

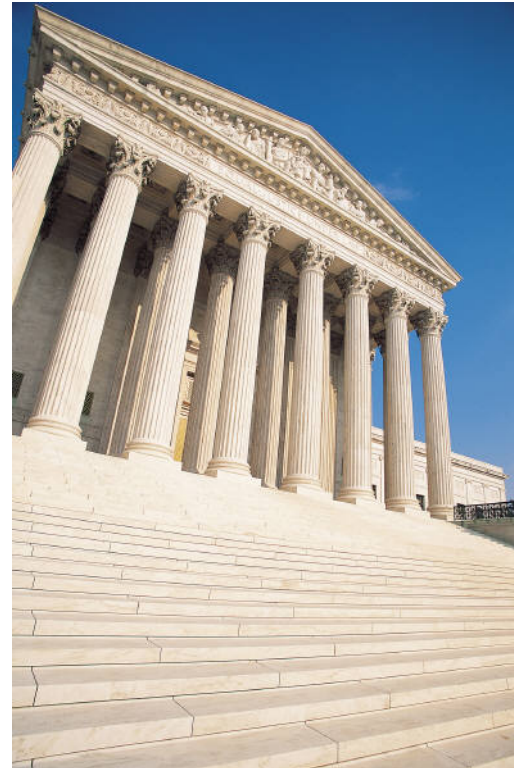
Foreclosure Diversion Program Information Session

Understanding and Preparing for Mediation

*For more detailed information and additional resources, go to the Pine Tree Legal website at www.ptla.org/foreclosure-prevention-toolkit
Or call the Maine Foreclosure Hotline at 1-888-664-2569

Why am I here today?

- In Maine, homeowners of owner-occupied homes have the right to request mediation in a foreclosure case.
- Today, you are here for a presentation by homeowner advocates about what to expect and how to prepare for your mediation.
- You will also hear about options that may be available to you and documentation you will need to provide.



What kind of options might I have?

If I want to keep my house by entering into a loan modification or other agreement, I should ask to be considered for:

- HAMP under the Making Home Affordable Program
- National Mortgage Settlement modification
- Specific modification programs for federally guaranteed, or insured, mortgages like FHA, VA, or USDA RD
- Specific Fannie Mae or Freddie Mac options, if applicable
- “In-house” options
- Forbearance/repayment options

If I want to leave my house and avoid a foreclosure judgment:

- Sale
- Short sale
- Deed in lieu of foreclosure
You need to be aware of any tax consequences that might result if there is a deficiency remaining when you leave your home.

Can I afford a modified payment ?



- The current target payment for the most widely available modification program is equal to 31% of a borrower's gross monthly income. This target payment should include principal, interest, property taxes and homeowner's insurance.
- Gross income is your pay before taxes are taken out.
- Calculate the borrower's gross monthly income and multiply by 0.31. Is this payment affordable?
- You may be able to include non-borrower income from others living in the home if the borrower's income alone is too low.

What makes up my monthly gross income?

- Gross income is your income before deductions
 - Employment income before deductions
 - Self-employment income after business expenses
 - Benefit income (such as Social Security or a pension)
Food stamps, child support, alimony, and other public benefits might be optional (get some help to determine whether you should include this type of income)
 - Rental income
 - Non-borrower contribution – This is Optional!
If you want to use non-borrower income, get help to evaluate whether you should include it. This will depend on your circumstances.

What papers do mortgage companies typically need from me?

Completed financial form and other forms provided by mortgage company

Proof of income

- Paystubs – at least one month of consecutive stubs that are the most recent
- (if self-employed) Profit and loss statement
- Benefits statements
- (if you have a renter) Most current rental agreements and evidence of rental payments as reflected as deposits in your bank statements
- Bank statements – at least two months most recent and consecutive; all pages from all accounts

Most recent signed federal tax return – all pages and all schedules

Utility bill in borrower's name showing property address to prove residency

Property tax bill

Homeowner's insurance bill or other proof of homeowner's insurance

Letter of explanation (signed and dated) for any document asked for that you cannot provide or to clarify any of the documents provided (examples include: you use a PO Box for mail instead of your property address, you do not file income tax returns, you do not have a bank account)

When do I have to provide these documents?



