

# SIX PROGRAMS, SIX MODELS:

**AN EVALUATION OF THE FORECLOSURE MEDIATION  
PROGRAMS FUNDED BY THE OFFICE OF THE ILLINOIS  
ATTORNEY GENERAL**

19<sup>TH</sup> JUDICIAL CIRCUIT EXTRACT

**Jennifer Shack**  
Director of Research

RESOLUTION SYSTEMS INSTITUTE



**RSI**

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## ACKNOWLEDGEMENTS

RSI is grateful to the Office of Illinois Attorney General Lisa M. Madigan for generous financial support of this evaluation and the mediation programs it studied.

Many thanks are due to the program coordinators for each program involved in the study. This study would not have been possible without the efforts of Kim Ackmann, Tracey Douglas, Olga Kordonskaya, Erin Lillie, Kevin Malone and Katherine Porter to collect comprehensive data. Thanks are due, too, to the judges, housing counselors and attorneys who agreed to be interviewed. Their time and candor were valuable to the evaluation.

I would also like to thank my colleagues at RSI, Susan Yates and Shawn Davis, as well as program administrators at RSI's partner grantees, Stacey Tutt at the University of Illinois College of Law Community Preservation Clinic and Missy Greathouse at the Dispute Resolution Institute, Inc., for their cooperation and collaboration in developing the evaluation plan. I could not have designed the evaluation without their expertise. Shawn Davis' knowledge of the intricacies of foreclosure and the mediation programs was particularly valuable. Finally, thank you to Bridget Crawford for her patient and excellent copyediting.

## RESOLUTION SYSTEMS INSTITUTE

This evaluation was conducted by Resolution Systems Institute. Formed in 1995, Chicago-based Resolution Systems Institute (RSI) is a non-profit organization whose mission is to strengthen justice by enhancing court alternative dispute resolution systems through expertise in program development, research, resources, program administration and training.

Founded on the premise that collecting and disseminating reliable information about court ADR can raise the quality of court ADR, RSI has assisted state and federal courts with the design, administration, monitoring and evaluation of mediation programs, as well as training ADR neutrals. Courts and individuals across the country call on RSI for advice and make use of CourtADR.org, RSI's Court ADR Resource Center.

With a multi-year grant from the Office of Illinois Attorney General Lisa M. Madigan, RSI has fully implemented the advice we have offered for two decades: Seek stakeholder input. Set goals. Design clear systems. Train skilled neutrals. Collect uniform data. Share information with stakeholders. Assess programs with an expert eye. Never stop working to improve court ADR programs.

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## 19<sup>TH</sup> JUDICIAL CIRCUIT FORECLOSURE MEDIATION PROGRAM Lake County

### Overview

Launch Date	December 2, 2013
Program Size	155 cases entered the program in the first year
Type	<a href="#">Multi-step entry</a>
Entry Process	HO* attends informational session, schedules HC* session
Intake	By HC agency, after informational session
Pre-mediation	1-2 HC sessions to complete <a href="#">packet</a>
Mediation	Unlimited by court rule; usually 1-2 mediation sessions, must complete within 60 days of completion of pre-mediation.
Remain in Program During TPP?*	No
Timing of Foreclosure Stay	Date of <a href="#">service of process</a> until case leaves program
Homeowner Cost	None
Lender Additional Filing Fee	\$125
Mediator Payment	\$250/case
Program Staff	1 full-time program coordinator
Program Rule	<a href="#">PART 19.00 - Lake County Residential Real Estate Mortgage Foreclosure Mediation Program</a>

### DISTINGUISHING FEATURES OF THE PROGRAM

The following features differentiate this program from the others in this evaluation:

- [Homeowners](#) must attend a group informational session on the [foreclosure](#) process and the foreclosure mediation program in order to participate
- The program has much shorter timeframes for completing the [document exchange](#) process than the other Attorney General-funded programs
- There is a deadline for completing the mediation sessions
- The stay on the foreclosure process does not continue through the [temporary loan modification](#) trial period

\* HC = housing counseling      HO = homeowner      TPP = trial period plan

## STATISTICS AT A GLANCE

In the program's first year, 155 homeowners participated.

Status of Cases Through Dec. 31, 2014	
Foreclosures Filed	2,339
Attended Informational Session	238
Entered Program	155
Closed	135
Pending	20

The program helps 11% of eligible homeowners.

Program Impact	
	% of Foreclosures
Homeowners Helped	10.9%
Foreclosures Avoided*	2.5%
Homes Retained*	2.1%

\*Projected based on closed cases.

More than 1/3 of homeowners who enter the program and more than 2/3 of those who complete the program avoid foreclosure.

Outcomes of Closed and Completed Cases*			
	#	% of Closed Cases	% of Completions
Agreement: Retention/ TPP	39	28.9%	58.2%
Agreement: Relinquishment	7	5.2%	10.4%
No Agreement	21	15.6%	31.3%
Program Not Completed	66	48.9%	N/A

\*Two cases had outcomes marked as "other."

On average, it takes 2 months to complete the program.

Average Number of Days	
Filing to Close – All Cases	77
Program Entry to Close	49
Program Entry to Close – Completed Cases	63
Program Entry to Close – Not Completed	36

Homeowners leave their housing counseling session with a better understanding of their situation.

Pre-Mediation: Homeowner Experience (n = 74)	
Understand Options Better Than Before	99%
Understand How to Work with Lender Better Than Before	100%
Satisfied Overall	92%

Almost all participants thought the mediation process was fair

Mediation Participant Experience		
	Party (n = 163)	Attorney (n = 79)
Satisfied Overall	85%	80%
Satisfied with Outcome	76%	82%
Process was Fair	94%	97%

## IMPORTANT FINDINGS

### **The program has the second highest rate of home retentions for homeowners who complete the program**

Of those who completed the program, 58% reached an agreement to retain their home. Another 10% reached an agreement to [exit gracefully](#). This is the second highest rate of home [retention](#) and of [foreclosure avoidance](#) of all the programs, and the highest among programs that do not remove homeowners who are not likely to reach agreement.

### **Homeowners had a positive experience in the program**

From the informational session through mediation, homeowners indicated they felt they were being provided with good information, had been treated fairly and with respect and had a positive experience in the program. They wrote particularly positive comments about their experience in housing counseling.

### **The program has, by far, the shortest time to completion of all the programs**

The average of 63 days to complete the program is 17 days shorter than any other program.

### **The program has the lowest participation rate of any program**

Only 11% of eligible homeowners attended an informational session, and only 7% entered the program. The low participation rate is attributable to the difficulty of entry.

## **Program Description and Procedures**

### **WHAT NEED WAS THE PROGRAM DESIGNED TO ADDRESS?**

The judges hearing foreclosure cases noticed that there were large numbers of unrepresented homeowners who were trying to obtain loan modifications, but were unable to communicate with their [lenders](#). The homeowners did not have a single point of contact when they spoke with their lenders, and they were getting different answers from each person they talked with. The homeowners also complained that their lenders were losing the documents they sent for review.

The program was meant to formalize the interactions between the homeowners and lender. The court also wanted to require lenders to give homeowners their attention and a clear resolution, whatever that resolution was. No matter what the outcome, the court wanted to give homeowners interested in avoiding foreclosure the opportunity to explore the possibility of a loan modification or other alternative with the assistance of a trained neutral.

### **PROGRAM ADMINISTRATION**

The program is administered by Resolution Systems Institute. It is managed by a full-time program coordinator, who is an RSI employee. Program partners are two HUD-certified housing counseling agencies: Affordable Housing Corp of Lake County (AHC) and Consumer Credit Counseling Services of Northern Illinois (CCCS). AHC conducts the vast majority of pre-mediation housing

counseling sessions, while CCCS began to provide this service in December 2014. A panel of 23 private mediators trained in foreclosure mediation by RSI conducts the mediations.

## **ELIGIBLE CASES**

All homeowners whose residential mortgage foreclosure cases were filed after December 1, 2013, can request entry into the program, so long as they live in the residence or have the right to return to it. Homeowners whose cases were filed prior to that date can motion the court to order the case to mediation, so long as there is no judgment against them and no motion for summary judgment is pending. This came into practice in July 2014. In December 2014, judges started ordering cases into the program on the court's own motion.

## **NOTIFICATION AND OUTREACH**

The primary methods the program uses to notify homeowners of their opportunity to participate include information homeowners receive with their [summons](#) and a postcard the program coordinator sends shortly thereafter. Occasionally, the program coordinator has a phone number for the homeowners, in addition to their mailing address, and will then attempt to reach out to the homeowners by phone. The court has a [web page](#) with information on how to learn more. The program also has a [brochure](#) and one-page FAQ that are available at the courthouse, housing counseling offices, local libraries and social service provider offices, and with government officials.

Program staff has initiated a number of other efforts to recruit homeowners, as well. The focus has been on gatekeeper outreach, meaning spreading the word to other community leaders, so that they can then take the message to those they serve. The program coordinator has contacted state and district officials, attended community events and spoken at housing fairs and to church groups. AHC has also conducted gatekeeper outreach for the program, focusing especially on reaching the Latino community. In addition, the program coordinator and the judges who with the program have made presentations at county board and township meetings. One of the foreclosure judges was interviewed on local access television, as well.

## **ENTRY PROCESS**

All residential foreclosure cases are stayed for 42 days from the date of [service of process](#) or court order. To participate in the program, homeowners must attend a group informational session within 35 days of receiving the summons. They then have seven days from the informational session to call AHC to schedule a housing counseling session. This session must take place within 30 days of the informational session. Once the housing counseling session is scheduled, the homeowners are considered to be in the program and the case is stayed an additional 30 days from the date they attended the informational session.

## PROGRAM PROCESS

### Pre-Mediation Phase

After scheduling their housing counseling session, homeowners prepare their [loan modification packets](#), which should be complete and provided to their housing counseling agency a week before the scheduled session. Prior to December 2014, homeowners brought the documents to AHC, which is located in the southeastern part of the county. In December 2014, homeowners gained the option of dropping off their packets at the more centrally-located foreclosure mediation program office or at Mano a Mano, a housing counseling agency in the northwestern part of the county. If the homeowners drop off their packet during business hours, staff at each of the drop off sites review the packet while the homeowners wait and let them know if anything is missing.

Once the homeowners complete the packet, they meet with a housing counselor at AHC.<sup>46</sup> During this two-hour session, the housing counselor determines what options might be available to the homeowners, including whether they might be eligible for a loan modification. They also discuss next steps. After the session, the housing counselor submits the packet to the lender – or to the lender attorney, if the attorney has requested receipt of the packet.

Once the packet is submitted, the lender has seven days to review the packet to ensure that it is complete and to request missing documents, although in practice, the lender frequently asks for additional documents after this deadline, and the program permits this. The homeowners then have seven days to provide any additional documents the lender requests. Once the homeowners submit all the additional documents, the housing counselor informs the program coordinator that the case is ready for mediation.

### Mediation Phase

The first mediation session must be scheduled between seven and 35 days from the date the housing counselor refers the case to mediation. In practice, the program coordinator schedules the session as close to the 35 day deadline as possible, in order to give the lender sufficient time to review the packet. All mediation sessions need to be completed within 60 days.

The homeowners and lender attorney must attend the mediation in person. A representative from the lender must participate as well, but may do so by phone. In about half the cases, two sessions are required. This is generally because the parties have not completed the document exchange. When the exchange has not been completed, the mediator facilitates the exchange, but also uses the opportunity to discuss other possible options. The sessions take about 1 ½ hours to complete and take place in the program office, which is housed in the 19<sup>th</sup> Judicial Circuit's Arbitration Center.

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<sup>46</sup> Beginning in December 2014, when CCCS became a program partner, homeowners who were already working with Consumer Credit Counseling Services were able to continue to work with their counselor and did not have to shift over to AHC.

