

**STATE OF MAINE
JUDICIAL BRANCH
FORECLOSURE DIVERSION PROGRAM**

**REPORT TO
THE JOINT STANDING COMMITTEE
ON INSURANCE AND FINANCIAL SERVICES
AND
THE JOINT STANDING COMMITTEE
ON JUDICIARY**

128TH LEGISLATURE

February 13, 2017

Executive Summary

The Foreclosure Diversion Program (“FDP”) has successfully operated statewide in the Maine courts since 2010. The FDP affords a valuable opportunity for parties in foreclosure cases to meet early in the court process to discuss possible settlement.

The FDP has mediated nearly 8,000 foreclosure cases since 2010. To date, well over half (59%) of the cases mediated have concluded in dismissal of the action, thereby saving those homes from foreclosure.

In 2016, the number of new foreclosure cases filed in Maine state courts increased substantially from 2015. In 2016, 2,819 cases were filed, compared to 1,906 cases filed in 2015, for an increase of 48%. (The volume of new cases annually had been higher in earlier years but dipped temporarily starting in 2014.) More new cases prompted more requests for mediation. To meet the increase in demand, the FDP conducted a successful recruitment effort and held a two-day New Mediator Orientation in November, adding eight new mediators to the FDP mediator roster.

In 2016 the FDP provided a total of 1,144 mediation sessions in 868 cases, averaging 1.3 sessions per case. The FDP continues to provide high quality mediation services in foreclosure actions in a fiscally responsible manner.

Annual Report

The Maine Judicial Branch submits this report on the performance of the Foreclosure Diversion Program (“FDP”) in 2016, as required by 14 M.R.S. § 6321-A (7)(B).

I. Introduction: Structure of the Foreclosure Diversion Program

At the height of the national foreclosure crisis, the 124th Maine Legislature passed emergency legislation in 2009 to establish a statewide foreclosure mediation program in the Maine state courts. Implemented statewide in January, 2010, the FDP is governed by 14 M.R.S. § 6321-A and Rule 93 of the Maine Rules of Civil Procedure.

A foreclosure case may be filed in any District or Superior Court in Maine. Foreclosure mediation services are provided by the FDP at 11 “processing courts” across the state.¹ To “opt in” to mediation, a homeowner in foreclosure must submit a written request for mediation.²

In 2012, the FDP streamlined the mediation process with the “First Call” pilot project, which became statewide procedure in 2014. This change brought the parties together earlier in the foreclosure process. Rather than wait to schedule mediation until after homeowners had attempted to submit “workout” applications on their own, now the court schedules mediation as soon as possible after receiving a request.

Early, direct interaction between the parties helps to achieve a clear understanding of what the parties need from each other to pursue a possible settlement. It reduces guesswork, increases accountability, and improves FDP efficiency. Mediation sessions at the First Call dockets generally last 30-45 minutes each. This timing allows for several cases to be mediated at a courthouse in a half-day, increasing economy of travel for lenders and counsel with multiple cases. Additional mediation is scheduled on another day if needed. If mediation concludes without a settlement, the case returns to the civil foreclosure docket for further court proceedings. See Exhibit 1, attached, for a diagram of the foreclosure process in Maine, with and without mediation.

A. *FDP Staffing*

FDP positions are funded by a fee imposed on each foreclosure case filed. P.L. 2009, ch. 402, § 26. Currently the FDP positions are: Program Manager, Administrative/Data Assistant, and three full-time foreclosure clerks in the courts. In the past, the FDP funded additional clerk positions, but those positions were reduced when the volume of foreclosure cases brought to court dropped temporarily in 2014.³ The current

¹ Processing courts are established in each Judicial Region as follows: Region 1, Springvale; Region 2, Portland and Bridgton; Region 3, Lewiston and Farmington; Region 4, Augusta; Region 5, Bangor; Region 6, West Bath and Rockland; Region 7, Ellsworth; and Region 8, Caribou.

² Only foreclosure cases involving owner-occupied primary residences of no more than four units are eligible for mediation. 14 M.R.S. § 6321-A (2). Written requests for mediation may take the form of an answer to the complaint, appearance, or other request. M.R.Civ.P. 93(c)(1).

³ The decrease in new cases filed in 2014 did not reflect a decline in mortgage loan defaults. Rather, it reflected lenders’ response to a ruling of the Maine Supreme Judicial Court about documentation required (specifically regarding assignments of mortgages) to prove a claim of foreclosure. *Bank of America, N.A., v. Greenleaf, et al.*, 2014 ME 89 (July 3, 2014). As lenders addressed those legal issues, the volume of foreclosure cases filed increased again in 2015 and 2016.

configuration meets the present needs of the public for FDP mediation. The FDP closely monitors staffing needs and is responsive to fluctuations in demand in order to be fiscally responsible while providing high quality mediation services.