- Under the court mediation rule, you have 21 days from today to provide documents requested by the mortgage company.
- You must provide these documents to the Court and the Plaintiff's attorney.
- You should use that time to try to get some help putting together the documents and understanding what you should include.
- There's a lot of important information to learn about options specific to your loan, so you should also use this time to learn what you can.

What do I need to know about my loan?

Try to find out the answers to these questions before your mediation!

- **Is my loan owned by Fannie Mae or Freddie Mac?**
 - Fannie Mae lookup: <https://www.knowyouroptions.com/loanlookup>
 - Freddie Mac lookup: <https://ww3.freddiemac.com/corporate/>
- **Does my servicer participate in HAMP?**
 - <http://www.makinghomeaffordable.gov/get-started/contact-mortgage/Pages/default.aspx>
- **Do I have a VA loan, FHA loan, or USDA RD (or RHS) loan?**
 - Check your original loan closing documents if you are unsure
- **Is my loan owned by the Maine State Housing Authority?**
 - Check your original loan closing documents and your court paperwork if you are unsure
- **Is my loan servicer one of the following: JP Morgan Chase, Wells Fargo, Citi, Bank of America, or Ally/GMAC, and therefore subject to the National Mortgage Settlement?**

Why do I need this information about my loan?

The answers to these questions matter because they determine which loss mitigation guidelines will apply. The following guidance is the information put out to notify mortgage servicers of how they should be servicing certain types of loans.

- Fannie Mae and Freddie Mac have their own guidelines – even for the HAMP program. Any company servicing a Fannie or Freddie owned loan must evaluate for HAMP eligibility if a homeowner applies. Fannie guidance can be found here: <https://www.fanniemae.com/singlefamily/servicing>. Freddie guidance can be found here: <http://www.freddiemac.com/sell/guide/>.
- Loans that are not owned by Fannie or Freddie but are serviced by a company that has signed up for the Making Home Affordable program should be serviced according to the Non-GSE HAMP Handbook. You can find that under the “Programs” tab here: <https://www.hmpadmin.com/portal/index.jsp>.
- If your loan was originated by the Maine State Housing Authority, that is probably still the entity that owns it, which will affect your options – even if you have been working with a bank that has been servicing the loan since you took it out.
- FHA loans have guidance spelled out in “mortgagee letters” found here: http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/letters/mortgagee.
- USDA Rural Development or Rural Housing guaranteed loans have guidance about options available in a written rule found in the Code of Federal Regulations, 7, part 1980 found here: <https://usdalinc.sc.egov.usda.gov/docs/rd/sfh/lossclaim/RD%20Special%20Loan%20Servicing%20Final%20Rule.pdf>.
- VA guaranteed loans have guidance about programs written in notices called ‘Circulars’ found here: http://www.benefits.va.gov/homeloans/resources_circulars.asp.
- Information about the National Mortgage Settlement can be found at www.nationalmortgagesettlement.com.

Who is going to be at my mediation?

- Court mediator – a neutral person hired by the court; the mediator is not a judge and is not always a lawyer
- Lawyer for plaintiff
- Representative from mortgage company (usually by phone) – this is a representative from the servicer, which can be confusing given that your case can also involve an investor which might be different from your original lender
- Attorney for homeowner if retained
- Other interested parties as determined by mediator



What happens at mediation?

- The role of the mediator is to determine if there is some way to bring the two sides together.
- The mediator cannot make any judgments about who is right or wrong and cannot impose sanctions.
- Usually loan modification programs and/or exit strategies are discussed.
- At mediation, an NPV (net present value test) will be run, which can sometimes be used as a tool to discuss options that might work for both sides.

You should use any knowledge you have gained about your loan and applicable programs to participate in the discussion and ask questions!