## **TERMINATION**

Cases are terminated from the program and returned to court to continue the foreclosure process when:

- The homeowners do not complete the required documentation within 30 days
- The homeowners do not appear for a housing counseling or mediation session
- The homeowners voluntarily withdraw from the program
- The homeowners and lender do not agree to any option to avoid foreclosure
- The lender does not comply with program rules

If the homeowners and lender agree to a temporary loan modification, the case is terminated from the program and the stay of foreclosure proceedings is lifted. If they agree to another foreclosure avoidance option, the case is returned to court for dismissal.

## **Judge and Program Administration Perspectives**

The program coordinator and one of the foreclosure judges were interviewed to gain their perspectives on the program.

## **WHAT IS WORKING WELL?**

The program is running smoothly. Both the judge and program coordinator point to housing counseling as a strength of the program. The judge noted that AHC is very good and very effective. The housing counselors do a good job of communicating with lenders. At least six cases settled prior to a first mediation session because housing counselors were able to help the homeowners obtain a temporary loan modification.

Once homeowners enter the program, the program does a good job of helping homeowners and lenders come to agreement. The program coordinator noted that most mediators are more than willing to mediate more than one session and work well with her to ensure that they understand the needs of a particular case. While housing counselors have worked diligently to help homeowners explore all of their options and to think realistically about their situations, the mediators have also been trained to reality test options with both parties to ensure that agreements are practical and durable.

The program coordinator also mentioned that the judges are supportive and responsive to the need to make changes to the program. Judges participate in outreach and are active in efforts to make the program work. Both the judge interviewed and program coordinator pointed to the helpfulness of the monthly meetings among judges, program staff, housing counselors and other stakeholders to go over processes and discuss issues.



## CHALLENGES

Both the judge and the program coordinator recognize that program usage is too low because the barriers to entry are too high. This has led the court to expand the program to include cases filed prior to the program's launch on the homeowner's motion. This, too, proved difficult for unrepresented homeowners who did not know how to file a motion. The court has since changed its rule to clarify that judges can order cases to mediation on the court's own motion.

The court is working on rule revisions that would eliminate the requirement that the homeowners attend an informational session. Instead, the homeowners would enter the program by calling the program coordinator to conduct intake and to schedule a housing counseling appointment. The judges now also order cases in on their own motion, rather than requiring homeowners file a formal motion to be referred into the mediation program. Additionally, the program has started allowing homeowners currently working with Consumer Credit Counseling Services of Northern Illinois to continue working with that agency while participating in the program, thus providing easier access to the program for those homeowners.

Another challenge has been getting both lenders and homeowners to comply with the stringent deadlines for document submissions and packet review. The lenders have complained that the time they have to review packets is too short. Homeowners have had difficulty meeting deadlines for both submitting their packets and for providing the additional documents the lenders request. The short deadlines also impact the mediation, as the first mediation often becomes a document exchange facilitation, necessitating further mediation sessions to conduct negotiations. This creates issues with the program's 60-day limitation of the time in mediation. There have been situations in which the mediator and both parties agreed that an additional mediation session would have been helpful and might have resulted in an agreement, but the parties were unable to hold an additional session. Even if all parties agree, the case must exit mediation within the 60-day timeframe, meaning that the program coordinator does not have the flexibility to allow the case to continue for another session. The program has emphasized in these cases that both homeowners and lenders can always motion the court to re-enter the program. However, it does not appear that parties on either side are following through with the motion.

The program has dealt with lenders' difficulty in complying with the timeframes by informally extending the seven day deadline the lender initially has to confirm that they have received a complete packet. This is done to avoid returning the case to court, thus punishing the homeowner because the lender cannot meet the deadline. However, the deadline for lenders to complete packet review is firm and can be tight. The review by rule should be done prior to mediation. The mediation then must be completed within 60 days. The program has responded by proposing rule revisions that would extend deadlines for packet submission, lender review and time in mediation.

## Program Characteristics

The 19<sup>th</sup> Circuit program helped more homeowners than any other program but the 16<sup>th</sup> Circuit. However, it has the lowest participation rate, making it the second smallest program despite having the highest number of foreclosures. The homeowners report learning about the program from a diversity of sources, a probable result of the extensive outreach the program conducts. Judges did not refer many cases during the evaluation period, but according to the program coordinator that has since changed.

### PROGRAM SIZE

#### **This program helped the second highest number of homeowners**

The program helped 238 eligible homeowners in 2014, more than any other except the 16<sup>th</sup> Circuit program. However, in terms of the number of homeowners entering the program, it is the second smallest, despite having by far the most residential foreclosures.

Annual Numbers	
Foreclosures Filed	2,130
Attended Informational Session	238
Entered Program	155

### CASE CHARACTERISTICS

All homeowners are required to attend a group informational session to orient them to the foreclosure process and the foreclosure mediation program. They then must attend housing counseling before participating in mediation.

#### Referral Sources

#### **Referrals to the informational session come from a variety of sources**

This is different from other programs, in which the vast majority of homeowners learn about the program through their summons or the judge.

Referral Source (n = 538)		
Court/Judge/Summons/AHC	186	34.6%
Lender/Attorney	137	25.5%
Government Agency	55	10.2%
Word of Mouth	50	9.5%
Outreach Events/Mailings	46	9.3%
Non-profit/Services Agencies	25	4.6%
Other	39	7.1%

WHAT DOES THIS MEAN?

First, note that the referral source is for homeowners who attended informational sessions, of whom 54% were not eligible for the program. This may have had an impact on how the homeowners learned of the informational session. Nonetheless, the court and program staff have worked hard to make homeowners and those who work with them aware of the program. These outreach efforts may have contributed 33% of the homeowners who attended the informational session.

**When Cases Are Filed/How Referred**

**Judges referred few cases into the program**

Three cases were filed before the program start date. All the others were filed after the program began.

Four cases were referred by the judge: the three cases filed before the program launched and one other filed after. All of the other cases came in at the time the homeowners received their summons.

WHAT DOES THIS MEAN?

Judge referrals offer more homeowners the opportunity to participate in the program. Referrals of cases that were filed prior to the program launch date expand eligibility, while referrals of cases filed after the launch date offer eligible homeowners a second opportunity to enter the program. Both types of referrals have been effective in helping homeowners to keep their homes in the 20<sup>th</sup> Circuit program. The fact that only four homeowners were referred means that the court is missing the opportunity to help more homeowners in this program.

⇒ **Recommendation:** At the end of the evaluation period, judges began to refer cases on the court's own motion. The judges should continue to refer homeowners into the program, when appropriate.

**Program Performance**

The performance of a foreclosure mediation program is determined by a number of factors as cases move through the program:

- What proportion of homeowners participates
- How many of those homeowners complete the program by having their packets reviewed and negotiating with their lenders
- How many of those outcomes are positive – either retentions or [relinquishments](#), with an emphasis on homes retained
- How well homeowners are served in other ways, including increasing their understanding of their situations and ensuring they are treated well

PERFORMANCE SNAPSHOT	
<b>Participation</b>	155 homeowners entered the program in the first year
<b>Impact</b>	The program benefits 11% of all homeowners facing foreclosure
<b>Outcomes</b>	29% of participants kept their homes 49% did not complete the program 69% of homeowners who completed the program avoided foreclosure 85% of homeowners who avoided foreclosure kept their homes
<b>Agreement Rate</b>	Mediation resulted in agreement in 62% of cases
<b>Participant Experience</b>	Homeowners felt respected and treated fairly; the great majority were satisfied with their experience and the outcome
<b>Time in Program</b>	Cases averaged 63 days to complete the program

## PROGRAM ACTIVITY

### Case Status

More than 200 homeowners were helped in the program's first year. Of those, 39 were able to keep their homes.

Status of Cases Through Dec. 31, 2014	
Foreclosures Filed	2,339
Attended Informational Session	238
Entered Program	155
Closed	135
Home Retentions	39
Voluntary Relinquishments	7
No Agreement	21
Program Not Completed	44
Pending	20

### Sessions Held

#### Pre-mediation

Pre-mediation services are provided by a housing counselor, who meets with the homeowners to go over their financial information, advise them of their options and discuss the foreclosure process. The housing counselor submits the loan modification packet, and then facilitates the document exchange process.

Housing Counseling Activity	
Housing Counseling Sessions Held	125
Average Hours in Session	2.33

### Mediation

Mediation services are provided by foreclosure-trained mediators. Mediation may start with document exchange, and then move into negotiation once the lender completes the review of the homeowners' packet. Mediations take one to three sessions to complete.

Mediation Activity	
Mediation Sessions Held	70
Average Hours in Session	1.38
Average Hours Preparing for Session	0.65

### PROGRAM IMPACT

Program impact is defined for this evaluation as the percentage of eligible homeowners who have been assisted in some way by the program. This includes providing information to homeowners about the foreclosure process and possible options for their homes, helping them to submit their loan modification packets, and facilitating negotiations with their lenders.

This is not a straightforward calculation. First, the number of foreclosures includes some in which the homeowners may not be eligible to participate in the program. Therefore, the calculated percentages may be slightly lower than they really are. Second, a number of cases that were filed during the evaluation period are still open and therefore do not have an outcome. To deal with this second factor, the percentage of homes retained and voluntarily relinquished is projected based on the percentage of closed cases that ended with a retention or relinquishment.

### The program has the lowest impact on eligible homeowners of any of the programs

The 19<sup>th</sup> Circuit program has benefitted 11% of eligible homeowners facing foreclosure. A projected 2.5% avoid foreclosure, almost all of them keeping their home. These numbers give the program the lowest impact of all of the programs funded by the Attorney General.

Impact – All Eligible Foreclosures		
	19 <sup>th</sup> Circuit	Comparison
Homeowners Helped	10.9%	10.9% - 67.6%
Foreclosure Avoidance*	2.5%	2.5% - 26.5%
Retention*	2.1%	2.1% - 14.2%
Voluntary Relinquishment*	0.4%	0% - 12.3%

\*These are projected percentages based on cases already closed.

The full 11% of eligible homeowners the program helps obtain assistance when they attend a group informational session. At this session, a housing counselor orients them to the foreclosure process, the options available to them and the foreclosure mediation program. Thus, 11% of homeowners get information that helps them navigate the foreclosure process, whether or not they move forward in the program. The program then assists homeowners continuing in the process to try to avoid foreclosure by helping them submit their loan modification packets to their lenders and then by helping them to negotiate with their lenders.

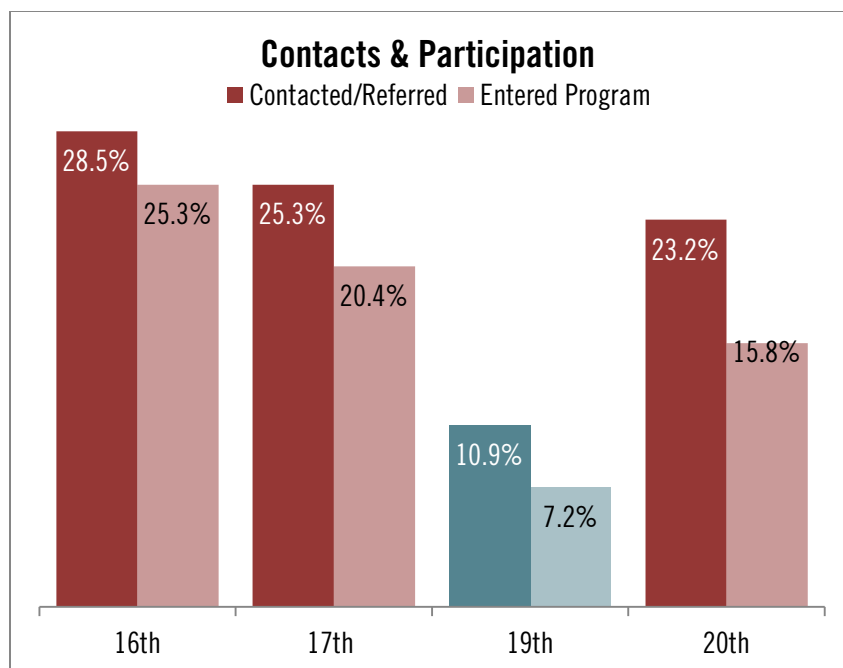
## **PARTICIPATION**

Program participation is one of the most important performance indicators for a foreclosure mediation program. If homeowners are to be helped by the program, they first need to participate in it. Note, however, that when considering a program's overall effectiveness in bringing homeowners into the program, it should be acknowledged that a 100% participation rate is neither possible nor desirable. Many homeowners are not interested in or capable of avoiding foreclosure. Those homeowners are better served by the court process.