B. Mediators

Mediators in the FDP are independent contractors recruited from the fields of mediation, real estate, law, and foreclosure to be included on a roster of independent contractors who mediate foreclosure cases in the courts. Recently, in late 2015 and early 2016, the steady increase in foreclosure cases filed triggered an increase in demand for mediation. To meet this need, the FDP conducted a recruitment of new mediators. Eight new mediators were added to the FDP statewide roster, and two mediators returned to the roster following a period of inactivity. The FDP provided a two-day orientation in November, 2016 that included presentations on FDP process, foreclosure law, mortgage servicing regulation, and mediation skills. The FDP roster now stands at 37 mediators statewide.

The FDP arranges regional meetings for mediators and continuing education programs on relevant mediation topics and foreclosure law. In addition, to ensure high quality mediation services, the FDP Manager personally observes all mediators on the statewide roster and provides feedback on their performance.

C. Statewide Mediation Services

1) First Call

Upon receipt of a request for mediation in a foreclosure case, the clerk schedules the case for the next “First Call Day” at the courthouse. Up to 16 foreclosure cases are scheduled. The day begins with an Informational Session at which a judge explains the FDP process in court to the group of homeowners present. A HUD-certified housing counselor also explains a variety of loan workout alternatives and how homeowners can find free assistance.

Immediately following the Informational Session, mediators call the cases one at a time for preliminary short mediation sessions in private mediation rooms. Plaintiffs, defendants, and counsel meet with the neutral mediators to explore any alternatives to foreclosure and to plan their next steps. In many cases, homeowners who wish to remain in their homes seek to modify their loans. For example, they might seek to lower the interest rate or extend the term to repay the debt. Another option is to seek approval to sell the home for less than is owed at a “short sale.” To apply for most loan workout options, a lender requires the borrower to submit a “complete financial package” or lengthy application for review. The first mediation session is frequently focused on identifying and listing which documents the lender will need to evaluate the loan.

2) Document Submission

The FDP developed the “FDP Document Submission Worksheet” in 2013 specifically to list which required documents, such as tax returns, pay stubs, and bank statements, are needed from the homeowner. The list of items appears on the Worksheet with “check boxes” to be checked off, which facilitates clear, thorough discussion of the documents requested. In addition, the parties agree to a timeline for submission and review of the documents submitted, including a process for notification of any problems and the opportunity to address them. (See Document Submission Worksheet attached as Exhibit 2.)

In addition to establishing early contact between lenders and homeowners and encouraging communication, the First Call system includes the involvement of HUD-certified housing counselors, whose expertise in loan workout applications is very helpful in mediation. Housing counselors frequently attend First Call mediation sessions with homeowners after the Informational Session.

3) Mediator’s Report

Any agreements of the parties are recorded in the Mediator’s Report that is submitted to the court. (See Mediator’s Report form attached as Exhibit 3.) Agreements might pertain to prospective settlement of the case or next steps the parties agree to take to pursue settlement. Often the FDP Document Submission Worksheet is attached. Additional mediation sessions are scheduled as needed to follow up on parties’ agreements if the loan is in review for a settlement.

II. Performance of the Program

A. Foreclosure Filing Activity and Participation in FDP

In 2016, a total of 2,819 new foreclosure cases was filed. This was a 48% increase from 2015, when 1,906 cases were filed. From its inception in 2009, the FDP experienced a high volume of cases filed until mid-2014, when the volume of new cases abruptly decreased for a period due to developments in foreclosure law. Filing of new cases started increasing again in late 2015; it has remained at approximately 200 cases per month since July, 2016. Case filing rates in six-month increments are shown for the years 2012 through 2016 in Exhibit 4 (attached).

In 2016, 886 foreclosure cases were scheduled for mediation at the First Call dockets. This represents a participation rate in the FDP of 31% of the 2,819 foreclosure actions filed in 2016.

B. Volume of Mediation and Status of Mediated Cases

FDP mediators conducted 1,144 mediation sessions in 868 cases in 2016,⁴ for an average of 1.3 mediation sessions per case.⁵ After mediation occurs, cases move into one of four categories: (1) dismissed, (2) foreclosure judgment entered, (3) remaining in the FDP, or (4) returned to the civil docket for litigation. FDP data for 2016 and cumulative data on cases mediated from 2010 through 2016 are presented in Exhibit 5 (attached).⁶

1) Cases Dismissed

When a case is dismissed, the case is closed without a foreclosure. Dismissal saves time and resources for parties and for the court. Dismissal suggests that the loan is performing again and the home has been retained, or the debt has been paid by sale of the property. Over the life of the program, 4,678 (59%) of the 7,985 cases mediated in the FDP have been dismissed. (See Exhibit 5.) Over time, as more cases reach conclusion, the number of dismissals increases. The dismissal rate is higher for cases mediated in earlier years. From 2010 to 2015, 63% of the cases mediated have concluded in dismissal. So far, 204 cases (24%) of the 868 cases mediated in 2016 have been dismissed. It is anticipated that more of these cases will conclude in dismissal as they move through the court process.