How many mediations will I have?



- Each case will be different.
- According to the mediation rule, mediation should conclude within 90 days after the mediation scheduling order is sent out. This time period does not apply, however, if the court extends the deadline or if the parties agree to extend the deadline.
- There is some talk about a “3 and 9” maximum for mediations, meaning a limit of 3 mediations or 9 months in the mediation process. There are some mediators who try to adhere to this, but there is no set maximum number of mediations that can be held.
- If you believe there needs to be another mediation - even if you have already attended 3 mediations - ask for it.

What do I need to know about the Mediator's Report?

How do I take part in what is included in the Mediator's Report?

- Make sure any agreements, deadlines, and promises made are written into your mediator's report.
- Ask the mediator to include in the report a complete and specific list of any new documents requested.

- There is a mediator's report filed after each mediation.
- The report includes basic information about who was present and what was discussed and agreed to.
- Along with the boxes that are checked, the report usually includes a narrative that outlines any agreements.
 - You should participate in the discussion about what will go into this narrative. It needs to include specific details about documents, deadlines, and agreements made.
- The mediator's report is incredibly important as this is the best way to document any progress, agreements, or deadlines that were made in mediation.
- If there are questions later, a clear mediator's report can be looked back to for guidance.

**FORECLOSURE DIVERSION PROGRAM
MEDIATOR'S REPORT**

Mediation Date: _____ Mediation Time: _____ a.m./p.m. Docket No. _____

Plaintiff _____ v. Defendant(s) _____

Date of First Mediation Session: _____ Session # _____

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 / plaintiff / representative / 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. 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 (circle) needs time to consider proposed agreement.
- Mediation not held because defendant(s) was not owner-occupant.
- Mediation not held because plaintiff / defendant / 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: _____

B. COMMUNITY RESOURCES (Check all that apply)

- Defendant attended informational session.
 Defendant received legal counseling or assistance.
 Defendant 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 Repayment/Forbearance plan
 Permanent modification Extension agreement
 Interest rate reduction Principal Forbearance
 ARM to fixed rate Waive fees/penalties
 Amortization extended Shared appreciation mortgage (SAM)
 Principal reduction 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(S) OF DEFENDANT(1)	_____ DATE
_____ SIGNATURE(S) OF DEFENDANT (2)	_____ DATE
_____ SIGNATURE OF DEFENDANT (1) COUNSEL	_____ DATE

WHEN COMPLETE:

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

Why does Good Faith matter?

- The foreclosure mediation law requires all parties to make a good faith effort to mediate all issues.
- If it is determined that one party is not making a good faith effort in mediation, the Court can impose sanctions.
- It's important to remember that a mediator cannot impose sanctions. For such a determination about good faith to be made, the matter would have to be brought to the attention of a judge.



What is a Report of Non-Compliance?



A Report of Non-Compliance is a court form that mediators can complete and file to bring mediation problems to a judge's attention.

SUPERIOR COURT

DISTRICT COURT

_____, ss.

Location: _____

Docket No. _____

Docket No. _____

Plaintiff

v.

Defendant

**REPORT OF
NONCOMPLIANCE**

The mediator respectfully reports to the Court the following actor's noncompliance:

(Provide Full Name)

Plaintiff Plaintiff's Counsel Defendant Defendant's counsel

Is the loan involved in this case an FHA loan? Yes No

A. Non-compliance observed: (please use lines below to clarify)

- Did not attend scheduled mediation
- Did not file required forms (e.g., FDP-02A, FDP-02B)
- Did not perform as agreed and reflected in previous Mediator's Report
- Failed to communicate as agreed to address receipt and/or sufficiency of documents
- Other: _____

B. Impact on the mediation:

A copy of the above Report of Noncompliance was provided to:

Plaintiff's Counsel Defendant Defendant's counsel

in hand on _____ (date)

by mail, sent _____ (date) (certificate of mailing, USPS form 3817, provided)

by email/fax on _____ (date) (documentation provided)

Parties' written responses may be provided to the court within **21** days of filing of this Report of Noncompliance. Unless a hearing is requested, the judge will make a determination based on written submissions.