In the 19<sup>th</sup> Circuit program, homeowners are considered to participate if they first attend an informational session, and then contact the housing counseling agency to schedule a pre-mediation session. This means homeowners can start the process to enter the program and not complete it. Thus, the program has two tasks in bringing homeowners into the program. The first is encouraging homeowners to make first contact with the program. The second is getting homeowners to participate once they have contacted the program.

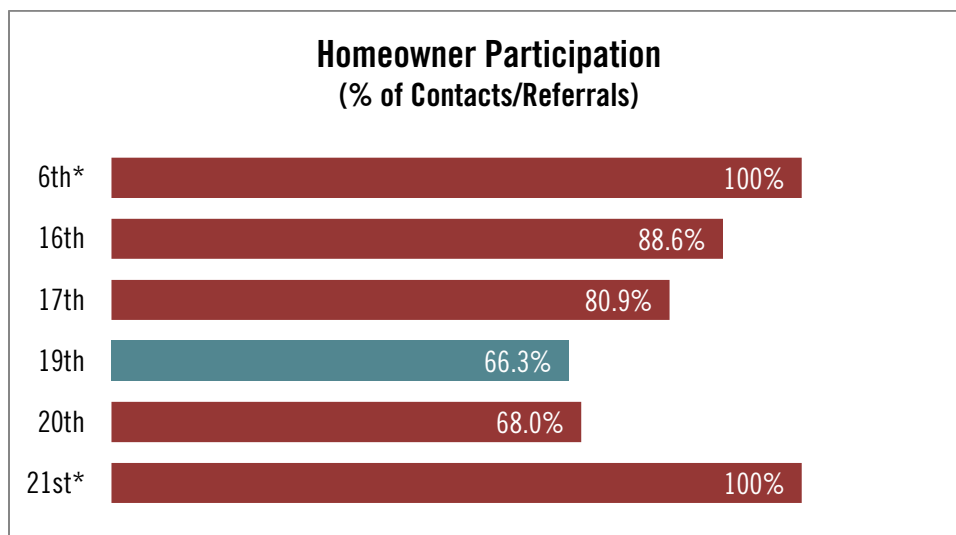
### **The program has the lowest first contact rate of any program**

About 11% of eligible homeowners attended an informational session, and about 7% eventually completed the steps to enter the program. These percentages are 12% and 8% lower than the next lowest program, respectively.



**The program has the lowest rate of getting homeowners who contacted the program to participate in it**

Only 66% of homeowners who attend an informational session later contact the housing counseling agency to schedule a pre-mediation session.



\* One-step entry programs.

#### WHAT DOES THIS MEAN?

The program is struggling in two ways to recruit homeowners. First, it is struggling to get them to the informational session. Second, it is struggling to get them to enter the program once they have attended the informational session.

It is not a coincidence that the program also has the highest hurdles to entry. This is the only program in which the homeowners must attend an informational session. The court included this requirement in the rule so that homeowners were oriented in a more efficient way than having the housing counselors speak individually with them. However, the low percentage of homeowners who attend indicates the difficulty homeowners have with this requirement.

The next hurdle the homeowners must surmount in order to participate is to complete their packet before attending a housing counseling session and, during most of the evaluation period, drop it off at the housing counseling agency. These are difficult steps for people to do without assistance. Next, they must attend housing counseling. This in itself is a good requirement. As will be seen below, housing counseling is helping homeowners and providing them with a good experience. However, during most of the evaluation period housing counseling was provided by one agency, AHC, in their offices in the southern part of the county. Foreclosures, on the other hand, were clustered in the north. With many homeowners lacking transportation, attending housing counseling may have been too big a burden, as only 65% of homeowners who attended the informational session contacted AHC for a housing counseling session. As seen in the heat maps in [Appendix D](#), homeowners in the north were much less likely to participate in the program than those who lived closer to AHC's offices.

The program coordinator and RSI staff recognized these issues and proposed the court rule be changed to make participation in informational sessions voluntary. They also reached out to other housing counseling agencies that could provide services in the north, and then asked the court to approve them as partner agencies in the program. CCCS began working with the program in December 2014. Catholic Charities was approved after the evaluation period ended.

## OUTCOMES

### What happens when homeowners enter the program?

The homeowners who enter the program will end with one of four outcomes:

- Leave the program before completing negotiations with their lender
- Reach an agreement to retain their home
- Reach an agreement to relinquish their home without a foreclosure judgment
- End negotiations without an agreement

As with participation, the program cannot and should not expect 100% of homeowners entering the program to complete it with an agreement to avoid foreclosure. Some homeowners will not qualify for any available option, some may find that they cannot afford options that are offered, and some



may decide their best option is to leave the program and go through the foreclosure process. So, the effectiveness of the program at producing desirable outcomes is determined more by how it measures against other programs than against a particular ideal percentage.

The most likely outcome for homeowners who entered the 19<sup>th</sup> Circuit program was for them to leave the program before completing it, with almost half of them doing so. More than a third reached an agreement to avoid foreclosure. If homeowners completed the program, they were very likely to keep their homes.

### Closed Cases

#### Almost 1 in 3 homeowners who entered the program were able to keep their homes

More than a third of homeowners who entered the program avoided foreclosure and almost 30% kept their homes. However, almost 50% of homeowners did not complete the program.

Outcomes of Closed Cases (n = 135)*		
	#	% of closed cases
Agreement: Retention/ TPP	39	28.9%
Agreement: Relinquishment	7	5.2%
No Agreement	21	15.6%
Program Not Completed	66	48.9%

\*Two cases had outcomes marked as "other."

#### WHAT DOES THIS MEAN?

The percentage of homeowners who avoided foreclosure is in line with the other programs in the study.

### Completed Cases

#### The program excels at helping homeowners who complete the program avoid foreclosure

The program's 69% rate of foreclosure avoidance is second only to the 17<sup>th</sup> Circuit program, where only homeowners who are viable for a loan modification negotiate with their lenders. The percentage of homeowners who keep their homes is also behind only the 17<sup>th</sup> Circuit program.

Outcomes of Completed Cases (n = 67)*		
	#	% of completions
Agreement: Retention/ TPP	39	58.2%
Agreement: Relinquishment	7	10.4%
No Agreement	21	31.3%

\*Two cases had outcomes marked as "other."

WHAT DOES THIS MEAN?

The comparatively high rate of retentions means that the program does a good job of helping homeowners who do complete the program to keep their homes. The 16<sup>th</sup> Circuit program is the closest comparison to the 19<sup>th</sup> Circuit program in terms of the process taken to achieve outcomes. The 19<sup>th</sup> Circuit has nominally better outcomes, with 8% more homeowners retaining their homes and 4% more avoiding foreclosure.

**Types of Retentions**

Most homeowners received a temporary loan modification, which may have later turned into a permanent modification.

<b>Retention Outcomes</b> (n= 39)		
	<b>#</b>	<b>% of Retentions</b>
Temporary Loan Modification*	25	64.1%
Permanent Loan Modification	10	25.6%
<a href="#">Forbearance</a>	2	5.1%
<a href="#">Reinstatement</a>	1	2.6%
Installment Plan	1	2.6%

\*These are modifications that have not completed their trial period or for which the program does not have information on whether they converted to permanent modifications.

Conversion of Temporary Loan Modifications

Of the 11 cases for which there is data on conversions, eight converted successfully.

If a temporary loan modification is converted, it means that the terms agreed to were effective, in that the homeowners could feasibly comply with them. The conversion rate also gives a more accurate picture of the number of homes saved, because, if the temporary modifications are not made permanent, the foreclosure process continues. There is too little data to determine whether overall temporary loan modifications are being converted.

**Types of Voluntary Relinquishments**

Short sales were the most common form of voluntary relinquishment.

<b>Relinquishment Outcomes</b> (n= 7)		
	<b>#</b>	<b>% of Retentions</b>
<a href="#">Short Sale</a>	4	64.1%
<a href="#">Deed in Lieu</a>	2	28.6%
Unknown	1	5.1%

## Program Completion

### Voluntary withdrawal is the most common reason for exiting the program early

One-third of homeowners withdrew from the program voluntarily. Most of the others did not appear for a scheduled session or did not complete their packets on time. Four cases were returned to court because the lenders did not comply with the program rules.

Reasons Homeowners Leave Program (n = 66)*		
	#	% of Non-Completes
Homeowner Withdrew	27	40.9%
Homeowner Did Not Appear for Session	23	34.8%
Did Not Complete Documentation	17	25.8%
Lender Non-Compliance	4	6.1%
Other	2	3.0%

\*There can be more than one reason that a homeowner leaves the program. Therefore, the number of reasons is greater than the number of homeowners.

#### WHAT DOES THIS MEAN?

Homeowners who are marked as withdrawing were the ones who told either the housing counselor or the program coordinator of their decision not to continue with the program. According to the program coordinator, these are homeowners who were not able to complete their documentation on time due to the program's short deadlines. The ones who are marked as not completing their documentation or not appearing for a session may have had the same problem and just not communicated it to the housing counselor or program coordinator. It is not clear, then, how many homeowners left the program because they could not comply with the program deadlines, and how many left because they decided it was better to let the foreclosure process continue or because they achieved a satisfactory outcome on their own.

⇒ **Recommendation:** Homeowners not appearing for their housing counseling session is an issue. It is not clear why the homeowners do not arrive for a session they scheduled – whether it is due to a comparatively short amount of time to complete their packet, the location of housing counseling or some other reason. The program is making changes that should make attending a session easier, including providing more options for where homeowners may drop off their completed packets prior to the session and partnering with housing counseling agencies that will conduct sessions in other parts of the county. The program should monitor whether these changes affect homeowner appearance rates.

## Outcomes by Program Phase

### Pre-Mediation

#### 10% of homeowners avoid foreclosure in the pre-mediation phase

Homeowners are most likely to be referred to mediation at the end of pre-mediation, though many exit the program before referral. About 10% of homeowners achieve some form of retention or relinquishment option prior to mediation.

Outcomes (n = 142)*		
Referred to Mediation	69	48.9%
Trial Period Plan	11	7.8%
Agreement: Retention	1	0.7%
Agreement: Relinquishment	1	0.7%
No Agreement	1	0.7%
Closed: Program Not Completed	58	41.1%

\*One was marked other

#### WHAT DOES THIS MEAN?

The housing counselors are getting positive results in the majority of cases: they helped 59% of homeowners to complete their packets, and then helped 12 to reach agreement to keep their homes. As in the other programs, most of the homeowners who leave the program without completing it do so at this phase.

### Mediation

#### More than 6 in 10 homeowners reach agreement in mediation

In all, 62% of homeowners who complete mediation reach agreement to avoid foreclosure, while 51% keep their home.

Mediation Outcomes (n = 61)		
Trial Period Plan	20	32.8%
Agreement: Retention	7	11.5%
Agreement: Relinquishment	6	9.8%
No Agreement	20	32.8%
Closed: Program Not Completed	8	13.1%

#### WHAT DOES THIS MEAN?

The agreement rate for homeowners who complete mediation is 9% higher than the agreement rate in the 16<sup>th</sup> Circuit program, which is the most directly comparable to the 19<sup>th</sup>

Circuit's, and is on the high side for programs nationally.<sup>47</sup> However, only 53% of homeowners who are referred to mediation reach agreement. The difference is the eight homeowners who did not complete mediation. The non-completions are more numerous than in the other programs that regularly mediate cases. This is due to the program returning cases in which the lender did not comply with the local court rule for the program. In four of the eight cases, the case was returned to court due to lender non-compliance. In another, the lender did not complete the review in time for the mediation to conclude within the 60-day deadline.