To the extent that FDP has an ability to track them, the underlying reasons for dismissals are presented in Exhibit 6 (attached). Because cases are dismissed at various points in the process, many motions to dismiss are granted without a report to the FDP as to the reason. However, increased detail in Mediator's Reports and court pleadings has enabled the FDP to report the reasons for dismissals in more than half of the cases dismissed in 2016.

2) Foreclosure Judgments Entered

Issuance of a judgment means that the case ended with a foreclosure of the property. Like dismissals, the number of judgments increases over time as cases reach conclusion. (Mediated cases have consistently concluded with more dismissals than judgments.) Foreclosure judgments were entered in 36% of cases mediated from 2010 through 2015. So far, judgments were entered in 119 cases (14%) of those mediated in the FDP in 2016.

⁴ In addition to mediation statistics, the FDP is asked to report the number of homeowners who reported receiving legal advice. In 2016, homeowners reported having received legal advice regarding their foreclosure cases in 193 instances. They reported receiving assistance (either from an attorney, a housing counselor, or another professional) in completing forms in 391 cases.

⁵ Historically, the average number of mediation sessions per case has been: 2015: 1.3 sessions per case; 2014: 1.5 sessions per case; 2013: 1.5 sessions per case; 2010-2012: 1.7 sessions per case.

⁶ Since July, 2011, the FDP has tracked cases through a custom online database, the Alternative Dispute Resolution Information System (ADRS), which enhanced FDP data collection and analysis.

3) Cases Remaining in the FDP

Of the 868 cases mediated in 2016, 203 cases (23%) remain in the FDP. In general, mediators aim to complete mediation within three mediation sessions. Even if the parties agree to extend the time,⁷ the FDP's goal is to conclude mediation in a case as soon as possible. Mediators must exercise both good judgment and common sense to respond to the needs of the particular parties and case. A complicated case may require additional mediation, either because the parties need to address numerous or complex issues, or because there is a change of circumstances. Some foreclosure cases are slowed by a bankruptcy proceeding involving the homeowner.

Sometimes cases are partially resolved but stay in the FDP while a temporary agreement or a trial payment plan (generally three months) is completed. Trial plans frequently lead to permanent loan modifications. Staying in the FDP provides an important protection for these cases. It assures that the parties maintain communication until a final agreement is completed or a loan modification becomes permanent. It prevents any possibility that a loan servicer might impermissibly move a case toward both a foreclosure judgment and a loan modification at the same time ("dual tracking"). Providing this protection in the FDP aligns with the federal regulations against dual tracking established by the U.S. Consumer Financial Protection Bureau (CFPB).

4) Cases Returned to the Civil Docket

When a case returns to the foreclosure civil docket, further litigation takes place after mediation, possibly leading to trial. To date, 342 cases (39%) mediated in 2016 were returned to the civil docket following mediation. The ultimate conclusion of these cases cannot be predicted; parties who complete mediation frequently continue to work together, and their efforts may yet result in dismissal.

III. FDP Meets Challenges

Amid many changes from 2010 through 2016, the FDP continues to meet challenges successfully.

A. *Avoid Undue Delays*

Delay in the loan review and modification process has hindered resolution of foreclosure disputes since the beginning of the national foreclosure crisis. Indeed, delay caused by failure to communicate, combined with lengthy document collection procedures, was a major impetus for establishment of foreclosure mediation programs nationwide. These delays hamper not only the process of mediation, but other court action as well.

⁷ When mediation extends beyond 90 days, it is by parties' agreement or found by a court to be necessitated by a plaintiff's delay. M.R.Civ.P. 93(e)(2) and (i).

The FDP minimizes delay by bringing parties together in mediation as early in the court process as possible, and by: (1) using detailed forms to ensure that key issues and documents are addressed at mediation; (2) clearly capturing the parties' agreements in the Mediator's Report; and (3) ensuring court oversight of, and accountability for, the parties' performance of agreements. The FDP's Document Submission Worksheet was updated in 2016 to help clarify which documents are needed from whom, and by when. Clarity at preliminary mediation sessions facilitates timely submission of complete financial packages by the homeowner, encourages parties' continued communication, and promotes accountability for prompt review of loans for possible modification or other options.