Print Mediator Name: _____

Signed: _____ Dated: _____

ORDER

Sanctions are imposed and so ordered.

The entry will be: "Sanctions imposed and ordered against
 Plaintiff Plaintiff's Counsel Defendant Defendant's counsel."

Date: _____
Judge, District Court/Justice, Superior Court

What can I do if I believe the mortgage company is not mediating in good faith but my mediator does not file a report of non-compliance?

- If you believe there are problems in your mediation that need the Court's attention, you have the right to file papers on your own.
- This type of request is often in the form of a "motion for sanctions".
- Remember, you must always send a copy of anything you file in court to the attorney for the mortgage company.



5.

IMPORTANT NOTICE

Matters in opposition to this motion pursuant to Rule 7(c) of the Maine Civil Rules of Procedure must be filed not later than 21 days after the filing of the motion unless another time is provided for by the Rules or set by the Court. Failure to file timely opposition will be deemed a waiver of all objections to the motion which may be granted without further notice or hearing.

SIGNATURE(S) OF DEFENDANT (1)

DATE

SIGNATURE(S) OF DEFENDANT (2)

DATE

WHEN COMPLETE:

FILE ORIGINAL WITH COURT

SEND OR HAND COPIES TO Plaintiff's Attorney.

SUPERIOR COURT

_____, ss.
Docket No. _____

DISTRICT COURT

Location: _____
Docket No. _____

Plaintiff

v.

Defendant

ORDER ON DEFENDANT'S MOTION FOR SANCTIONS UNDER M.R.CIV.P. 93

HAVING considered the Defendant's motion for sanctions and the response thereto,

It is hereby ordered that the Motion is GRANTED.

The Plaintiff is ordered to:

1. _____

Dated this _____ day of _____, 2013.

Justice/Judge, Maine Superior/District Court

What do I do if I cannot attend my scheduled mediation?



- You should make every effort to attend your scheduled mediation.
- If you have a legitimate conflict that cannot be changed, you can request that your mediation date be changed by using the court's "motion to continue mediation" form.

STATE OF MAINE

SUPERIOR COURT

DISTRICT COURT

ss.

Location:

Docket No.

Docket No.

Plaintiff

MOTION TO CONTINUE
MEDIATION IN
FORECLOSURE ACTION

v.

Defendant

The plaintiff/defendant requests that mediation in this matter be continued. The plaintiff/defendant is asking that the mediation be continued because:

Respectfully submitted,

Date:

Signature of Plaintiff/Defendant

Printed Name:

ORDER

Motion to continue is **GRANTED**.

The entry shall be: "Motion to continue mediation **GRANTED**."

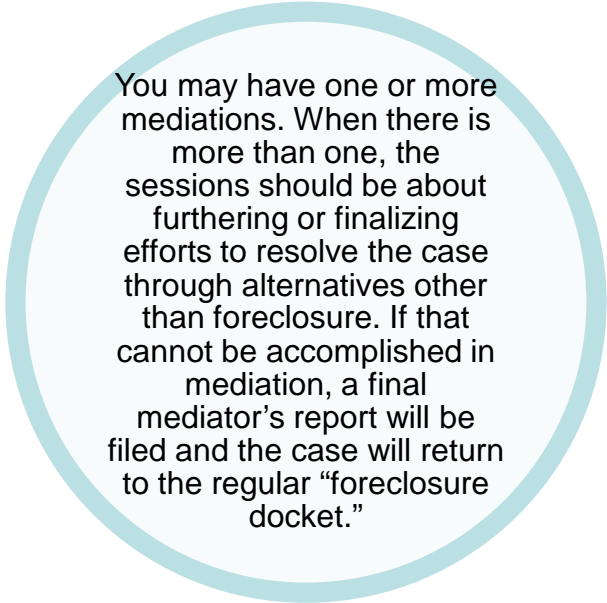
Motion to continue is **DENIED**.