## TIME IN PROGRAM

### The 19th Circuit program has the shortest time to completion of any of the programs

It takes cases on average two months to complete the program. Those cases that do not complete the program exit on average in a little over one month.

Average days...		How calculated...
From filing to close	77	From filing to program exit
From program entry to program exit	49	From date homeowners contact housing counseling to schedule session to program exit
From program entry to program exit – completed	63	From date homeowners contact housing counseling to schedule session to program exit – <b>cases that ended with an agreement or no agreement</b>
From program entry to program exit – not completed	36	From date homeowners contact housing counseling to schedule session to program exit – <b>cases in which the homeowners withdrew or did not comply with program requirements</b>
In pre-mediation phase	28	From date homeowners contact housing counseling to schedule session to date scheduled for mediation or program exit
In mediation phase	34	From date referred to mediation to program exit

### WHAT DOES THIS MEAN?

The court placed emphasis on the speedy completion of the program. Homeowners and lenders have 44 days to complete the packet, review it and conduct document exchange. The program then limits the mediation process to 60 days. Cases are ostensibly making it through the process within the allotted 104 days, with completed cases averaging 63 days to conclude. However, 17% of homeowners withdrew, and according to the program coordinator, many did so because they could not complete their documentation on time. Lenders, too, have reported that the seven days they have to review the homeowners' packets is too short.

<sup>47</sup> For national statistics, see: Jennifer Shack and Heather Scheiwe Kulp. [FORECLOSURE MEDIATION BY THE NUMBERS](#). Resolution Systems Institute (September 2012).

⇒ **Recommendation:** Deadlines need to be lengthened for the pre-mediation process so that both homeowners and lenders have a feasible amount of time to complete the review and document exchange process. The court's pending rule change should remedy this.

## PARTICIPANT EXPERIENCE

Homeowners completed questionnaires at the end of the informational session, after they completed housing counseling and, along with the representative from the lender and the attorneys, at the end of each mediation session.

### Informational Session Questionnaire<sup>48</sup>

Both eligible and ineligible homeowners may attend the informational session. Thus, 653 homeowners from 531 cases completed the questionnaire; however, homeowners from only 238 cases were eligible for the program.

Homeowners who attended the informational session rated it highly, with almost  $\frac{3}{4}$  giving a rating of “excellent” for the session overall. More than  $\frac{3}{4}$  felt they were leaving with a much better understanding about their options and the foreclosure mediation program.

	Excellent	Good	Poor	Very poor
Overall class rating	73.6%	26.1%	0.2%	0%
Rate presentation of material	76.5%	23.2%	0.3%	0%
Rate knowledge of material	80.5%	19.2%	0.3%	0%
Rate organization of material	78.9%	20.8%	0.3%	0%
	Very much	Somewhat	Not at all	
Understanding of the options available to you	80.6%	18.8%	0.5%	
Understanding of how the foreclosure mediation program works	77.8%	20.9%	1.3%	
Understanding of how to contact AHC	87.7%	11.8%	0.5%	
	Yes	No	Don't know	
Eligible to participate in mediation?	68.0%	15.7%	16.3%	

<sup>48</sup> All homeowners completed a questionnaire at the end of the informational session, whether they were eligible for the program or not.

Homeowners found the sessions to be informative, with almost all leaving with a greater understanding of their options and of how the foreclosure mediation program works. Most felt they understood these very well. Most homeowners who commented on what they liked about the session mentioned the information they received:

- “Very Informative.”
- “Very concise and thorough explanation of the options and how to proceed.”
- “Information and options.”
- “I learned more about what to do about the house.”
- “Great presentation of information.”
- “Concise information. Very knowledgeable presenter.”
- “Learned about answers to questions that I didn't know to ask.”
- “Options that I wasn't aware of before class.”

Homeowners also appreciated that the housing counselors presented the information in simple terms they could understand:

- “Easy to Understand. Explained well.”
- “Lots of information explained very clearly. Fast pace.”
- “What I like the most is that [the housing counselor] was very clear explaining everything. The information will be very useful. Thanks.”
- “The knowledge of Instructor and how well she presented and made it easy to understand.”
- “How it was taught in simple words in group.”
- “Explained everything in English not Bankish.”
- “Presenter was well-spoken and explained well for easy understanding.”

Many homeowners wrote about the way the housing counselors made them feel. This is a theme throughout the mediation program process as well, demonstrating how much this matters to homeowners:

- “Relaxed presenter made me very comfortable.”
- “The presenter laid the information out in a non-judgmental fashion. Fact-based and compassionate.”
- “Low stress/ non-confrontational.”
- “Personable and helpful.”
- “Friendly and not belittling.”
- “That someone cares.”
- “La buena disposicion de las personas del grupo AHC.” [The nice disposition of the people from AHC.]
- “No judgments!”

A few had the same thought – that they now had hope:

- “Hope for the future.”
- “Gives me hope.”
- “Gave me a feeling of way out.”
- “Very informative. Provided hope.”

Homeowners who commented on what they did not like about the session tended to note that the information was a lot to take in in such a short amount of time. Although the quick pace was seen by others as a positive aspect of the session, it was difficult for some homeowners:

- “Too much info in short time.”
- “Lot of information – which was overwhelming but I feel it was all necessary.”
- “Retaining all the information – being sure all is understood and learning how to proceed. There was an attorney in the audience and he even misquoted what he thought he heard relating to timeline responses.”
- “Fast paced but I understand it's a lot of content within a short time.”
- “Too short of time for amount of information.”

A few mentioned that they would have liked the slide handouts at the beginning of the session, so that they could take notes on them.

⇒ **Recommendation:** The program should consider creating a video version of their session even if the rule is not changed to make the session voluntary. This would allow homeowners the opportunity to go over the information again at their leisure. Another option would be to create two videos – one that covers all the information currently provided in the informational session and one that focuses on the mediation program and its requirements. This would allow homeowners to focus on what they need to do in order to participate and complete the mediation program.

### **Pre-Mediation Session Questionnaires<sup>49</sup>**

Homeowners were very satisfied with their experience in housing counseling and felt that they gained information that helped them understand their options and how to work with their lenders. They also all felt they were treated very fairly and with very much respect. Their high regard for the process is also telling in their comments, which were not only positive, but lengthy.

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<sup>49</sup> The housing counselor hands the homeowners the questionnaire after they have completed the final session. The counselor leaves while the homeowners complete the questionnaire, and ask the homeowners to put it in a box by the door as they leave. In all, 86 homeowners in 85 cases responded to the survey. This is a 70% response rate.



### Pre-Mediation: Procedural Justice

This evaluation assessed how the homeowners felt they were treated by examining their experience of procedural justice. Procedural justice is considered to be one of the most important aspects of a party's experience with the justice system. Its presence or lack thereof has a significant impact on parties' satisfaction with the justice system and their perception of its fairness.<sup>50</sup> Research has found that the most important characteristics of procedural justice are voice (the sense that one's voice has been heard in the process) and respect (the sense that one's feelings, ideas, and positions have been treated with respect in the process).<sup>51</sup> To measure this in the pre-mediation phase, homeowners were asked about whether they felt they were treated fairly and with respect by the person conducting the session.

All homeowners felt they were treated very fairly and with very much respect by the housing counselor.

Pre-Mediation: Respect and Fairness (n=86)			
	Very much	Somewhat	Not at all
Did the counselor treat you with respect?	100%	0%	0%
Did the counselor treat you fairly?	100%	0%	0%

More than a third of homeowners talked about how the housing counselors treated them:

- “[The housing counselor] was extremely kind and respectful.”
- “[The housing counselor] was very kind, understanding, very helpful!”
- “[The housing counselor] is very positive, polite.”
- “[The housing counselor] is a true professional. Very helpful and pleasant.”
- “I truly appreciate the compassion and understanding! I felt very comfortable and relieved as this has been very stressful.”
- “Very professional and polite. Great!”
- “It is good to know she cares and is on my team.”
- “The open-ness. No bullsh\*\*ting! She's very honest!! I felt like myself, not nervous.”
- “Amazingly personable, attentive and responsive to all questions.”

#### WHAT DOES THIS MEAN?

The homeowners' responses and comments demonstrate that they are feeling that they are being treated with the respect the court hoped the mediation program would provide.

<sup>50</sup> Alan E. Lind, “In the Eye of the Beholder: Tort Litigants' Evaluations of their Experiences in the Civil Justice System,” *LAW & SOCIETY REVIEW*, 24: 953-996 (1990).

<sup>51</sup> *Id.*

### Pre-Mediation: Understanding

All homeowners who completed pre-mediation left with a greater understanding of their options and how to work with their lenders. Most felt that they gained “very much” understanding.

Pre-Mediation: Increase in Understanding (n=86)			
	Very much	Somewhat	No, understood before
Understand options better than before	75%	23.9%	1.1%
Understand how to work with lender better than before	75%	25%	0%

More than two-thirds of homeowners who commented on what they liked about the housing counseling session said they appreciated the amount of information they received:

- “Full explanation of process and what to expect.”
- “She explained to me better what the bank is looking for.”
- “Counselor was very helpful in understanding the situation and explaining the options.”
- “The sessions were very thorough. The counselor spoke clearly and gave examples of what was expected of the borrower getting paperwork into their office and what the lender also expected of the borrower.”
- “[The counselor] went over every piece of paperwork with us and explained every process we will be going through very clearly and with patience. It was very helpful.”
- “Very thorough - thank you for all your advice and answers to our questions. Much easier than working with the bank.”
- “[The counselor] is tremendously knowledgeable and explained everything in detail and left nothing for us to worry about. She's a gem!”
- “Went over all documents/ program thoroughly. Provided action items. Went through the process and what to expect.”

#### WHAT DOES THIS MEAN?

One of the most important goals for the court and for the program is that all homeowners who enter the program gain a better understanding of their situations and how to move forward. With all but one homeowner saying their understanding increased, the program is doing well in this respect.

### Pre-Mediation: Satisfaction

Most homeowners were very satisfied with their experience in pre-mediation

Pre-Mediation: Satisfaction (n = 86)				
	Very Satisfied	Satisfied	Unsatisfied	Very Unsatisfied
How satisfied are you with your overall experience?	80.4%	10.9%	0%	8.7%*

\*The homeowners who marked “very unsatisfied” most likely meant to mark “very satisfied,” as all their other responses were positive.

### Mediation Session Questionnaire<sup>52</sup>

All participants had an experience of procedural justice and most were satisfied with the process and outcome. Mediators were largely seen as helpful and non-coercive, although 15% of homeowners felt the mediators pushed too hard. Lender representatives and lender attorneys had reservations about the neutrality and expertise of some mediators.

### Mediation: Procedural Justice

In the mediation session questionnaires, the participants’ experience of procedural justice was explored in terms of whether they felt they could talk about their issues and concerns, whether they felt the mediator understood what was important to them, and whether they felt the mediator treated them fairly and with respect.

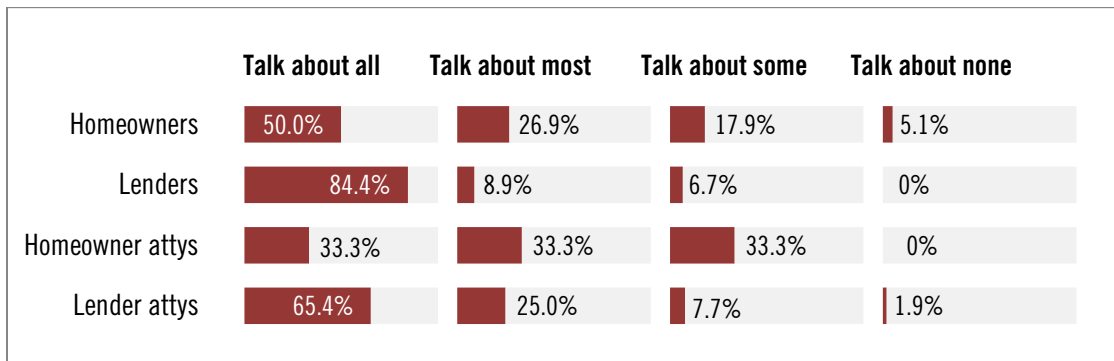
In the 19<sup>th</sup> Circuit program, the homeowners and homeowner attorneys were less likely than lenders and lender attorneys to feel they were able to talk about the issues and concerns that were important to them. Interestingly, the reverse was true about whether they believed that the mediator understood what was important to them. Almost all homeowners and homeowner attorneys felt that the mediators treated them very fairly and with very much respect. Fewer participants believed the process was fair.