B. Provide Up-To-Date Information to Mediators

Mediators are required to know about the various mortgage assistance programs and principal loss mitigation and mortgage loan servicing guidelines and regulations, pursuant to 14 M.R.S. 6321-A 7.A (3) and (5). As the foreclosure crisis has unfolded, mortgage assistance programs and servicing regulations and guidelines have continued to expand and evolve over the years. Keeping up with changes in regulations and programs available to homeowners in foreclosure is an ongoing challenge for mediators, especially when other legal issues are involved, such as bankruptcy and divorce.

This challenge was highlighted by the expiration of the federal government's Making Home Affordable Program ("HAMP") for loan modification on December 30, 2016. HAMP was a mainstay among alternatives for loan modification and set a standard for mortgage servicers. The FDP worked with the Maine State Bar Association to arrange a continuing education program for foreclosure practitioners in the community and mediators in early 2017 covering loan modification programs on the horizon to replace HAMP and what the "industry standard" is likely to include.

The CFPB issued federal regulations governing mortgage servicers, effective January 10, 2014. Amendments to those regulations are set to become effective in October, 2017. If that occurs, the FDP will hold a continuing education program early in the fall of 2017 to provide a review of the amendments for mediators and Maine's community of foreclosure practitioners.

The FDP provides semi-annual regional meetings for mediators to address current issues and regulations and offer an opportunity for peer discussion. At the regional meetings in 2016, topics included: (1) review of the updated Document Submission Worksheet; (2) workout alternatives for reverse mortgages in default; (3) specific sections of M.R.Civ.P. 93; and (4) loan servicers' programs for assumption and modification of mortgages.

C. Respond to Fluctuations in Foreclosure Filing and Demand for Mediation

With an increase in new foreclosure cases of almost 50% from 2015 to 2016 (following a significant drop in new foreclosure cases in 2014), the FDP had to respond

nimbly, both to ensure prompt scheduling of mediation and to provide adequate levels of mediator service and clerk support.

When the demand for mediation decreased in 2014, the FDP decreased staff positions and refrained from recruiting new mediators to replace those lost through natural attrition. With the increase in filing volume, FDP sought new mediators ready to meet the need for mediation services. Previously, to increase efficiency, the FDP had revised its system to bring parties together earlier in the court process at the “First Call” dockets. By making multiple mediators available at the same time, the FDP provides short initial mediation sessions in up to 16 cases in a half-day.

IV. Conclusion

The FDP provides a vital opportunity for parties in foreclosure to pursue any settlement alternatives that might be available. One of the original reasons for creation of foreclosure mediation programs nationwide was the widespread failure of communication between lenders and homeowners in situations of mortgage loan default. Through early mediation in foreclosure actions, the FDP facilitates parties’ productive communication in a neutral and impartial setting. The parties’ agreements made at mediation and recorded in the Mediator’s Report create a basis for ongoing exchange of accurate information in a timely manner, encouraging resolution of the case if possible. FDP mediation has played an instrumental role in resolution of thousands of foreclosure cases.

Well over half of the 7,985 cases mediated in the FDP since 2010 have concluded in dismissal, which means that foreclosure was avoided. When no alternative to foreclosure exists, cases move quickly through mediation toward trial and judgment.

