

SIXTH JUDICIAL CIRCUIT OF ILLINOIS
ADMINISTRATIVE ORDER
MACON COUNTY ADMINISTRATIVE ORDER 2018-4
AMENDING ORDER 2016-1
Residential Foreclosure Mandatory Mediation Program

WHEREAS, the Circuit Court with the approval of the Illinois Supreme Court has established by Circuit Court Rule a Residential Mortgage Foreclosure Mandatory Mediation Program; and,

WHEREAS, said program will commence on May 2, 2016.

WHEREAS, the Supreme Court adopted Rule 99.1 (effective March 1, 2013).

NOW, THEREFORE, IT IS HEREBY ORDERED that the administrative procedures will consist of the following, in compliance with Supreme Court Rule 99.1:

1. **FILING FEE/COMPLAINT:** In all Macon County cases where a complaint is filed to foreclose a residential real estate mortgage (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 \$75.00 filing fee to defray the cost of the Mandatory Residential Mortgage Foreclosure Mediation Program. The filing fee may be refunded by order of the Court pursuant to Section 8b of this Rule. The fees collected shall be forwarded to the Macon County Treasurer and maintained in a separate fund subject to disbursement on order of the Chief Judge of the Sixth Circuit. In all Residential Foreclosure Cases subject to Mandatory Mediation, by Order of the Chief Judge of the Sixth Circuit, upon E-filing with Circuit Clerk, Plaintiff must send a hard copy of the same, (i.e. Complaint, Summons, any subsequent filings, and Service Affidavits when they come in) to the Mediation Administrator at: Sundi Barrett-Foreclosure Mediation Administrator, Macon County Courts, 253 E. Wood Street, Ste. 303, Decatur, IL 62523
2. **SUMMONS:** In all residential mortgage foreclosure cases, Plaintiffs shall use a Summons Form specifically tailored for those cases and attached hereto and made a part hereof as Exhibit A. Attorneys may generate forms for use in foreclosure mediation cases as long as they are substantially similar to the forms approved by the Court.

“E-filing is now mandatory for documents in civil cases with limited exemptions. To e-file, you must first create an account with an e-filing service provider. Visit <http://efile.illinoiscourts.gov/service-providers.htm> to learn more and to select a service provider. If you need additional help or have trouble e-filing, visit <http://www.illinoiscourts.gov/faq/gethelp.asp>, or talk with your local circuit clerk’s office.”

3. **ATTACHMENTS TO SUMMONS:** In all residential mortgage foreclosure cases, Plaintiff shall attach directly behind the summons a Notice of Mandatory Mediation attached hereto and made a part hereof as Exhibit B and any available servicer specific forms necessary to be considered for a loan modification in their case. The parties may generate forms for use in foreclosure mediations cases as long as they are substantially similar to the forms approved by the court.

4. SCHEDULING OF PRE-MEDIATION CONFERENCE: In all residential Mortgage Foreclosure cases to be filed, Plaintiff must request a date and time for the conference from the Mediation Administrator at dbarrett@court.co.macon.il.us or by phone at 217-424-1372. **The Mediation Administrator has a list of dates issued by the Circuit Court. This is to be requested BEFORE E-filing your case with the Circuit Clerk.** The date shall be at least 42 days but no more than 60 days from the issuance of Summons. Said date shall be inserted in the residential Mortgage Foreclosure Summons. If service is by publication, Plaintiff shall request a date from the Mediation Administrator from the list of dates issued through Circuit Court which is at least 42 days, but no more than 60 days from the date of the first publication in newspaper of general circulation in Macon County Illinois. When service is by publication, Plaintiff shall file a copy of the Affidavit for Publication containing the date for the pre-mediation conference with the Circuit Clerk and mail a hard copy to the Mediation Administrator.
5. ALIAS SUMMONS: If an Alias Summons becomes necessary, the Plaintiff shall request a new date for the pre-mediation conference from the Mediation Administrator that is at least 42 days, but no more than 60 days from the issuance of the Alias Summons. No court order will be required for the issuance of the alias summons.
6. 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 mortgage must pay the extra \$75.00 filing fee. Any party in a counterclaim seeking to foreclose a residential mortgage may request modification by contacting the Mediation Administrator to schedule a mediation date. The party requesting and scheduling said date must provide notice of any scheduled date to all other parties to the action.
7. SECOND LIENHOLDERS-RIGHT TO PARTICIPATE: Any second lienholders may attend any scheduled mediations. To the extent the mediators request that a second lienholder be invited to attend, Plaintiff's counsel shall provide such notice to any other lienholder.
8. STAY OF FORECLOSURE PROCEEDINGS:
 - a. No further action to pursue the foreclosure can occur during the mediation timeline (which begins on the date the summons is issued and ends on the date a report terminating mediation is entered). Defendant's obligation to answer the complaint and the court case are stayed for the period. No motions, except motions pertaining to mediation, can be filed during this time.
 - b. Motions which may be filed during the mediation process are those related to a stay or termination of foreclosure proceedings for the following reasons:
 - i. Active Duty Military Service (735 ILCS 5/15-1501.5)
 - ii. Other objections to jurisdiction over the person(725 ILCS 5/15-1505.6)
 - iii. Stay of proceedings by the U.S. Bankruptcy Court under 11 U.S.C. §362(a)