<sup>52</sup> Mediators hand the participants the questionnaires to complete at the end of each session, then leave the room while they complete them.

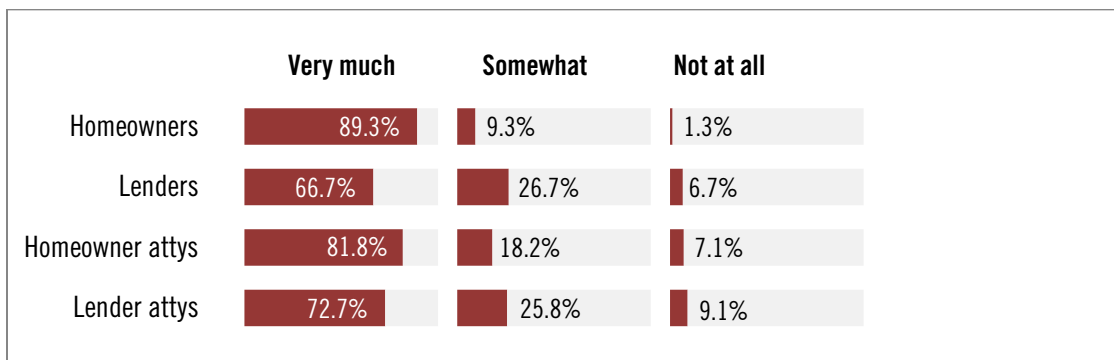
- 78 homeowners in 60 cases responded. This means that at least one homeowner responded in 96.7% of the 62 cases that were mediated
- 45 lender representatives responded, for a 72.6% response rate
- 12 homeowner attorneys responded; their response rate is unknown
- 52 lender attorneys responded, for a 83.9% response rate

*Were you able to talk about the issues and concerns that were important to you/your side?*

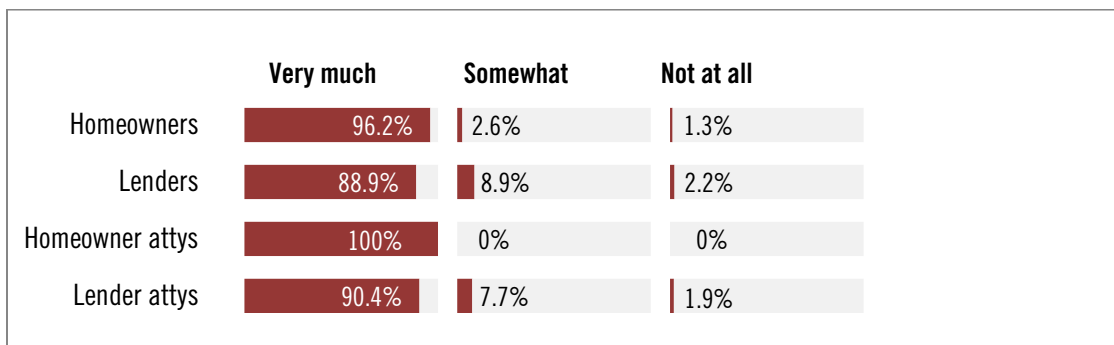
Although most homeowners felt they were able to talk about all or most of their issues and concerns, more than 20% did not.

*Did the mediator understand what was important to you/your side?*

The homeowners were more likely to believe the mediator understood them than to feel they had the opportunity to talk about their issues and concerns. Interestingly, more homeowners and homeowner attorneys felt the mediators understood what was important to them than lenders and lender attorneys. This differs from the other programs in the study.

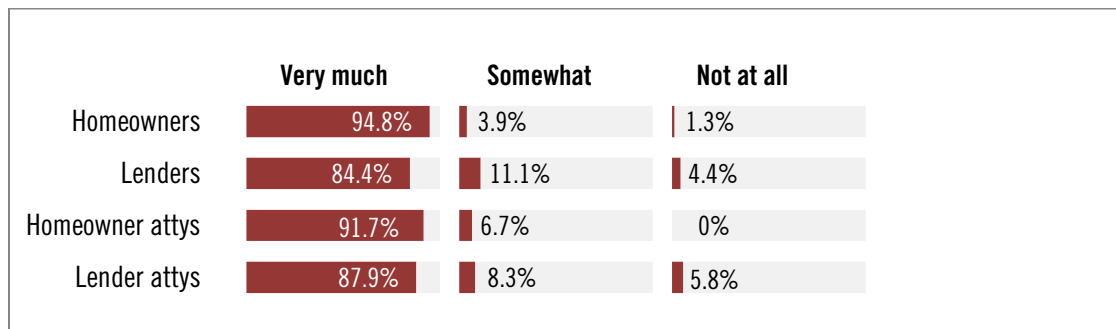
*Did the mediator treat you with respect?*

Almost all participants felt their mediators treated them with very much respect.

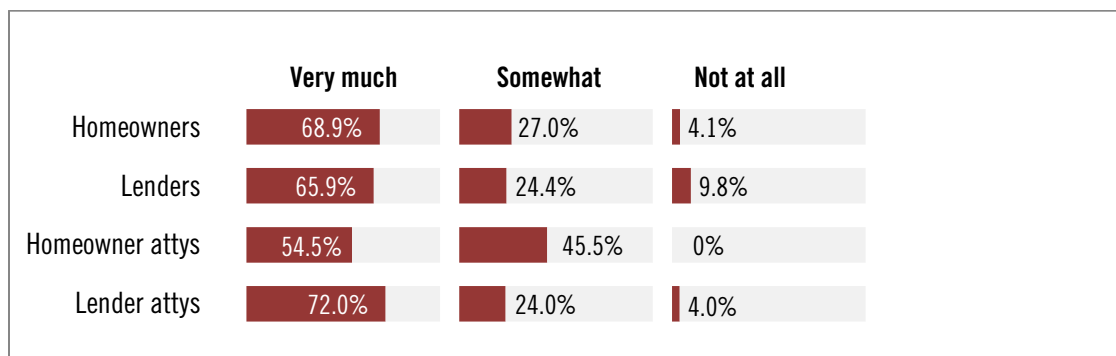


*Did the mediator treat you fairly?*

Almost all participants felt their mediators treated them very fairly.

*Was the mediation process fair?*

Most participants viewed the process as at least somewhat fair, with 2/3 believing it to be very fair.



Of the 39 homeowners who commented on what they liked about mediation, 17 mentioned procedural justice issues, showing again how important this was to them. Among their comments were:

- “Everything was friendly and fair.”
- “I believe he was fair and pushed to help resolve the matter.”
- “Our mediator. . . was a very kind patient man.”
- “The respect and overall knowledge.”
- “Participants were pleasant.”
- “Everybody was civil and pleasant.”
- “No anger.”
- “The way that all parties respect us. The mediator is a professional and very patient.”
- “Mediator fair and respectful.”
- “Fair and respectfully done.”
- “All parties were every courteous and helpful.”

WHAT DOES THIS MEAN?

The mediators are providing a procedurally just process to all parties. Importantly, they are providing voice to homeowners and treating them with respect, which anecdotally was missing with homeowners' interactions with their lenders. It is concerning that a significant number of lender representatives and attorneys considered their mediator to be biased. The participants were also less likely than in other programs to believe the process was fair.

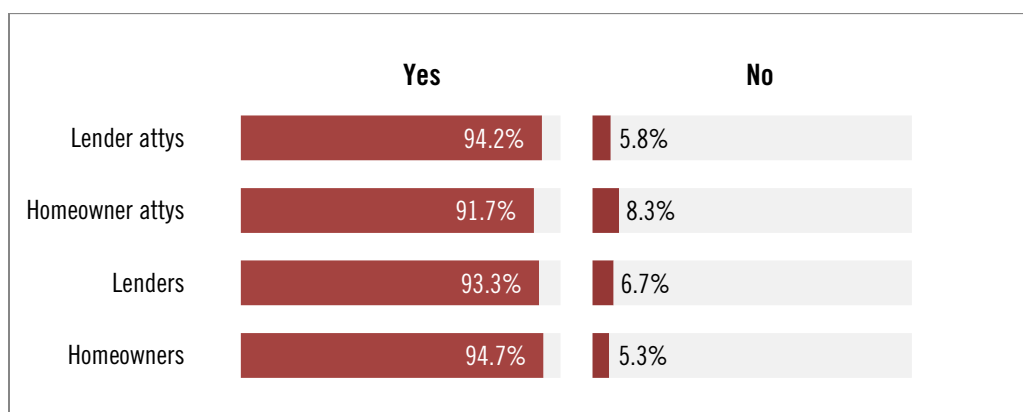
Lenders and lender attorneys were more likely to feel they were able to talk about their issues and concerns. This is likely due to homeowners having a broader range of issues and concerns. As in other programs, participants gave lower ratings to the fairness of the process than to fairness of the mediators. However, unlike in the other programs, lenders and lender attorneys were not more likely to feel the process was fair than homeowners and lender attorneys. This fits with their comments about the bias of the mediator and the difficulty of the process.

### Mediator Skills

Effective mediation requires a mediator who walks a fine line between being actively involved in assisting the parties without pushing them into a possible result they do not want. The results show that for some homeowners and lender attorneys, their mediators did not walk that line well. The participants generally believed that their mediators was helpful, though 11 of 78 homeowners and 5 of 52 lender attorneys believed their mediators pushed them too hard to settle. Homeowners and homeowner attorneys, however, were largely happy with the mediators. In contrast, lender representatives and homeowner attorneys were more likely to be dissatisfied with their mediator, with only 2/3 of lender attorneys saying they would definitely use their mediator again.

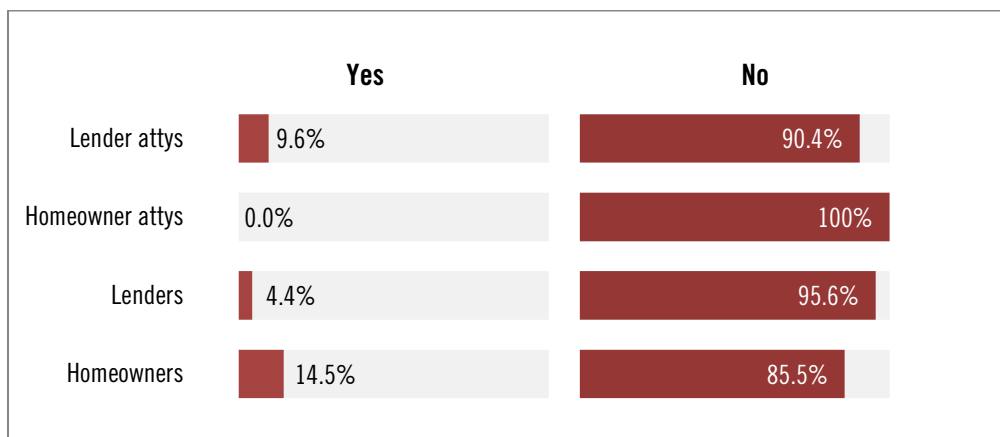
*Was the mediator active enough in helping the parties work out the issues in the dispute?*

Almost all participants felt their mediators was helpful in the process.

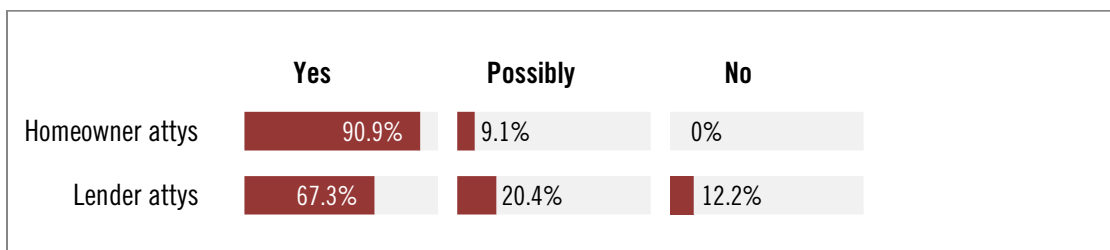


*Did the mediator push too hard to get you/your side to settle?*

A significant number of homeowners felt their mediator pushed them too hard.