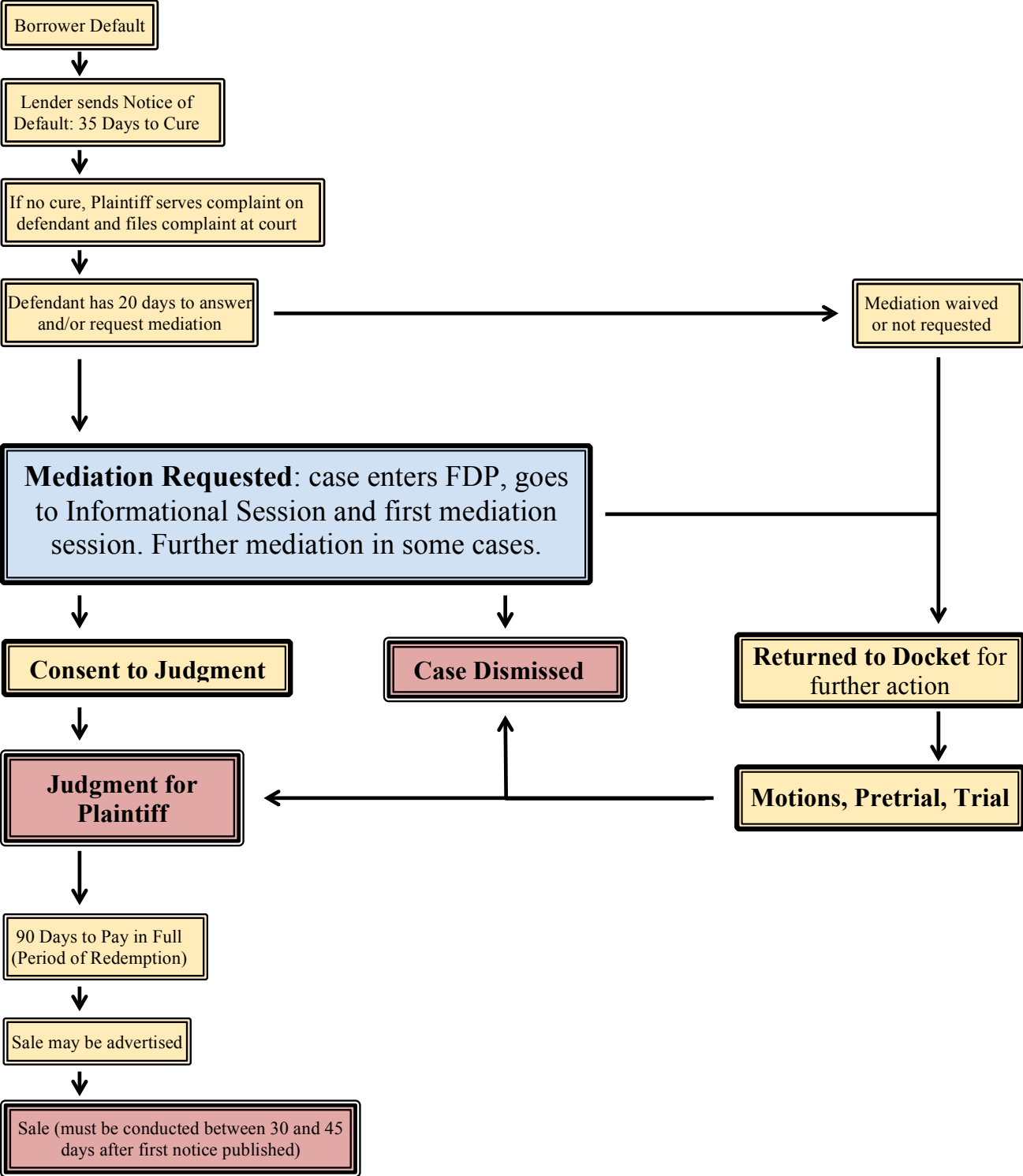
The FDP will continue to provide high quality mediation services to help lenders and homeowners in Maine resolve foreclosure cases through mutually beneficial agreements.

Respectfully Submitted,

Laura S. Pearlman
Manager, Foreclosure Diversion Program
Maine Administrative Office of the Courts

Date: February 13, 2017.

Exhibit 1 - Maine Foreclosure Process



FDP Document Submission Worksheet

Case: _____ v. _____ Docket No. _____
Plaintiff Defendant(s)

LOAN IS ELIGIBLE TO BE REVIEWED FOR THE FOLLOWING ALTERNATIVES:

DOCUMENTS to be submitted by Homeowner (Check ALL that apply):

- ➔ **SIGN and DATE everything!**
- ➔ **Write your Loan Number** on ALL pages of ALL documents **EXCEPT IRS Form 4506-T.**

<p>FINANCIAL ASSISTANCE PACKAGES:</p> <p><input type="checkbox"/> Request for Mortgage Assistance package (“RMA”).</p> <p><input type="checkbox"/> Uniform Borrower Assistance Form, also known as the “Form 710” or “UBAF.”</p> <p><input type="checkbox"/> Proprietary in-house financial review package.</p> <p><input type="checkbox"/> Dodd-Frank certification.</p> <p><input type="checkbox"/> Hardship Letter: state when and how your hardship(s) began, and when (if) the situation improved, and how circumstances are different now. (A short form for this might also be included in lender’s package.)</p> <p><input type="checkbox"/> Financial Worksheet: detailed list of household income and expenses. <input type="checkbox"/> Lender’s form provided.</p> <p><input type="checkbox"/> Most recent utility bill in homeowner’s name (to show that you live in the premises).</p>
<p>TAX INFORMATION</p> <p><input type="checkbox"/> IRS Form 4506-T. No loan number on this document ONLY. Fill in: line 5, if not pre-filled, as follows: _____; line 6, (1040 in most cases); line 6(a), check the box; line 9, write in, for example, 12/31/2014, 12/31/2015, 12/31/2016; If a non-filer, check only box 7, and provide a separate letter explaining why you do not file with the IRS. Sign and date, and add phone number. No cross-outs or white-out. These result in rejection.</p> <p><input type="checkbox"/> Copies of Federal Tax Returns (all pages, all schedules) years _____. Sign and date each with current date, even if filed electronically.</p> <p><input type="checkbox"/> IRS form W-2 for _____ for year: _____.</p>
<p>INCOME INFORMATION</p> <p><input type="checkbox"/> 2 most recent bank statements: bank letterhead (not internet), for all accounts, all pages (even blanks).</p> <p><input type="checkbox"/> Pay stubs for last ____ days for (name) _____.</p> <p><input type="checkbox"/> Pay stubs for last ____ days for (name) _____.</p> <p><input type="checkbox"/> Profit & Loss Statement, showing: (1) name of the business at top, (2) time period covered, (3) difference between gross and net income, and (4) Signature of business owner and date.</p> <p><input type="checkbox"/> Social Security / VA Benefits / Food Stamps / SSDI (circle any that apply) most recent Award Letter or proof of receipt. Homeowner will also provide: _____</p> <p><input type="checkbox"/> Rental / Contribution income: lease or contribution agreement, signed and dated by both homeowner and tenant / contributor. copies of canceled checks, circled deposits on bank statements, (circle any that apply)</p> <p><input type="checkbox"/> Child Support, documentation needed: _____.</p>