Any motion for stay must clearly state the reason that the case is not subject to the Mediation process, must include supporting documentation, and must be verified pursuant to the Illinois Code of Civil Procedure (735 ILCS 5/1-109). The Motion must be presented to and approved by the Supervising Judge for Residential Mortgage Foreclosure Mediation.

9. **HOLD STATUS:** In the event a plaintiff-lender places a file on “hold,” it may ask the mediator to reset the mediation to a future date which may be greater than 30 days, provided, however, that if all parties to the mediation are not in attendance, the Plaintiff shall provide prompt notice of such rescheduled date to all parties not in Attendance.
10. **PRE-MEDIATION CONFERENCE PROCEDURE:** Plaintiff and/or their legal counsel are not required to attend the pre-mediation conference, but it is permissible for them to do so. At the pre-mediation conference, Defendant will prepare a packet with the assistance of legal counsel and/or HUD certified counsel. Defendant shall provide a completed initial pre-mediation packet to Plaintiff’s counsel. The mediation coordinator will ensure another date is set for pre-mediation conference or that a packet has been submitted.
11. **STATUS CONFERENCE:** Once an initial packet has been submitted, each case will be set for a status conference within 45-60 day. The borrower or borrower’s representative will request the status conference date and time from a list of dates issued by the Circuit Court and maintained by the Mediation Administrator. Said date shall be inserted in the Pre-Mediation Conference Report. If the Pre-Mediation Conference Report is submitted with no status date selected, please contact the Mediation Administrator who will select a date from the list of available dates. A Mediator will oversee the Status conference and Plaintiff’s counsel shall appear in Person.
12. **DOCUMENT EXCHANGE:** Plaintiff shall provide Defendant or their representative an itemized list of any missing information within 14 days of the packet being served. The itemized list shall be provided in the form of a Document Request Form. Defendant shall provide any missing information within 21 days of being served with the itemized list.
13. **CERTIFICATE OF READINESS:** Once all information is received, Plaintiff shall file a Certificate of Readiness to Engage in mediation and mediation will be scheduled within 45 days. In addition, Plaintiff shall provide Defendant with a completed Plaintiff’s Questionnaire within 30 days of filing the Certificate of Readiness but not less 7 days prior to mediation. Plaintiff shall file with the Defendant’s representative or the Mediator proof of service demonstrating that the Plaintiff served Defendant with the Plaintiff’s Questionnaire; Plaintiff need not file the actual Plaintiff’s Questionnaire with the Circuit Clerk.
14. **MEDIATION:** At the Mediation, Plaintiff’s counsel must appear in person. In addition Plaintiff’s representative with full authority to make decisions on the case must appear in person or by telephone.

The representative may be an underwriter, loss mitigation person, or any other representative with full authority to enter into a loan modification agreement or to negotiate a disposition. All defendant borrowers shall be present in person. All parties are required to complete matters in a timely fashion and participate in the Mediation process in good faith. The Court may consider appropriate sanctions for any party not participating in good faith.