*Would you use this mediator again?*

A third of lender attorneys had reservations about using the mediator for their case again.



Some homeowners indicated their appreciation for their mediator in their comments about what they liked about the mediation. The homeowners only had positive comments about the mediator:

- “Mediator asked questions I did not think of to ask.”
- “Good mediator.”
- “The process and person have been very professional.”
- “Knowledgeable mediator.”

As predicted by 91% of them saying they would use the mediator again, homeowner attorneys were also largely positive about their mediators. Although one criticized their mediator’s passivity, three others had positive comments:

- “Good understanding of the issues and helpful in helping craft a resolution.”
- “Very even-handed treatment. Great skills in reviewing options, what was discussed.”
- “Professional, pleasant, knowledgeable, fair.”

The few lender representatives who commented, on the other hand, were more generally negative in their comments. While one appreciated their knowledgeable and personable mediator, the others were less complimentary:

- “Perceived bias on behalf of mediator.”
- “The actual mediation session itself was longer than needed the lender felt the mediator asked repetitive questions of the borrower in the beginning of the mediation session which took up a lot of our time that was needed to discuss more important issues and concerns. The questions asked were discussing an emotional standpoint which took up 40-45 mins of the mediation even the borrower seemed confused by the repetitive questions.”
- “Mediator not willing to reach out to HUD advisor but reached out on behalf of the other side when they requested.”
- “Pretty much everything about the way the mediation was conducted. The mediator was not neutral and showed favoritism to the other party.”

The lender attorneys were more balanced in their perceptions of the mediators. In answer to why they would or would not use their mediator again, some had positive things to say about the mediators:

- “He was very professional and courteous to all parties.”
- “The mediator was very polite and helpful through the mediation process.”
- “He was very fair and neutral during mediation.”
- “Understood all the issues very helpful in explaining situation to the borrowers.”
- “Friendly; good at recapping and letting parties have private conversations to discuss issues.”

However, some were not as impressed by the mediators for their case:

- “Mediator provided legal advice to borrower that was inappropriate over my objection.”
- “Perceived bias on behalf on the mediator i.e. negative comments.”
- “The mediator wasn't very prepared for this session and seemed like she hadn't conducted a session before.”
- “He was not neutral at all. He was unwilling to understand the lender's position or allow it to reasonably explain its story. He did not foster negotiation or cooperation and sought to force the lender into an agreement. Threatened report of no cooperation for no valid reason.”

#### WHAT DOES THIS MEAN?

Although most participants indicated that their mediator was doing a good job, there are some red flags. More homeowners than in other programs felt that their mediator was pushing them too hard, and 1/3 of the lender attorneys were not fully satisfied with their mediator.

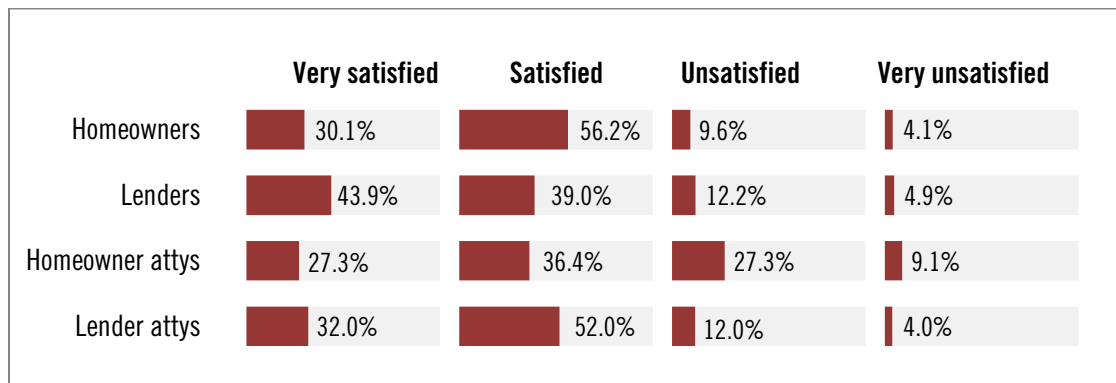


⇒ **Recommendation:** The program coordinator should continue to debrief with mediators after mediation sessions and discuss participant responses with them. If time permits, she should observe each mediator. If necessary, she should work with the Presiding Judge to consider further action for particular mediators.

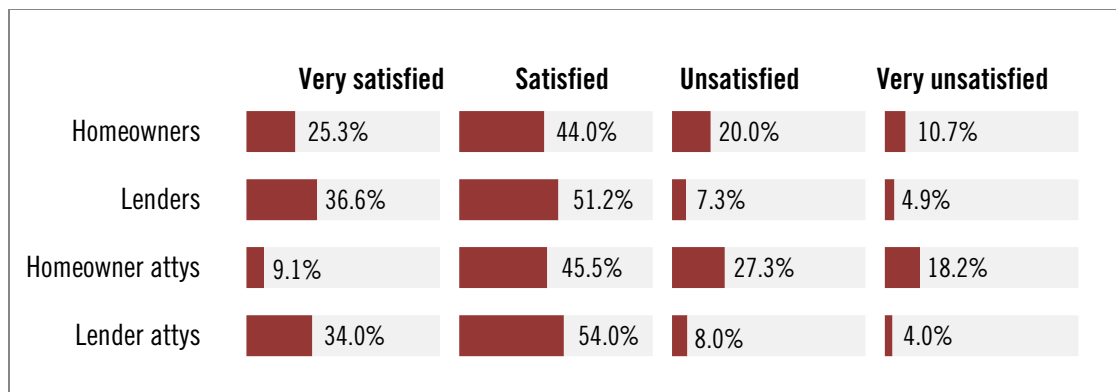
### Mediation: Satisfaction

Most participants were satisfied with the process and the outcome, with lender representatives and lender attorneys being slightly more satisfied than homeowners and homeowner attorneys. All groups were most likely to say they were “satisfied” than “very satisfied” and all groups were more likely to be satisfied with the mediation than to be satisfied with the outcome.

*How satisfied are you with your overall experience in the mediation session(s)?*



*How satisfied are you with the outcome?*



The reasons behind homeowner satisfaction, in addition to the comments above, included the ability to communicate and to obtain information:

- “Being able to talk directly with the bank on what we need so we can get it turned in.”
- “Knowing what docs with further explanation on what was needed.”
- “Able to talk somewhat with lender.”

- “It was very open.”
- “Understood where the lender was in the process.”
- “Very helpful and good information. Took the pain out of dealing with the issue.”
- “Very neutral environment to discuss issues.”
- “Appreciated our communication.”

Others appreciated procedural aspects:

- “Mediator allowed us to reschedule to obtain proof of disputed amount and to be represented by our counsel.”
- “2nd mediation was nice and short – Agreement made quickly.”
- “That we were able to get a continuance.”

Homeowners who commented on what they did not like had complaints that appear to be similar to those that led the courts to start the program:

- “Nothing with mediation – just didn't like that lender didn't notify that I needed other docs.”
- “It was unfortunate that the plaintiff didn't show for our scheduled appt. at 1:30 on 6/20/14. We were able to organize a conference call which made communication somewhat difficult.”
- “Lender/server rep spoke in private on phone about us. I would appreciate being privy to the conversation about us and why being offered a loan modification with 6.65% interest rate is fair. The market loan rate is 4.15%.”
- “Based on the fact that I and my husband were to be at mediation to discuss options with the lender it was unfair that the lender never picked up the phone and three attempted calls went to “on hold” music.”
- “BOA gave misinformation to AHC and myself and did not have authority to do anything. It was like a customer service call with [lender representative] being unempowered, uninformed and disinterested.”

Others were unhappy with the outcome:

- “We couldn't get to them to go lower with the monthly payment so I'm unhappy about these I was hoping to have help on their side but the mediator help us a lot.”
- “The mortgage company don't be flexible enough to help us to lower the payment that help us keep our house!”
- “Unfortunately the Bank just did not have an option for us.”
- “I wish I knew I could keep my home today.”
- “No se decidio nada. [Did not decide anything.]”

Some lenders and lender attorneys found the overall process to be difficult, primarily because there was not enough time to complete review or document exchange:

- “There was insufficient time to conduct a proper review of the loan modification. The mediation program rules do not provide enough time to the Plaintiff to conduct and complete a review of an applicant's borrower loan modification application.”
- “There may not be enough time in the mediation program to complete the loan modification process due to borrower needing to submit additional documents.”
- “Timing was strange because modification packet still being reviewed by underwriter.”
- “The parties should be allowed to agree to continue mediation. In this case, the communication surrounding outstanding documents was inaccurate. The parties moved forward to resolve this matter in good faith and the program's position that either party participated in bad faith or subject to sanctions is absurd.”
- “The time frame for mediation to be completed within is too short. It doesn't allow the lender enough time to complete a full review of the borrower's case.”

#### WHAT DOES THIS MEAN?

Although the participants were satisfied with the process, they were less satisfied than in the other programs in the study. The lenders and lender attorneys, in particular, were less satisfied. Their comments indicated that this was because they thought the deadlines for review and document exchange were too short and the mediators were too inexperienced or biased.

⇒ **Recommendation:** The short deadlines are affecting the lenders, as well as the homeowners. The rule changes that include longer deadlines should be approved. In addition, the court should look to have an ongoing dialogue with lender attorneys about the functioning of the program. Such a dialogue could take place during the monthly stakeholder meetings.

### **Participant Characteristics**

Given that the foreclosure crisis has hit Black/African-Americans and Latinos particularly hard,<sup>53</sup> it is a concern that the racial and ethnic makeup of those who participate in and complete the programs

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<sup>53</sup> Debbie Gruenstein Bocian, Wei Li, and Keith S. Ernst, [FORECLOSURES BY RACE AND ETHNICITY: THE DEMOGRAPHICS OF A CRISIS](#), Center for Responsible Lending, (June 18, 2010).

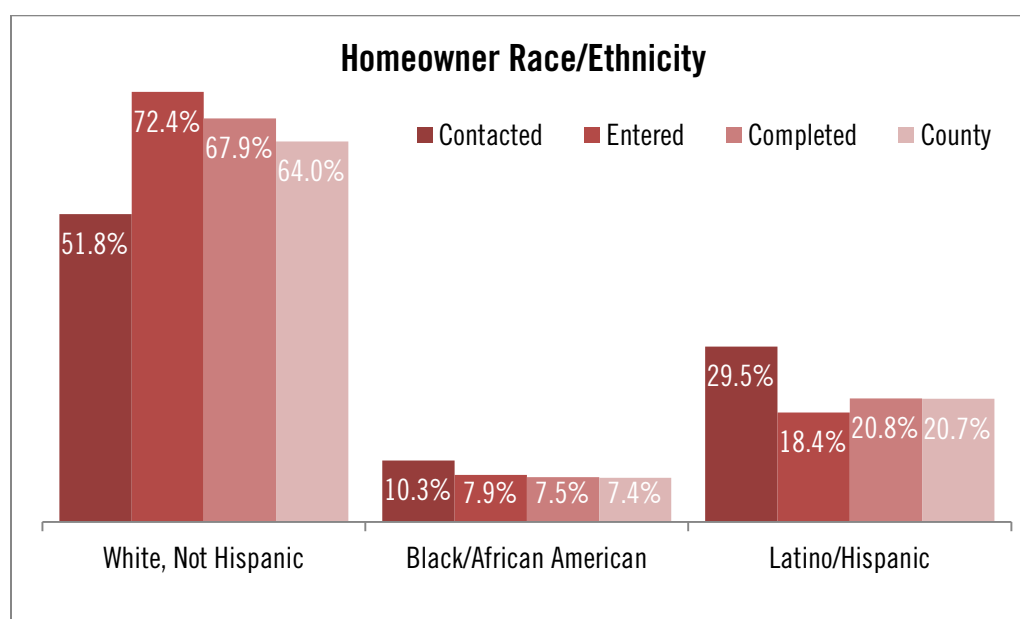
Hall, Matthew, Kyle Crowder, Amy Springer. “Neighborhood Foreclosures, Racial/Ethnic Transitions, and Residential Divisions,” *AMERICAN SOCIOLOGICAL REVIEW* (April 2015).

be similar to the racial and ethnic makeup of the county they serve.<sup>54</sup> Further, the program was interested in knowing whether the most vulnerable homeowners were being served.