- Other (for example, property tax bill or proof of insurance): _____
- Other: _____
- Other: _____
- Other: _____

ADDITIONAL MORTGAGES / LIENS ON PROPERTY: Circle appropriate options where indicated.

- No additional mortgages / liens require action at this time.
- Liens held by the following creditors must be subordinated / discharged prior to approval of a **permanent** loan modification or acceptance of a deed in lieu of foreclosure or _____ .
Defendant will provide a letter of intent to subordinate / subordination agreement / discharge of lien for:
Lienholder: _____
Lienholder: _____
Lienholder: _____

DEADLINES: Circle appropriate options where indicated.

If Servicer is subject to Consumer Financial Protection Bureau (CFPB) rules with regard to this loan, all deadlines for acknowledgment, notification of missing documents or additional information needed, and review are established by CFPB requirements. Deadlines may be adjusted for purposes of **the current document submission only**. Such adjustment is not intended to waive CFPB requirements regarding any **future** document submission or review.

- 1) Lender to provide to Homeowner by hand / mail / email, at _____
by _____ (date) the following forms needed to review the loan: _____
- 2) Homeowner to provide required documents by hand / mail / email / fax to: _____
at _____ by: _____ (date).
- 3) Lender to confirm receipt of document submission, by phone / by email within _____ days of receipt.
- 4) Lender to provide written notice of any missing or additional information needed within _____ days of receipt.
- 5) Homeowner may contact _____ (name) at lender at _____ (phone)
with questions or for status updates.
- 6) Once documents are received and complete, lender will complete review within _____ days.
 - * Deadline for review is based on when lender receives last necessary document.
 - * Decision will be sent to homeowner by mail / email / fax / phone (circle).

Homeowner(s) agree(s) to respond to reasonable requests for additional documents that may arise during underwriter’s review of the file. Any such requests must be made in writing to Homeowner(s) with instructions as to where to send documents. Homeowner will have 10 business days from receipt to provide additional requested documents. Time limit on lender’s review is based on receipt of last required document provided.

➔ COPIES OF ALL SUBMISSIONS ARE TO BE PROVIDED TO THE COURT.

FORECLOSURE DIVERSION PROGRAM
MEDIATOR’S REPORT

SUPERIOR COURT
_____,ss

DISTRICT COURT
Location: _____

Docket No. _____

Docket No. _____

Plaintiff _____ v. Defendant(s) _____

Mediator: _____ Session # _____ Mediation Date: _____

Session Start Time: _____

1. COURT ACTION (Check one disposition only)

A. FINAL REPORT

- 1. Resolved,
 - a. Case settled, plaintiff’s counsel to file stipulation of dismissal/motion to dismiss on or before _____ (date). If neither is filed, case will be dismissed with/without (circle) prejudice on _____ (date).
 - b. Other: _____
- 2. Unresolved by mediation,
 - a. Return to Docket, Scheduling Order to issue.
 - b. Report of Noncompliance filed, case to remain in FDP pending judicial review.
- 3. Nonappearance of defendant(s), Scheduling Order to issue.

B. INTERIM REPORT

- 1. Unfinished,
 - a. Next mediation scheduled: _____ (date).
 - b. Mediation to be requested by _____ (date), or this report will become a Final Report, Scheduling Order to issue.
 - c. Report of Noncompliance filed, mediation to be scheduled after judicial review.