The entry shall be: "Motion to continue mediation **DENIED**."

Date:

Judge, Maine District Court
Justice, Maine Superior Court

What happens if I cannot resolve my case at mediation?



You may have one or more mediations. When there is more than one, the sessions should be about furthering or finalizing efforts to resolve the case through alternatives other than foreclosure. If that cannot be accomplished in mediation, a final mediator's report will be filed and the case will return to the regular "foreclosure docket."

- Mediation is one step in the court foreclosure process.
- No foreclosure judgment can be entered against you while you're in mediation.
- If mediation concludes with no resolution on your case it will return to the regular "foreclosure docket".
- If judgment enters against you, you have a 90-day redemption period beginning at the time the judgment is entered.
- You have the right to occupy your home during this 90-day period and you have the right to keep your home if you pay off the entire balance of your mortgage loan before the 90 days expires.

Where can I get help?



- Legal Aid
- HUD-certified housing counselors
- Bureau of Consumer Credit Protection Foreclosure Hotline
- Private attorneys

**Maine HUD-Approved Agencies Providing
Foreclosure Prevention Counseling Services**

Counseling Agency and Service Area	Contact Person	Phone and Email Address
Aroostook County Action Program, Inc. <i>Aroostook County</i>	Jeff Heron	207-768-3023 ext. 657 jheron@acap-me.org
Coastal Enterprises, Inc. <i>Statewide</i>	Jason Thomas Mechelle Nash Linda Lajoie Diane Sherman	207- 882-5151 jthomas@ceimaine.org 207- 882-5148 min@ceimaine.org 207- 882-5150 llajoie@ceimaine.org 207- 882-5126 dianes@ceimaine.org
Community Concepts, Inc. <i>Statewide</i>	Bitsy Copp Melissa Green	Intake: 207-795-4065 homequest@community-concepts.org
Kennebec Valley Community Action Program <i>Statewide</i>	Norma Morrissey April Gagnon	207-859-1637 normam@kvcap.org 207-859-1568 aprilg@kvcap.org
MaineStream Finance <i>Penobscot, Piscataquis, Knox, and Waldo Counties</i>	Heather Massow Dana Ward	207-974-2403 hmassow@penquis.org 207-973-3555 dward@penquis.org
Money Management International <i>Statewide</i>	Justin Dobson	1-888-845-5669 ext. 5711 justin.dobson@moneymanagement.org
Sustainable Economic Solutions <i>Cumberland County</i>	Kimberly McLaughlin	207-749-3846 kmclaughlin@SES-Maine.org
Western Maine Community Action <i>Franklin, Somerset, Kennebec, Androscoggin, and Oxford Counties</i>	Bobbie Jo Mealey Deanna Brown	1-800-645-9636 ext. 5112 bimealey@wmca.org 1-800-645-9636 ext. 5112 debrown@wmca.org
York County Community Action <i>York County</i>	James Everhart Michael Alexandre	Intake: 207-459-2967 or 324-5762 ext 2967 James.Everhart@yccac.org michaela@yccac.org
Legal Resource Organizations		
Pine Tree Legal Assistance Local Offices:	Portland: 774-8211 Lewiston: 784-1558 Augusta: 622-4731	Bangor: 942-8241 Presque Isle: 764-4349 Machias: 255-8656

Other Legal Resources:
Volunteer Lawyers Project - 1-800-442-4293
Legal Services for the Elderly - 1-800-750-5353
Maine Lawyer Referral Service - 1-800-860-1460
Other General Resource:
Maine Bureau of Consumer Credit Protection Foreclosure Hotline: 1-888-664-2569



Things to Remember

- Find out as much as you can about your loan and options.
- Don't ignore the court process.
- Beware of fee-based scams.
- Make sure you understand the deadline you will be given to complete financial forms.
- Get help from a HUD-certified housing counselor or an attorney.