### RACE/ETHNICITY OF PARTICIPANTS<sup>55</sup>

A higher percentage of Latinos and a lower percentage of non-Hispanic Whites contact the program than are represented in the county's population overall. However, a significantly lower percentage of Latinos enter the program than attended the informational session.<sup>56</sup>

Homeowner Race/Ethnicity				
	Contacted	Entered	Completed	County
White, Not Hispanic	51.8%	72.4%	67.9%	64.0%
Black/African American	10.3%	7.9%	7.5%	7.4%
Latino/Hispanic	29.5%	18.4%	20.8%	20.7%
Asian	5.3%	2.6%	3.8%	7.0%
Multi-Racial	1.2%	0%	0%	2.0%
Other	1.8%	6.6%	5.7%	1.0%



<sup>54</sup> Because there is no accurate data on individual homeowners facing foreclosure in Lake County, the racial and ethnic makeup of the county is used instead of the racial and ethnic makeup of those facing foreclosure.

<sup>55</sup> The race/ethnicity presented is for the primary homeowners only. There were no cases in which homeowners were of different races/ethnicities.

<sup>56</sup>  $P = 0.0153$

WHAT DOES THIS MEAN?

The racial/ethnic makeup of the homeowners who contacted the program could be representative the makeup of those against a foreclosure has been filed. However, the drop in the percentage of Latinos who enter the program may be a result of where the services have been provided. The Latino population of Lake County is concentrated in the northwestern part of the county, while the services are provided in the southern part of the county. Since AHC provides informational sessions in Spanish and Spanish-speaking housing counselors, the issue does not appear to be one of language. It also does not appear to be a purely cultural issue with mediation, as the 16<sup>th</sup> Circuit program does not have a similar drop in the percentage of Latinos who enter the program.

⇒ **Recommendation:** The program should institute the proposed changes to the court rule that would make the entry process easier, and should, in particular, attempt to provide services closer to where the majority of the Latino population lives.

**INCOME LEVEL OF PARTICIPANTS**

About 80% of the homeowners had a household income below the county median of \$77,469. Those making less than \$20,000 were less likely to enter the program, and then to complete it after attending the informational session. This is the same pattern as seen in the other programs.

	Household Income		
	Contacted	Entered	Completed
<\$20,000	18.3%	12.7%	9.6%
\$20,000 - \$34,999	23.2%	18.3%	21.2%
\$35,000 - \$49,999	22.4%	25.4%	21.2%
\$50,000 - \$74,999	20.9%	23.9%	26.9%
\$75,000 - \$99,999	7.2%	7.0%	7.7%
\$100,000-\$149,999	5.9%	8.5%	7.7%
\$150,000+	2.1%	4.2%	5.8%

WHAT DOES THIS MEAN?

The drop in participation and completion rates for homeowners with an income less than \$20,000 is most likely due to their viability for a loan modification. Low-income homeowners would generally be the least likely to qualify for a loan modification and, therefore, would more likely stop participating in the program prior to completion.

**AGE OF PARTICIPANTS**

Most primary homeowners were in their 40s and 50s.

	Household Age		
	Contacted	Entered	Completed
<30 years	0.7%	1.4%	0%
30-39	12.9%	15.3%	11.5%
40-49	27.5%	26.4%	26.9%
50-59	36.5%	36.1%	44.2%
60-69	16.1%	12.5%	9.6%
70-79	5.0%	6.9%	7.7%
80+	1.2%	1.4%	0%

## DISCUSSION AND RECOMMENDATIONS

The 19<sup>th</sup> Circuit program has the lowest participation rates of the Attorney General-funded programs. This is due to a combination of homeowners being told they have the opportunity to participate rather than telling them they must participate, the program's high hurdles to entry and the lack of judge referrals. However, once homeowners have entered the program, the program's two-part process is successfully helping homeowners to keep their homes and to provide them with a positive, respectful experience.

### PARTICIPATION IN THE PROGRAM LAGS OTHERS

Participation is the program's biggest issue. A much lower percentage of eligible homeowners contacts the program, and then participates in it than in any other program. This evaluation identified three reasons for the low participation rate.

#### 1. Participation hurdles are higher than in other programs

The court wanted to ensure that the homeowners understood the process before beginning the program so that the process would be more efficient. This led to the court requiring that homeowners attend an informational session prior to entering the program. Although the homeowners who attended the informational sessions really appreciated them and learned what the session wanted them to learn, only 11% of eligible homeowners attended. This points to the session being a barrier to participation. The other explanation – that homeowners were not aware of the program – does not fit with the evidence. First, other programs do not conduct as much outreach to raise awareness as the 19<sup>th</sup> Circuit program and yet, have higher participation rates. Second, the programs that send notices of mandatory appearance to homeowners have participation rates more than 60% with no other outreach.

**RECOMMENDATION:** The court has changed its rule to remove the requirement that homeowners attend the informational session. This rule change should be approved. However, the benefit of the informational sessions should not be lost. The program should continue with its plan to make a video of the informational session available to all homeowners.

## 2. The program was developed as a [multi-step entry](#) program

The single-step entry programs have much higher participation rates. The difference appears to be partially about the message homeowners receive. The single-step entry programs and the [hybrid](#) program all send a notice to the homeowners that says the program is “mandatory” and tells the homeowners they *must* take action, either appear for their session or call the program coordinator. None of them actually mandates homeowner participation. Further, the [one-step entry](#) programs give the homeowners a date and time to appear. The 19<sup>th</sup> Circuit program, on the other hand, tells homeowners they have the opportunity to participate and urges them to “act quickly.” Homeowners are not given a date to attend an informational session. Nor are they given a specific date by which they must do so in order to participate.

While the one-step entry programs have much higher participation, making the program mandatory is not recommended for a program as large as the 19<sup>th</sup> Circuit program. There are not enough resources to accommodate 60% or more of eligible homeowners.

**RECOMMENDATION:** Instead of changing how the program functions, the program might want to consider how to change the message that is sent to the homeowners. When the new program rules go into effect, the plan is to give homeowners a deadline for contacting the program coordinator and telling them they “must” call her. These changes should be made and the effect monitored.

## 3. Judges haven’t been in the habit of ordering cases into the program

There is ample evidence that more homeowners can be helped than contact the program after receiving their summons. In the 21<sup>st</sup> Circuit program, where 68% of homeowners responded to a mandatory summons, a projected 14% of all eligible homeowners keep their homes through the mediation program. This contrasts with 2% in the 19<sup>th</sup> Circuit program and shows that too many homeowners are self-selecting out of the process. The 20<sup>th</sup> Circuit program addresses this issue by ordering homeowners into the program at a later date. This has proven to be very successful, with more homeowners retaining their homes when ordered in than when they enter in response to the notice of mediation that accompanies their summons.

**RECOMMENDATION:** As of January 2015, the judges have begun to order in cases on the court’s own motion. The court should continue to encourage judges to order in appropriate cases.

## PARTICIPANTS ARE BEING ADVERSELY AFFECTED BY STRICT DEADLINES

The court wanted to ensure the program process did not drag on and slow down the foreclosure process. This led to the adoption of relatively short timeframes for the program as compared to other programs. The homeowners have found these deadlines hard to meet. While more than half of all homeowners who enter the program complete it, many withdraw because they cannot complete their documentation before the deadline.

Lenders, too, have complained about the short deadline for reviewing the homeowners' loan modification packets. The program coordinator has had to allow extensions in order for cases to move forward in the program. However, most deadlines cannot be extended under the court's current rule.

All of these indicate that the deadlines currently in place are too short. Other programs have longer deadlines, but are still able to limit the time cases spend in them to around three months, so lengthening program timeframes should not be detrimental to the goal of providing timely services.

**RECOMMENDATION:** The court has proposed changes to its rule to lengthen deadlines for both homeowners and lenders. These changes should be approved.

### **TWO-PART PROCESS IS APPRECIATED BY HOMEOWNERS**

The court wanted homeowners to have help navigating the process and completing their documents. Housing counseling was intended to provide this. According to both homeowners and the program coordinator, this aspect of the program is working very well. All homeowners who attend an informational session, and then housing counseling, receive guidance about their options and an explanation of the mediation process. This points to even ineligible homeowners getting to understand their situation better, and their questionnaire responses back this up. Homeowners almost all indicated they were very satisfied with this process, and that they learned a lot about their options and how to work with their lender. Their appreciation of their meeting with the housing counselor was very evident in the numerous glowing comments about the meeting and the counselor on the post-session questionnaire.

Once referred on to mediation, homeowners have the opportunity to have the face-to-face communication with their lenders that the court envisioned. Homeowners have appreciated this opportunity, as well as the respect with which they were treated. Those who commented on the lack of flexibility by their lenders or their lenders' non-appearance also commented on the respect with which they were treated or the helpfulness of the mediation and their mediator, showing that the mediation mitigated the effects of the lenders' decision or behavior. Further, the program enjoys a high agreement rate in mediation.

**RECOMMENDATION:** As the court considers how to help homeowners after the grant ends, it should try to maintain the two-part structure that is currently in place.

### **THOSE HOMEOWNERS WHO COMPLETE THE PROGRAM ARE WELL SERVED**

Once homeowners complete their documentation, the program works very well. Of those who stay in the program, 58% reach an agreement to retain their homes and 10% agree to a relinquishment option. This is the second highest rate of retention and the second highest rate of agreement of all the Attorney General-funded programs. However, if the 17<sup>th</sup> Circuit program is disregarded, which removes unviable homeowners, the 19<sup>th</sup> Circuit has the highest agreement rate of all programs.



## HOMEOWNERS HAD A POSITIVE EXPERIENCE

As important as how many homeowners avoid foreclosure, if not more so, is whether homeowners have a positive experience in the program. From the informational session onward, homeowners wrote of their appreciation of their experiences. In their comments, they wrote of the care, respect and courtesy with which they were treated at each stage of the process. They wrote of the wealth of information they received and the ability to communicate with their lenders. In their questionnaire responses, they consistently gave positive ratings to the process, their housing counselor and their mediator.

## MEDIATOR SKILLS

Most of the participants gave high marks to the mediators. Homeowners almost all said that mediators were helpful, but a larger percentage than in other programs felt coerced by their mediator. Nonetheless, they felt they were treated fairly and with respect. Lender representatives and lender attorneys, however, were less satisfied with the mediators. In eight cases, the attorneys said they would definitely not use their mediator again, and in another ten, they only said possibly. These attorneys mentioned mediator bias or lack of competence.

**RECOMMENDATION:** The program coordinator should continue to debrief with mediators after mediation sessions and discuss participant responses with them. If time permits, she should observe each mediator. If necessary, she should work with the Presiding Judge to consider further action for particular mediators.

## LATINOS ARE LESS LIKELY TO PARTICIPATE IN THE PROGRAM

Fewer non-Hispanic Whites and more Latinos contact the program than are represented in the county as a whole. This may reflect the foreclosure landscape in general. However, Latinos are significantly less likely to enter the program, and then to complete it, than homeowners of other races or ethnicities. This is not the case in the 16<sup>th</sup> Circuit program, which also serves a large Latino population. Services are provided in Spanish, so language is not the barrier to Latinos participating. Instead, it may have to do with where the services are provided. Housing counseling sessions are held in Libertyville, to the south of the county, while the Latino population lives in the northern part of the county. The program is addressing this by providing more drop off points around the county and by partnering with housing counseling agencies that can conduct sessions up north.

