodd-Frank Certification; (3) Hardship Letter; (4) IRS forms 4506C and 4506T; (5) Uniform Borrower Assistance Form (Form 710); and (6) Request for Mortgage Assistance Form.

The Homeowner must comply with the deadlines established in the Application, or by the Program Administrator, for the submission of documents necessary to pursue mediation. The Program Administrator may extend any such deadlines for submission of documents by up to 7 days if the Homeowner is making a good-faith effort to comply.

N. Stay of Foreclosure Proceedings – Discovery: Upon issuance of the Notice of Entry described in Section M, the plaintiff is stayed from proceeding with the entry of judgment or confirmation of sale until the conclusion of the mediation process. A Homeowner is not required to have filed an answer or appearance in the foreclosure action in order to participate in the Foreclosure Mediation Program. The stay shall include a stay of discovery unless otherwise ordered by the Court. The stay terminates as described below in Sections P, R, and X.

O. Scheduling of Pre-Mediation Conference: Within 30 calendar days of receipt of the Homeowner's Application, the Intake Coordinator shall conduct a pre-mediation conference with any Homeowner the Program Administrator determines may be eligible for mediation. The plaintiff or its counsel may, within 10 calendar days of the Notice of Entry, communicate directly to the Program Administrator any issues or concerns which the lender feels must be addressed in order to make mediation fruitful. Plaintiffs and their counsel are encouraged to communicate directly with the Program Administrator via email to FM@17thCircuit.IllinoisCourts.gov.

P. Objecting to Mediation: Any party to a residential foreclosure case may object to mediation after the issuance of the Notice of Entry described in Section M. The objecting party shall file a motion with the court requesting the termination of mediation efforts for good cause shown. Notice of any such motion shall be sent by the filing party to the Program Administrator via email to FM@17thCircuit.IllinoisCourts.gov at the time of filing.

Should the court order the termination of mediation efforts, the stay described in Section N shall terminate 21 calendar days after said order is issued, unless otherwise specified in the order.

Q. Pre-Mediation Conference: The purpose of the pre-mediation conference is to determine which cases are eligible for mediation. "Eligibility" means the reasonable prospect of the parties reaching an agreement which permits the Homeowner to remain in the property or provides for a surrender option. Only the Homeowners and the Intake Coordinator need attend the Pre-Mediation Conference.

Should the Intake Coordinator determine at the pre-mediation conference that mediation will be beneficial, the Program Administrator, or its designee, shall schedule the first mediation session

on a date that is sufficient to give the Homeowner an opportunity to complete the modification packet or relinquishment documents and the plaintiff to have sufficient time to analyze the information submitted. If it is unclear how long this process will take, the Program Administrator may adjourn the pre-mediation conference to a future date for a mediation management conference per Section V below. Cases are not to be continued generally for any reason. Plaintiff should confirm to the Program Administrator its receipt of any documents submitted to it, and it is the plaintiff's responsibility to have reviewed any such submissions prior to any mediation management conferences or mediation sessions. Plaintiff's request for additional documents shall be made at least 15 calendar days prior to any mediation session or mediation management conference.

R. Pre-Mediation Conference Report: At the conclusion of the pre-mediation conference, the Intake Coordinator, or its designee, shall complete a Pre-Mediation Conference Report in substantially the form set forth as Exhibit FM-4. The Intake Coordinator shall provide the completed report to the Program Administrator for filing with the Circuit Clerk.

If there are unresolved issues or concerns on the part of the Intake Coordinator or the plaintiff, the Pre-Mediation Conference Report may request additional time, not to exceed 21 days, in which to resolve the issues or concerns.

If the Intake Coordinator believes the case is ready for mediation, then it shall issue a Pre-Mediation Conference Report that indicates such and provides the date, time, and location of the first mediation session. Absent court approval for a longer date, the first mediation session shall be scheduled for no more than 45 calendar days after the issuance of the Pre-Mediation Conference Report.