15. **TIMING OF MEDIATION:** Mediation shall be scheduled in a timely fashion with a goal not to extend the period of redemption under the Illinois Mortgage Foreclosure Act. All parties shall use their best efforts to achieve a timely disposition and not delay the proceedings.
16. **PHONE USAGE:** The parties shall be allowed to use phones and computers for the purpose of aiding the mediation process. In no case are photographs or recordings of the proceedings, parties, or personnel attending allowed.
17. **DOCUMENTS TO REMAIN CONFIDENTIAL:** All documents used by the mediation coordinator and the mediator, except for the official reports to the court regarding the results of the mediation or pre-mediation conference, are to be kept confidential and will be maintained in a separate place for the use of the Mediation Program. They are not official court records. One of the programs goals is to encourage the parties to fully communicate by engaging in confidential mediation process.
18. **RULES:** Attached as Exhibit C to this Order are Mandatory Residential Foreclosure Mediation Rules. The Mandatory Residential Foreclosure Mediation is a pilot program, and further procedures, rules and guidelines may be issued by the Court as needed.
19. **COMPLIANCE WITH SUPREME COURT RULE 99.1:** The Circuit Court of Macon County has collaborated with the Land of Lincoln Legal Assistance Foundation, Incorporated (hereinafter "Land of Lincoln") and Community Investment Corporation of Decatur to provide pro bono legal services and HUD-certified housing counseling services to eligible homeowners who are defendants in mortgage foreclosure actions. Land of Lincoln has received grant funding from the Illinois Attorney Generals Office to provide free legal services for defendant's in Mortgage Foreclosure proceedings within program guidelines and as funding permits.

The University of Illinois College of Law Community Preservation Clinic has received grant funding from the Illinois Attorney General to train and recruit volunteer lawyers to help support the Macon County Foreclosure Mediation Program and expand access to free legal services.

In partnership with Northern Illinois University/Resolution Systems Institute, the University of Illinois College of Law Community Preservation Clinic will conduct Program evaluations to demonstrate program outcomes and develop best practices. Aggregate data and outcome measures will be shared with collaborative partners to help Support future funding requests and long-term stability of the program.


20. **PROVISION OF FOREIGN LANGUAGE INTERPRETER:** Any party who requests a foreign language interpreter shall be provided one without cost. Said request should be submitted to the Mediation Administrator at least one week in advance of any pre-mediation conference or mediation hearing so that an interpreter may be obtained prior to the commencement of the conference or hearing.

21. TRAINING OF JUDGES, KEY PERSONNEL AND MEDIATORS: The Circuit Court has established Mediation Program Rules (as set forth in Exhibit C) which sets forth the qualifications for mediators and the training requirements. The Circuit Court with the University of Illinois College of Law Community Preservation Clinic shall provide in-service continuing education and peer review to key personnel and mediators who are a part of the mediation program. Judges assigned to hear mortgage foreclosure cases shall participate in judicial training offered through the Administrative Office of the Illinois Courts Judicial Education program and other similar training opportunities.

Date: _____

8/21/18

Enter: _____


A.G. Webber, Presiding Judge

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
MACON COUNTY, ILLINIOS

Plaintiff,

v.

Defendant(s)

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SUMMONS
(Residential Foreclosure/Mediation)

To each defendant:

You are summoned and required to file an answer to the complaint in this case, a copy of which is hereto Attached, or otherwise file your appearance, in the office of the clerk of this court within 30 days after service of this summons, not counting the day of service. If you fail to do so, and you do not participate in the mediation process, a judgment by default may be entered against you for the relief asked in the complaint.

YOU MAY BE ABLE TO SAVE YOUR HOME. DO NOT IGNORE THIS DOCUMENT.

By order of the Chief Judge of the Sixth Judicial Circuit, this case is set for Mandatory Mediation Pre-Conference

On _____, 20, at _____ am/pm at the Macon County Building, 141 S. Main Street, Decatur, IL Room #719. A mediation coordinator will be present to discuss options that you may have and to assist you with a potential mortgage modification. For more information on the mediation process, please see the attached Notice of Mandatory Mediation.

YOU MUST APPEAR FOR THE PRE-MEDIATION CONFERENCE OR YOUR RIGHT TO MEDIATION WILL TERMINATE.

E-FILING IS NOW MANDATORY FOR DOCUMENTS IN CIVIL CASES WITH LIMITED EXEMPTIONS. TO E-FILE, YOU MUST CREATE AN ACCOUNT WITH AN E-FILING SERVICE PROVIDER. VISIT [HTTP://EFILE.ILLINOISCOURTS.GOV/SERVICE-PROVIDERS.HTM](http://efile.illinoiscourts.gov/service-providers.htm) TO LEARN MORE AND TO SELECT A SERVICE PROVIDER. IF YOU NEED ADDITIONAL HELP OR HAVE TROUBLE E-FILING, VISIT [HTTP://WWW.ILLINOISCOURTS.GOV/FAQ/GETHELP.ASP](http://www.illinoiscourts.gov/faq/gethelp.asp) , or talk with your local circuit clerk's office."