Monthly Budget

Surplus or Shortage
Net income
Housing
Living
Vehicle
Miscellaneous
Other Debts
Surplus/(Deficit)

Name:
 Date:

* Mark with * if amount verified

Source	Description	Gross Earnings	Deductions	Net Earnings
	Employment			
	Employment			
	SSI/SSDI			
	Pension			
	Other			
	Other			
	Totals:			

Housing expenses	Regular Payment	Comments (arrearage, description, balance)
	Rent/Mortgage	
	Tax	
	Insurance	
	Electric	
	Gas/Oil	
	Water/Sewage	
	Repairs/Maintenance	
	Cell phone	
	Phone	
	Cable	
	Internet	
	Other	
	Other	
	Other	
	Total	

Living expenses	Regular Payment	Comments (arrearage, description, balance)
	Groceries	
	Lunches/Meals out	
	Household supplies	
	Clothing	
	Laundry	
	Haircuts	
	Medical Bills	

Prescriptions		
Childcare		
School tuition/supplies		
Pet supplies		
Other		
Total		

Vehicle	Regular Payment	Comments (arrearage, description, balance)
Loan/lease		
Loan/lease		
Gas		
Insurance		
Repairs/maintenance		
Excise tax		
Parking		
Other		
Total		

Other Debts	Regular Payment	Comments (arrearage, description, balance)
Student Loans		
Credit card		
Credit card		
Credit card		
Credit card		
Credit card		
Medical bill		
Medical bill		
Rent-to-own		
Other		
Other		
Other		
Other		
Total		

Miscellaneous	Regular Payment	Comments (arrearage, description, balance)
Video Rentals, Movies		
Club dues		
Newspaper/Magazines		
Church Tithes		
Charitable contributions		
Gifts		
Attorney's fees		
Insurance (life, etc)		
Alcohol/Tobacco		
Lottery/Gambling		
Other		
Other		
Other		
Total		

Foreclosure Prevention Action Plan

Name: _____
Date: _____

Task List/Next Steps	Deadline
Broker Price Opinion or Certified Market Analysis	

Homeowner Signature: _____ Date: _____

Intake Signature: _____ Date: _____

Questions to Ask at Foreclosure Mediation

1. Who is the investor on this loan? _____
2. Who owns this loan? _____
3. Who is my current mortgage servicer? _____
4. Do any of the following guarantees apply to my loan?
FHA
USDA RD (RHS)
VA
5. Do I need to provide any of the documents listed here?
____ RMA form
____ 710 form
____ 710A form
____ IRS 4506-T form
Which years should be listed? _____ Which address should be provided in box 5? _____
____ Most recent paystubs for last _____ days
____ Profit and loss form if self-employed
____ Most recent social security award letter
____ Pension letter
____ Food stamp award letter or proof of receipt
____ Two most recent bank statements for months of _____
____ Signed federal tax returns for years of _____
____ Most recent property tax bill
____ Proof of homeowner's insurance, such as insurance "declaration" page
____ Recent utility bill showing the property address
____ Other (describe) _____

6. If the mortgage company is supposed to provide documents to me to complete and return, how and by when will they be provided?

Directly from attorney? By email? By regular mail? _____ Date: _____

7. These documents should be provided to:

- 1. Court _____
- 2. Plaintiff's attorney:
Name: _____ Phone Number: _____
Address: _____

8. These documents should be provided by: _____, 2013

9. How and by when will the bank confirm receipt of the documents?

Notice from attorney? By phone or
mail? _____ Date: _____

10. Which loss mitigation guidelines apply to this mortgage?

- HAMP (Making Home Affordable) VA
- Fannie Mae FHA
- Freddie Mac DOJ Settlement Modification
- USDA Rural Development Other: (describe)

11. How and by what date will the mortgage company notify me if any additional documents are needed?

Notice from attorney? By phone or
mail? _____ Date: _____

****Once you have the answers to these questions, ask that the details be added to the Mediator's Report, especially regarding which documents are required, which guidelines apply, and any deadlines and channels of communication agreed to.**