The Report shall be transmitted to the Circuit Clerk for filing in the Case being mediated, and a copy shall be provided to the Homeowner, Plaintiff's counsel, the Program Administrator, and the judge supervising mediation. If the Report indicates that Mediation is to be scheduled, or that additional time is needed to resolve any issues, the stay on foreclosure proceedings continues. If the Report indicates that Mediation should not be scheduled, then the stay is lifted 21 calendar days after the issuance of the Pre-Mediation Conference Report and the Homeowner shall, prior to the termination of the stay, file an appearance and answer or responsive pleading with the Circuit Clerk if the Homeowner intends to contest the foreclosure.

MEDIATION

S. Timing/Scheduling of Mediation: Mediation shall be scheduled in a timely fashion with the goal of being an expeditious and expense-saving alternative to traditional litigation for all parties. All parties shall use their best efforts to achieve a timely disposition and not delay the proceedings.

The plaintiff or its counsel must submit a completed Plaintiff's Checklist in substantially the form set forth as Exhibit FM-5 to the Program Administrator via email to

FM@17thCircuit.IllinoisCourts.gov at least 10 calendar days before the first mediation session or mediation management conference.

Unless additional documents are requested prior to the first mediation session, the servicer/lender shall have reviewed all documents submitted and made a decision regarding the case by the time of the first session (see Section W below).

If the servicer/lender issues a decision letter or a letter requesting additional documents to the Homeowner, Plaintiff's counsel shall provide a copy of the letter to the Program Administrator via email to FM@17thCircuit.IllinoisCourts.gov within 7 calendar days of said letter being issued.

If the servicer/lender extends any offers to the Homeowner, Plaintiff's counsel shall provide a copy to the Program Administrator via email to FM@17thCircuit.IllinoisCourts.gov within 7 calendar days of said offer being made. These offers include (but are not limited to) trial payment plans, permanent loan modifications, repayment plans, partial claims, short sales, consent foreclosures, and deed-in-lieu of foreclosure agreements.

If for any reason either party cannot attend a mediation session or feels additional time is needed, they may request a continuance. The party requesting the continuance shall contact the Program Administrator to make such a request at least 10 calendar days prior to the scheduled session unless it is an emergency situation.

T. Mediation – Location - Attendance: Mediation will be conducted remotely via a secure video conference platform that allows for attendance by computer, phone, and tablet. The video conference platform should also allow for private caucuses between the parties, their attorneys, and the mediator. The specific platform shall be determined by the Program Administrator with the approval of the court.

The Homeowner, Plaintiff's counsel, and a representative from the plaintiff with the full authority to make decisions on the case are required to attend all mediation sessions and mediation management conferences. The representative from the plaintiff may be an underwriter, loss mitigation person, or any other representative with the full authority to enter into a retention agreement or to negotiate a disposition. In no case are photographs or recordings of the proceedings, parties or personnel attending allowed.

Should the Program Administrator or the mediator assigned to the case believe it to be beneficial to the mediation process, mediation may instead be conducted in-person. In-person mediation shall be conducted at the 17th Judicial Circuit Foreclosure Mediation Office, 400 W. State Street, Rockford, IL 61101. In the event of in-person mediation, the Program Administrator may, at their discretion, allow any party to attend remotely via the same video conference platform described above.

U. Other Lienholders – Right to Participate: Any other lienholders may attend any scheduled mediation. To the extent the mediator requests that another lienholder be invited to attend, Plaintiff's counsel shall provide such notice.

V. Mediation Management Conferences: A mediation management conference may be scheduled in the Program Administrator's discretion within 45 calendar days of the Pre-Mediation Report. The mediation management conference may be facilitated by the Intake Coordinator, Program Administrator, or mediator. The goals of the conference are to determine whether a complete loss mitigation packet or servicer/lender-generated relinquishment document has been received, determine pay-off or reinstatement amounts, and determine whether the lender is ready to issue a decision on a Homeowner's submitted loss mitigation packet or servicer/lender-generated relinquishment document. Once the plaintiff indicates that it is ready to issue a decision, the Program Administrator will schedule a mediation session. Should the Homeowner receive the plaintiff's decision and decide to accept it without further discussion, the Homeowner shall contact the Program Administrator to cancel any pending sessions.