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed. This summons may not be served later than 30 days after its date.

WITNESS _____, 20__

(Clerk of the Circuit Court)

Plaintiff's Attorney (or Plaintiff if Not represented by attorney)

Name _____
ARDC# _____
Address _____

Phone # _____

NOTICE OF MANDATORY MEDIATION
IT MAY BE POSSIBLE TO SAVE YOUR HOME
FREE FORECLOSURE MEDIATION IS AVAILABLE

You have been served with a foreclosure complaint that could cause you to lose your home. The Macon County Circuit Court created a Mandatory Mediation Program to help homeowners in foreclosure. This program is available to all homeowners *free of charge*.

WHAT DOES THIS MEAN?

Foreclosure mediation is a process where a neutral third person ("mediator") assists lender and borrowers in trying to reach a voluntary and mutual agreement to resolve a loan delinquency. If you and the lender cannot agree to change the loan terms, the mediator will discuss other options, such as short sale or giving the bank your house in exchange for the lender forgiving your mortgage debt. All of your discussions with the mediator will be kept confidential.

WHERE DOES THE MEDIATION TAKE PLACE?

You must attend your initial mediation on the date and time shown in the Summons. Please go to the Macon County Office Building located at 141 S. Main Street, Room #719, Decatur, IL 62523.

IF YOU DO NOT SHOW UP MEDIATION ENDS AND YOUR CASE WILL GO TO THE JUDGE FOR A POSSIBLE JUDGMENT AGAINST YOU.

You should Contact a Free Housing Counselor and /or Free Legal Services Prior to Your Mediation Date.

COMMUNITY INVESTMENT CORP.
OF DECATUR, INC.

141 S. Main St. #720
Decatur, IL 62523
Phone: (217) 423-4901 Fax: (217)-423-7214
Email: whcid5@yahoo.com
Mailing: P.O. Box 228, Decatur, IL 62525

LAND OF LINCOLN LEGAL AID

1620 S. Taylorville Road
Decatur, IL 62521
Phone: (877) 342-7891
Website: www.lincolnlegal.org

You should bring the following documents to our initial mediation session:

- Most recent bills and statements for all expenses including utility bills
- Last 60 days of pay stubs (if employed)
- Last two years of tax returns and W-2's/1099 (Please bring signed and dated tax returns)
- Last two months of all current bank statements

*Your housing counselor or attorney may also attend the mediation with you.

If you need a translator, please contact the Law Librarian at 217-424-1372 at least a week prior to your session.

CAUTION: While no court action will be taken against you during the mediation process, there is no guarantee that an agreement can be reached between you and your lender. If you dispute your lender's claims, you should consult an attorney and fully participate in the foreclosure litigation.

**MACON COUNTY CIRCUIT COURT
RESIDENTIAL MORTGAGE FORECLOSURE MANDATORY
MEDIATION PROGRAM RULES**

1. PURPOSE OF MEDIATION PROCESS

The foreclosure mediation program is designed to reduce the burden of expenses sustained by lenders, borrowers and taxpayers as a result of residential mortgage foreclosures. It is also designed to aid the administrations of justice by reducing the number of court cases. Furthermore, the program is aimed at keeping families in homes, if possible, and preventing vacant and abandoned house in Macon County that negatively affect property values and de-stabilize neighborhoods.

2. ACTIONS ELIGIBLE FOR MEDIATION

From the effective date of this rule, the parties in all residential real estate foreclosures (as defined by the Illinois Mortgage Foreclosure Act, 735 ILCS 5/15-1203, 15-1207 and 15-1219) filed in Macon County will be subject to mediation as set forth herein.

3. MEDIATION PROCEDURE

A. In all Macon County cases where a complaint if filed to foreclose a residential real estate mortgage (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 \$75.00 filing fee to defray the cost of the Mandatory Mediation Program. The filing fee may be refunded by order of the Court pursuant to Section 8(B) of this Rule. The fees collected shall be forwarded to the Macon County Treasurer and maintained in a separate fund subject to disbursement on Order of the Chief Judge of the Sixth Judicial Circuit.