- 2. Partially resolved by temporary agreement. **Agreed Deadline:** _____
 If the terms are met, and if the temporary agreement results in resolution of this dispute, plaintiff’s counsel will file a motion to dismiss/stipulation of dismissal on or before the Agreed Deadline. Upon such filing, this Mediator’s Report will become a Final Report.
 If the terms are not met, and/or if the temporary agreement does not result in resolution of this dispute, either party may request further mediation, or may file a motion to terminate mediation on or before the Agreed Deadline. If the court orders that mediation terminate, this Mediator’s Report will become a Final Report, and a Scheduling Order will issue.

IF NEITHER PARTY REQUESTS FURTHER MEDIATION OR FILES A MOTION/STIPULATION BY THE AGREED DEADLINE, THIS MEDIATOR’S REPORT WILL BECOME A FINAL REPORT, AND THE CASE WILL BE DISMISSED WITHOUT PREJUDICE.

- 3. Other _____

2. **PARTICIPANTS (Provide full names)**

- Mortgagee / servicer (circle):** _____
 In person By telephone/video **Title:** _____
 This participant had **authority** to agree to a proposed settlement, loan modification or dismissal.
- Mortgagee/plaintiff's counsel:** _____
- Mortgagor/defendant(s):** _____
- Mortgagor/defendant's counsel (if represented):** _____
 Other (specify): _____

3. **PARTY AND/OR COUNSEL ACTION**

- Parties agree that the borrower will submit documents according to the attached FDP Document Submission Worksheet, which is incorporated into this mediator's report by reference. Lender will review the borrower's loan for the following option(s):

- Other Actions:

4. **MEDIATION OUTCOME (Check one only)**

- Final settlement agreement reached during mediation.
- Temporary agreement reached during mediation.
- Temporary agreement reached before mediation.
- Agreement on some issues, but mediation did not resolve the action.
- No agreement on any issues, mediation concluded.
- Additional mediation needed after the parties file with the court and exchange more information.
- Additional mediation needed because _____(name) needs to be included in the mediation.
- Additional mediation needed for other reason. Specify reason: _____ .
- Plaintiff / Defendant(s) (circle) needs time to consider proposed agreement.
- Mediation not held because defendant(s) was not owner-occupant.
- Mediation not held because plaintiff / defendant(s) / plaintiff's counsel / defendant's counsel (circle) did not attend.
- Other, specify: _____ .

5. PROGRAM REPORTING

A. FDIC NPV WORKSHEET (Check one only)

- Worksheet Completed and Attached. NPV Outcome: Pass Not Pass
- Worksheet not completed because:
 - Final settlement reached. Temporary trial plan agreed to; final settlement anticipated.
 - Insufficient financial information provided by defendant. Defendant reports no income.
 - Defendant does not seek loan modification.
 - Other: _____

B. COMMUNITY RESOURCES (Check all that apply)

- Defendant(s) attended informational session.
- Defendant(s) received legal counseling or assistance.
- Defendant(s) received assistance in preparing forms for mediation.
 - From attorney or legal services employee.
 - From housing counselor.
 - From financial counselor.

C. AGREEMENT DETAILS, IF APPLICABLE (Check all that apply)

- Loan modification:
 - Temporary modification
 - Permanent modification
 - Interest rate reduction
 - ARM to fixed rate
 - Amortization extended
 - Principal reduction
- Repayment/Forbearance plan
 - Extension agreement
 - Principal Forbearance
 - Waive fees/penalties
 - Shared appreciation mortgage (SAM)
 - Deed in lieu of foreclosure
 - Short sale
 - Cash for keys
- Reinstatement of the mortgage
- Other _____

6. BRIEF NARRATIVE OF ANY AGREEMENT(S) REACHED

MEDIATOR’S REPORT

DOCKET NO.: _____

TIME MEDIATION COMPLETED: _____

SIGNATURE OF MEDIATOR

DATE

SIGNATURE OF PLAINTIFF

DATE

SIGNATURE OF PLAINTIFF’S COUNSEL

DATE

SIGNATURE OF DEFENDANT (1)

DATE

SIGNATURE OF DEFENDANT (2)

DATE

SIGNATURE OF DEFENDANT (1) COUNSEL

DATE

SIGNATURE OF DEFENDANT (2) COUNSEL

DATE

WHEN COMPLETE:

**MEDIATORS FILE ORIGINAL WITH COURT
SEND OR HAND COPIES TO PARTIES
REPORT RESULTS TO FDP**

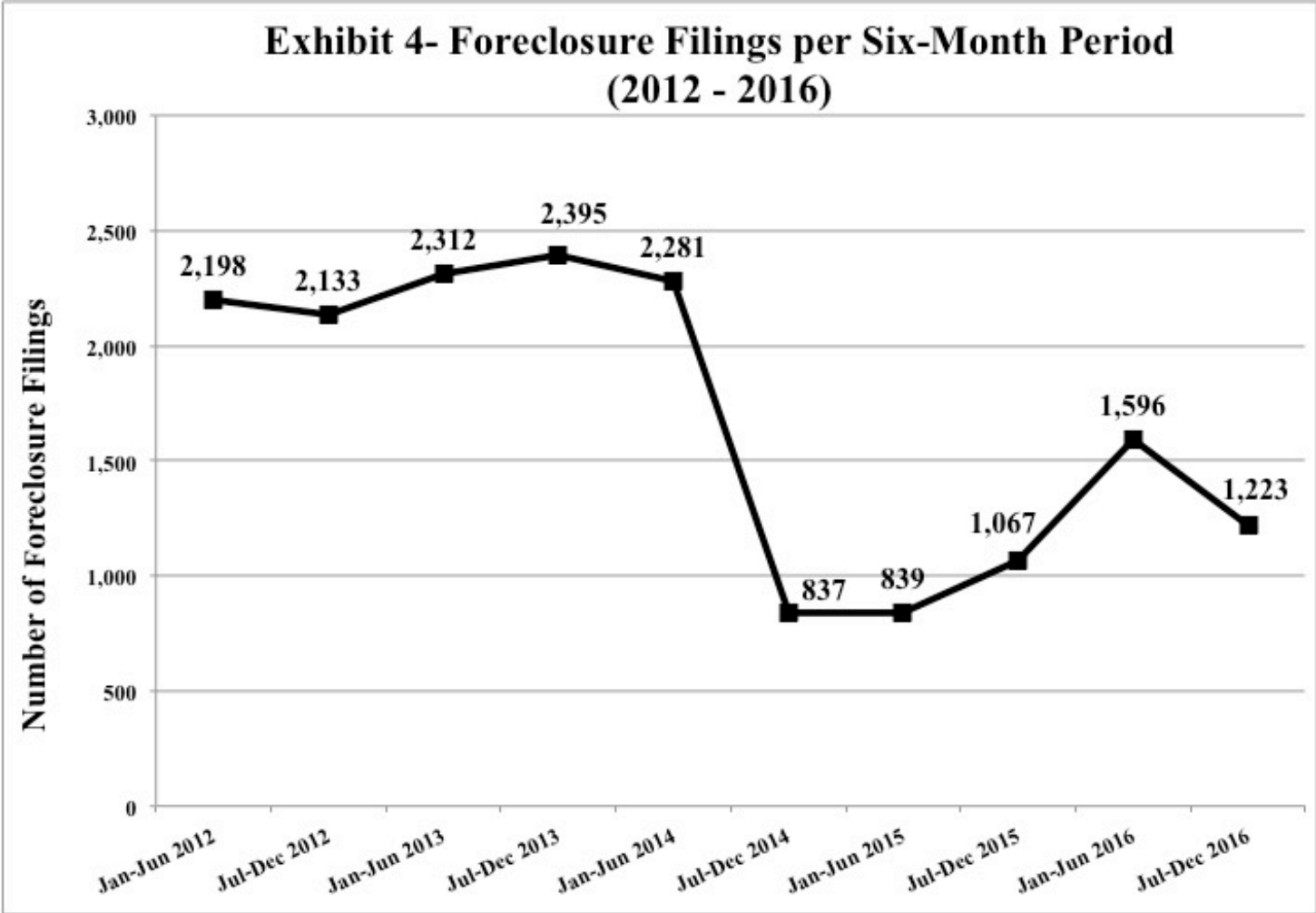


Exhibit 5 - Status of Mediated Cases

Foreclosure Diversion Program Cases	Cases Mediated in 2016	%	Cases Mediated from 2010-2016	%
Total Mediation Sessions Held	1,144	-	13,483	-
Total Cases Mediated	868	-	7,985	-
Average mediation sessions per case	1.3	-	1.7	-
	Current Status	%	Current Status	%
Cases dismissed	204	24%	4,678	59%
Foreclosure judgment entered	119	14%	2,668	33%
Cases remaining in FDP	203	23%	205	3%
Cases returned to civil docket and pending	342	39%	434	5%
TOTAL CASES MEDIATED	868	100%	7,985	100%

Exhibit 6 - Types of Dismissal Agreements Reached

Types of Agreement Reached in Dismissed Cases	Cases Mediated in 2016		Total Cases Mediated 2010 - 2016	
Loan Modification	81	40%	1,047	22%
Reinstatement	10	2%	83	2%
Repayment/Forbearance Plan	7	3%	74	1%
Deed in Lieu of Foreclosure	1	3%	76	2%
Short Sale	7	2%	109	2%
Other	6	5%	376	8%
Unknown*	92	44%	2,913	64%
TOTAL	204	100%	4,678	100%

* In many cases, the FDP does not receive information about the arrangements that result in dismissals.