W. Mediation – Good Faith - Sanctions: The mediator shall remind both the Homeowner and the plaintiff of the need to complete matters in a timely fashion and to participate in the mediation process in good faith. All parties shall participate in good faith, which shall at a minimum mean timely appearance at mediation management conferences and mediation sessions, and avoiding conduct which unnecessarily delays the process (for example; not providing the Program Administrator with a Loss Mitigation application packet or relinquishment documents within 15 calendar days once a Homeowner is deemed eligible for the program; failure to adhere to any agreements entered into; not providing or requesting documents within the time frames specified in these rules; or indicating a readiness for the case to be set with a mediator when it is not per the Plaintiff's Checklist). It is the plaintiff's responsibility to have reviewed all submissions prior to any mediation management conferences or mediation sessions.

Failure to abide by the mediation rules, or failure to participate in good faith in the mediation process, may result in sanctions to be imposed by the Circuit Court. For servicers/lenders, sanctions may include, but are not limited to, dismissal of the action by the Court, with the servicer/lender unable to recover its costs of re-filing in any subsequent foreclosure action. Upon written motion, additional sanctions for either party may include, but are not limited to, reasonable attorney's fees, fines, and lost wages attributable to the misconduct. Additionally, sanctions may include ordering the parties to return to mediation under conditions to be established by the judge presiding over the case, or in egregious cases dismissal, default on the merits, and/or monetary sanctions. The judge may place a party or lawyer/law firm in a probationary status, short of sanctions, to address recurrent problems.

X. Mediation Report – Termination – Finalization of Agreement: At the conclusion of each mediation session or mediation management conference, the mediator or facilitator shall complete a report in substantially the form set forth as Exhibit FM-6. The report shall indicate at least one of the following regarding the result of the mediation:

(1) The mediation resulted in a retention agreement between the parties, and the plaintiff will dismiss the case in due course. If the agreement fails, the plaintiff may file a motion seeking relief from the stay and the entry of judgment.

(2) The parties have entered into a trial period, and a mediation session or mediation management conference is scheduled to confirm the transition to a permanent modification after the trial period ends.

(3) The mediation resulted in a relinquishment agreement between the parties, and no further mediation sessions or mediation management conferences are scheduled at this time. If the agreement is successful, the plaintiff will dismiss the case in due course.

(4) The mediation did not result in an agreement between the parties and the case is returned to the court.

(5) The mediation did not result in a final agreement between the parties, but the case is scheduled for a follow-up session to permit further discussion.

(6) If any party failed to participate in the mediation session or mediation management conference in good faith, the mediator or facilitator should so indicate. If any party failed, at any time during the mediation program, to follow the guidelines set forth in Section W, the Mediator or Program Administrator should so indicate.

In circumstance No. 1, No. 2, No. 3, and No. 5 above, the stay on foreclosure proceedings continues. If the agreement fails in such circumstances, the plaintiff may file a motion seeking relief from the stay and the entry of judgment (see Section P).

In circumstance No. 4 above, the stay on foreclosure proceedings is lifted 21 calendar days after the issuance of the Mediation Report.

The Mediation Report shall be submitted to the Program Administrator after the session concludes. The Program Administrator shall file the report with the Circuit Clerk, and provide copies to all parties as well as the judge supervising mediation.