B. The first page of every foreclosure complaint shall clearly and conspicuously designate whether or not the case is eligible for foreclosure mediation. If the Plaintiff fails to designate mediation eligibility, the Circuit Clerk shall collect the mediation filing fee.

C. Before the filing of a complaint for mortgage foreclosure eligible for mandatory mediation, the Plaintiff shall contact the Mediation Administrator who shall set the case for a mandatory pre-mediation conference to be set on a date, time and location designated by the Chief Judge, but in no event later that sixty (60) days from the date of filing. The pre-mediation conference shall be attended by the defendant borrower(s), HUD certified counseling agency and/or counsel for defendant. Representatives of the lender are not required to attend the pre-mediation conference but it is permissible for them to do so.

D. The Plaintiff shall include the “Notice of Mandatory Mediation”, Exhibit B to be attached directly behind the summons (or alias summons), notifying all of the defendants of the mandatory mediation program, which notice must be served upon each defendant borrower with the summons and evidenced on the proof of service.

E. The Notice shall include a provision that a HUD certified counseling agency and/or free legal services provider will assist defendant borrowers with a pre-mediation packet for submission to plaintiff’s counsel. The notice shall further state that if loan modification is not deemed feasible or the borrower does not desire to save the home from foreclosure, mediation may still be used to assist the parties with discussion of other options such as cash for keys, short sale, consent foreclosure or deed-in-lieu of foreclosure in which the lender may waive any deficiency against the borrowers.

F. The Notice shall advise the defendant borrower to bring certain financial information (including the borrower’s income and expenses) to the pre-mediation conference, shall contain the contact information for free legal services, and shall contain a list of housing counselors certified by the Urban Development that may be available to assist borrowers in foreclosure.

G. The Notice shall indicate that any financial information produced by the defendant shall be held in strict confidence by legal counsel, HUD certified counsel, and the mediator and shall not be disclosed to other parties without the defendant’s consent

H. If the defendant indicates no desire to save the home from foreclosure, then the mediation conference may be used to assist the defendant with other possible options (such as cash-for-keys, consent foreclosure or deed-in-lieu of foreclosure in which the lender may waive any deficiency against the borrowers). Alternatively, the mediation conference may be used to assist the parties to determine whether they would agree that the property could be sold to a third party that would result in the dismissal of the foreclosure action.

I. All defendant borrowers who have been served must attend the pre-mediation conference and provide the requested information. If the defendant provides the requested information for a loan modification or expresses a desire to surrender the property to the lender, the defendant shall provide a completed modification packet and/or settlement offer to plaintiff. The mediation coordinator will ensure another date is set for pre-mediation conference or a packet has been submitted. A packet may be submitted by the defendant borrower via the Hope Loan portal or any other online system developed by a servicer. Once an initial packet has been submitted, each case will be set for a status conference within 45-60 days. A mediator will oversee the conference and plaintiff’s counsel and the borrower shall appear in person. The borrower or borrower’s representative will select the status conference date from a list of dates issued by the Circuit Court and maintained by the Mediation Administrator in coordination with the Circuit Court. Said date shall be inserted in the Pre-Mediation Conference Report. If the Pre-Mediation Conference Report is submitted with no status date selected, the Mediation Administrator will select a date from the list of available dates. If a packet is not submitted after three (3) pre-mediation conferences (not including the status conference), the Mediation Administrator will file a report terminating mediation.

At the mediation conference, the defendant borrowers must appear in person and the lender's representative with full settlement authority must appear either in person or by telephone and participate in good faith in the mediation process. Failure of the lender or its agent to attend the mediation conference or participate in good faith in the mediation process will result in sanctions by the Court, including attorney's fees, reduction in the arrearages, and possible dismissal of the action, with the lender unable to recover its costs of re-filing in any subsequent foreclosure action. Failure of the defendant borrower to appear or submit an initial packet after three pre-mediation conferences may result in termination of the mediation and referral of the case back to the court. If the defendant borrower can demonstrate good cause to the court for his or her failure to attend the pre-mediation conference or mediation conference or submit an initial packet, the Judge may refer the matter to pre-mediation or mediation conference.

J. If the defendant fails to appear or fails to submit an initial packet after three pre-mediation conferences, the mediation coordinator shall file a report with the court terminating mediation services. Upon conclusion of the mediation conference, the mediator shall file a report with the Court terminating mediation services and indicating the outcome. If an agreement is reached, it shall be reduced to writing and signed by the parties and their attorneys. Said agreement shall include a date by which the Plaintiff shall file a Motion to Dismiss the judicial foreclosure proceedings. The agreement shall be filed with the Court and plaintiff shall promptly file the agreement with the Macon County Recorder's office and change the Plaintiff's internal records to reflect the agreement terms. At the request of the parties, the Court may retain jurisdiction of the case to review any trial period which the parties may enter into prior to a loan modification becoming effective.

Cases involving defendant borrowers who have a stay of proceedings by the US Bankruptcy Court under 11 U.S.C. §362 (a) and foreclosures of commercial property are not eligible for mediation.

K. The Chief Judge shall maintain statistical data on the results of mediation, including 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.

4. QUALIFICATIONS, APPOINTMENT AND COMPENSATION OF MEDIATORS

A. The Chief Judge shall maintain a list of mediators who have sought appointment and been certified for approval by the Court as foreclosure mediators. For approval as a mediator, an individual must:

- i.** Submit an application for approval by the Chief Judge;
- ii.** Demonstrate completion of the foreclosure mediation training as approved by the Chief Judge;

B. A mediator shall not mediate a matter that presents a clear conflict of interest. A conflict of interest includes any relationship between the mediator and the mediation participants or any instance when the subject matter of the dispute compromises or appears to compromise the mediator's impartiality.

C. A mediator shall not be involved in any capacity other than mediator in any case to which the mediator is assigned. A mediator may not use any information obtained during the mediation process for any purpose outside of mediation unless required to do so by law.

D. 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.

E. Mediators will oversee the status conferences and mediations. The mediator shall be compensated at the rate of \$200.00 per case for each file that reaches a status conference and/or mediation. Effective May 2, 2016, filing fees paid to the Circuit Clerk for the filing of a mortgage foreclosure eligible for mediation in Macon County shall be increased by \$75.00. The additional \$75.00 filing fee shall be placed in a fund for this mandatory residential foreclosure mediation program, which program shall also begin on that date. 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.

F. The Chief Judge may enter into a contract with an entity to provide mediation services subject to all Court Rules and Procedures. It is contemplated that in its initial phase, the Mandatory Residential Foreclosure Mediation Program is conducted on a trial basis and that contracting with an outside entity for mediation services will result in services being provided without additional cost to the taxpayers or the expenditure of any public funds, with the exception of the filing fee authorized herein.

5. DISCOVERY

Unless otherwise ordered by the court, discovery shall be stayed until after the conclusion of the mediation process.

6. CONFIDENTIALITY

Unless otherwise authorized by the Court or the parties, all oral and written communications to the mediation coordinator or the mediator, other than written agreements between the parties, shall be exempt from discovery and shall be confidential and inadmissible as evidence in the underlying case of action.

7. IMMUNITY

Any person approved to act as a mediator under these rules, while acting within the scope of his 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.

8. STAY OF FORECLOSURE PROCEEDINGS

A. No further action to pursue the foreclosure can occur during the mediation timeline (which begins on the date the summons is issued and ends on the date the mediator files a final report). The defendant's obligation to answer the complaint and the court case are stayed for this period. No motions, except motions pertaining to mediation, can be filed during this time.

B. Motions which may be filed during the mediation process are those related to a stay or termination of foreclosure proceedings for the following reasons:

- i.** Active Duty Military Service (735 ILCS 5/15-1501.5);
- ii.** Other objections to jurisdiction over the person (735 ILCS 5/15-1505.6);
- iii.** Stay of proceedings by the US Bankruptcy Court under 11 U.S.C. § 362 (a); or

Any motion for relief from stay must clearly state the reason that the case is not subject to the mediation process, must include supporting documentation, and must be verified pursuant to the Illinois Code of Civil Procedure (735 ILCS 5/1-109). The Motion must be presented to and approved by the Supervising Judge for Residential Mortgage Foreclosure Mediation.

9. 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 mortgage must pay the extra \$75.00 filing fee. Any party in a counterclaim seeking to foreclose a residential mortgage may request mediation by contacting the Mediation Administrator to schedule a mediation date. The party requesting and scheduling the date must provide notice of any scheduled date to all other parties to the action.

10. SECOND LIEN HOLDERS – RIGHT TO PARTICIPATE

Any 2nd lien holders may attend any scheduled mediations. To the extent the mediators request that a 2nd lien holder be invited to attend, the plaintiff's counsel shall provide such notice to any other lien holders.