Y. Communications to Remain Confidential: All communications during mediation sessions and mediation management conferences, any communication between the Program Administrator and any party to the case, and all documents used by the Intake Coordinator, Program Administrator and the mediator, except for the Plaintiff's Checklist, any written agreement, or official reports to the court regarding the results of the mediation or pre-mediation conference, or any mediation management conference are to be kept confidential and will be maintained in a separate place for the use of the Court. They are not official court case file records and are not discoverable. One of the program's goals is to encourage the parties to fully communicate by engaging in a confidential mediation process. However, where there is a contention that a party to mediation has failed to participate in good faith in mediation, or where

there is an issue raised regarding non-compliance with these Rules, the Judge may permit inquiry as needed to explore that contention.

MEDIATORS

Z. Appointment, Qualifications, and Compensation of Mediators: The Chief Judge shall maintain a list of certified mediators upon the recommendation of the judge supervising mediation and shall, by General Order, issue a schedule for their compensation. For approval as a mediator, an individual must submit an application to the Chief Judge and satisfy the following requirements:

(1) Be a retired judge; or

(2) Be a member in good standing of the Illinois bar, a certified public accountant, or a licensed real estate broker with at least five (5) years of professional licensure (or, if retired, may seek approval from Chief Judge if these requirements were met as of the time of retirement); and

(3) Complete a 40-hour civil mediation course and a mortgage foreclosure mediation training program approved by the Chief Judge.

If a mediator-applicant does not meet criteria No. 1 or No. 2 above (i.e., they are professionally licensed outside of Illinois), the Chief Judge may approve their application if the applicant demonstrates that their background satisfies ethical standards and provides equivalent experience.

AA. Conflicts: Mediators approved for the Foreclosure Mediation Program by the Chief Judge shall not participate in residential mortgage mediations in this program in any case in which he or she represents a party in the foreclosure litigation. Upon approval, each mediator shall sign a certification acknowledging this prohibition. Violation of this provision will result in the mediator's removal from the Foreclosure Mediation Program.

BB. Review of Eligibility: The eligibility of each mediator to retain his or her status shall be periodically reviewed by the Chief Judge. The mediators shall comply with general standards established by the Chief Judge. Failure to adhere to these general standards may be grounds for revocation of mediator approval by the Chief Judge. The Chief Judge may contract with an outside mediation service to provide these services.

CC. Contract for Mediation Services: The Chief Judge may enter into a contract with an entity to provide mediation services subject to all Court Rules and Procedures.

MISCELLANEOUS

DD. Statistics: The Chief Judge shall maintain statistical data on the results of mediation, including the number of cases where the initial criteria were met and the number of cases where loans were modified or otherwise worked out between the parties and shall report the same to the Administrative Office of the Illinois Courts at such times and in such manner as required.

EE. Immunity: The Intake Coordinator, the Program Administrator, and any person approved to act as a mediator under these rules, while acting within the scope of their duties, shall have judicial immunity in the same manner and to the same extent as a judge in the State of Illinois, as provided in Supreme Court Rule 99.

FF. Ineligible Cases: Foreclosures of non-residential or commercial property are not eligible for mediation. Cases involving residential real estate in which any or all defendant borrowers have a pending bankruptcy, and where the bankruptcy stay on foreclosure proceedings remains in effect, are not eligible for mediation.

GG. Training for Court Personnel: All mortgage foreclosure judges, key court personnel and volunteers designated by the Chief Judge shall complete training regarding mortgage foreclosure mediation as approved by the Chief Judge.

HH. Meaningful Language Access: Interpretation services shall be provided by the 17th Circuit Foreclosure Mediation Program by either a competent interpreter or via “Language Line” services, as needed.

II. Program Closure: The program will be closed annually from December 25th through January 1st, or if either date falls on a weekend, whichever dates the court is closed for these two holidays. All deadlines or other matters due within this timeframe are extended 7 calendar days from the due date.

JJ. Sustainability Plan: It is contemplated that the Program will be sustained as needed and be self-sufficient as a result of the filing fee. The Program will be re-assessed for financial viability at least annually, and/or immediately if any resources provided for funding are reduced or discontinued.

(Enacted 10/27/2014, Revised 11/27/2024)