**RECOMMENDATION:** Continue to work to provide services closer to the county's Latino population. Also, monitor the participation rates of Latinos to see if this alleviates the problem.

## Conclusion

The 19<sup>th</sup> Judicial Circuit Residential Mortgage Foreclosure Mediation Program has the lowest participation rate of all the Attorney General-funded programs. Once homeowners enter, the program's retention rate is similar to other programs; however, homeowners who complete the

program are more likely to keep their homes than in any other program but the 17<sup>th</sup> Circuit program. Housing counseling is helping all homeowners to gain understanding about their options and how to work with their lender. The homeowners also report that they are being treated fairly and with respect by both housing counselors and mediators. The program needs to focus on making entry into the program easier and lengthening deadlines so that it is easier for homeowners to comply with them, leading fewer to leave the program prior to completing it.

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# APPENDICES

## DEFINITIONS

### Definitions Specific to this Evaluation

**Circuit:** In this evaluation, the term “Circuit” refers to one of the 24 Judicial Circuits in Illinois. Some of those circuits are made up of multiple counties and others are single-county circuits. For those circuits comprised of multiple counties, the evaluation refers to the Circuit number and then indicates which counties are served. In the 6<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> Circuits, only one county is served by each program, while in the 17<sup>th</sup> Circuit both counties are served by the program, but these are referred to as the 6<sup>th</sup>, 20<sup>th</sup>, 21<sup>st</sup> and 17<sup>th</sup> Circuit programs.

**Foreclosure:** This evaluation uses the term “foreclosure” as it is used in the vernacular, to refer to both the process of foreclosing on a home by a foreclosure action that is filed in court as well as the final act of a lender obtaining ownership of a home as the result of a court granting foreclosure.

**Foreclosure avoidance:** After a foreclosure lawsuit is initiated, the options are that the foreclosure process will continue, resulting in foreclosure judgement and sale, or the lender and homeowners may agree to some foreclosure alternative. Alternatives where the homeowners retain possession of their home are known as [retention](#) agreements. Alternatives where the homeowners vacate the property are known as [relinquishment](#) options.

**Homeowners:** The term “homeowners” is used in this evaluation – instead of other terms such for those who have borrowed via a mortgage, such as borrowers, debtors or mortgagors – because the programs studied specifically work with those who borrow money to purchase a home.


A further distinction is drawn between the use of the term “*the* homeowners” and “homeowners.” “*The* homeowners” refers to the person or people who have taken out a mortgage to own a single home. For example, “The homeowners decided to work through a foreclosure mediation program to try to keep their home.” Likewise, “homeowners” is used as the plural of “the homeowners.” For example, “Homeowners attend housing counseling sessions before meeting with lenders.” While this system may create moments of grammatical confusion, it is intended to differentiate between the owner(s) of a particular home who are defendants in a case concerning that home as compared to a group of people who all own homes. Thus, when discussing data, such as “homeowners entering the program,” the evaluation is not quantifying individual people who own homes, but rather, homes.

**Lenders:** The term “lenders” is used in this evaluation to refer to the various creditor entities that may be involved in foreclosure mediation, such as banks and servicers.



## Foreclosure Terms

Document exchange: The term “document exchange” is used to describe the period between when the homeowners first submit a loan modification packet and the lender’s review of that packet. During that time, the lender may request additional documents from the homeowners in order to have the necessary information to review the packet. If this process does not move swiftly enough, the documents become “stale” and updated versions must be submitted.




Graceful Exit/Relinquishment: With a graceful exit or relinquishment option, homeowners avoid foreclosure, while transitioning out of the home. For example, through the federal government’s Home Affordable Foreclosure Alternatives (HAFA) Program, the homeowners may be able to receive assistance, such as with relocation, to help make it possible for them to transition to a new home after a short sale or deed in lieu of foreclosure.<sup>77</sup>

Cash for Keys: With a cash for keys program, the lender offers the homeowners cash to vacate the property quickly, leaving it in good condition. This cash can assist the homeowners with expenses such as moving costs and security deposits in rented homes.

Consent Foreclosure: The lender and homeowners may agree to a consent foreclosure, where the homeowner will have no right of redemption and the lender agrees not to file for a deficiency judgment.

Deed in lieu: With a deed in lieu of foreclosure, the lender lets the homeowner give the title to the property back, transferring ownership back to the lender. A lender will not accept a deed in lieu of foreclosure if there are any other liens on the property. The lender may require that homeowners try to sell the property for 90 days first before approving a deed in lieu. One benefit of deed in lieu is that the lender may agree to waive the deficiency judgement, releasing homeowners of liability under the mortgage.



Short Sale: In a short sale, the lender agrees to let the homeowners sell the property to a new buyer for an amount less than what the homeowners currently owes the lender.<sup>78</sup>

HAMP (Home Affordable Modification Program): A federal government program that helps homeowners obtain loan modifications from participating lenders. Most large lenders participate; a “HAMP review” is their first step in considering a loan modification.

Loan modification packet: In order to be considered for HAMP, homeowners must submit an “Initial Package” to their servicer.<sup>79</sup> The Initial Package includes a request for modification and

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<sup>77</sup> “Home Affordable Foreclosure Alternatives (HAFA) Program,”

<http://www.makinghomeaffordable.gov/programs/exit-gracefully/Pages/hafa.aspx>

<sup>78</sup> Id.

affidavit, tax forms, verification of income and a Dodd Frank certification form.<sup>80</sup> Lenders often ask that homeowners complete the lenders' specific Request for Mortgage Assistance (RMA) Application. The RMA Application will allow the lender to evaluate the homeowners for HAMP or other foreclosure prevention alternatives. The RMA Application requires detailed information, including borrower details, property details, income worksheets, a hardship affidavit and tax forms.

**Retention:** An alternative to foreclosure that allows the homeowners to retain possession of the home.

**Forbearance:** A forbearance reduces or suspends mortgage payments for a period of time. Therefore, a forbearance can be helpful to homeowners experiencing a temporary hardship. At the end of the forbearance period, the homeowner must bring the loan current.<sup>81</sup>

**Modification:** Homeowners who wish to remain in their homes can ask to be evaluated for a loan modification. The lender will run a net present value test, which measures the benefit to the investor of a loan modification, part of which is the homeowners' ability to pay a new loan amount.<sup>82</sup> A modification may be under [HAMP](#), but proprietary modifications may be available, as well. HAMP modifications are generally more favorable for homeowners and should be evaluated first.<sup>83</sup> Loans are modified based on a "waterfall analysis," meaning that the lender will evaluate a series of changes to the loan (capitalizing arrearages, reducing interest rate, extending amortization term, forbearing principal and/or reducing payment) to see if the homeowners' payment can be made affordable.<sup>84</sup>

**Redemption:** Redemption is when the homeowner pays off the whole loan. In Illinois, the right to redeem, or to pay the balance of the mortgage and fees, expires seven months after service of summons or three months after judgment, whichever comes later.<sup>85</sup>

**Reinstatement:** Reinstatement is when homeowners catch up on all missed payments and fees. Reinstatement ends the foreclosure suit so that the homeowner is up-to-date on the mortgage.<sup>86</sup> Homeowners can only reinstate once every five years.<sup>87</sup>

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<sup>79</sup> "Request a Home Affordable Modification," <http://www.makinghomeaffordable.gov/get-assistance/request-modification/Pages/default.aspx>

<sup>80</sup> Id.

<sup>81</sup> NOLO, Legal Encyclopedia, <http://www.nolo.com/legal-encyclopedia/whats-the-difference-between-loan-modification-forbearance-agreement-repayment-plan.html>

<sup>82</sup> National Consumer Law Center, training material slides on file with Resolution Systems Institute.

<sup>83</sup> Id.

<sup>84</sup> Id.

<sup>85</sup> Id.

<sup>86</sup> Illinois Legal Aid Online, [http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp\\_Content&contentID=4650#q=6](http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp_Content&contentID=4650#q=6)

<sup>87</sup> Id.

Temporary loan modification: Under HAMP, if homeowners are approved for a modification, they must first complete a three month trial period plan (TPP). It is not necessary for homeowners to sign the trial modification agreement; they just have to start making timely payments to accept it.<sup>88</sup> During the TPP, the amount the homeowners owe the lender continue to accrue. Payments are held in a suspense account until the amount of a full payment under the mortgage note is reached, which is when the payments are applied. After three payments, the TPP should be converted into a permanent modification. Conversion to permanent modification can sometimes be stalled, which homeowners should not be penalized for. After the permanent modification is in place, arrearages are capitalized and interest will start to accrue at the reduced rate.<sup>89</sup> In the case of a proprietary modification not under a government program, the lender may still require a trial period.



### Foreclosure Program Types

Hybrid: This term is used to describe the 16<sup>th</sup> Circuit program. In this program, homeowners receive a notice of mediation that says they must contact the program coordinator in order to participate, but they also must file an appearance. Thus, it is a hybrid of the one-step entry and multi-step entry models.

Multi-step entry: The term “multi-step entry” is used in this study to describe a program in which the homeowners receive a notice of mediation with their summons that tells them they have the opportunity to participate in the mediation program. They then must complete two or more steps to participate. The 17<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup> Circuit programs use this model.

One-step entry: The term “one-step entry” is used in this study to describe a program in which the homeowners receive a summons that includes the date and time that must appear for their first pre-mediation session. When the homeowners appear for the session, they are considered to have entered the program, thus only needing one step to enter. The 6<sup>th</sup> and 21<sup>st</sup> Circuit programs have this type of program.

### General Court Terms

Complaint: “A written statement by the plaintiff that starts a lawsuit. It says what the plaintiff thinks the defendant did and asks the court for help.”<sup>90</sup> In the foreclosure context in Illinois, the complaint

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<sup>88</sup> National Consumer Law Center

<sup>89</sup> National Consumer Law Center

<sup>90</sup> Illinois Legal Aid Online,

[http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp\\_Content&contentID=4650#q=6](http://www.illinoislegalaid.org/index.cfm?fuseaction=home.dsp_Content&contentID=4650#q=6)

form must comply with 735 ILCS 5/15-1504.<sup>91</sup> The mortgage and current copy of the note should be attached. The plaintiff should identify the “capacity” in which it brings the suit, such as owner or agent.<sup>92</sup> The complaint should also specify the current unpaid balance and per diem interest. Under 12 C.F.R. § 1024.41, the foreclosure complaint cannot be filed until the borrower is 120 days late.<sup>93</sup>

Default: Default is defined by mortgage documents, but usually means a missed mortgage payment. Default could also result from a lack of insurance, sale of property, failure to make required repairs, etc.<sup>94</sup>



Filing an Answer: An answer is the defendant’s response to the foreclosure complaint. The homeowners/defendant has 30 days from service to file the appearance and answer.<sup>95</sup> Under 735 ILCS 5/15-15-4(h), homeowners can answer or file a counterclaim.<sup>96</sup> If the defendant does not file an answer, the court will proceed with the foreclosure.

Filing an Appearance: By filing an appearance, a homeowner acknowledges the lawsuit, but makes no claim that he or she agrees with the lender’s suit. Having an appearance on file means the homeowner will be notified of all future court dates. There is a fee to file an appearance, but fee waivers may be available.<sup>97</sup>

Service of Process: Service is the delivery of “legal papers to the opposing party in a case.”<sup>98</sup> Service gives the defendant notice of the legal action and is carried out by the sheriff or process server. If personal service is not possible, a notice will be put in the local newspaper and the homeowner will be considered served by publication. Most program deadlines start from when service is made upon the homeowner.

Summons: “A notice to a defendant that a lawsuit against him or her was filed in a court and that the defendant has to appear in court.”<sup>99</sup> In the foreclosure context, the summons must include a Homeowner Notice (735 Illinois Compiled Statutes 5/15-1504.5). This notice explains the homeowners’ rights in terms of possession, ownership, [redemption](#) and surplus, among other things. For jurisdictions with foreclosure mediation, a notice of foreclosure mediation is attached to the summons and complaint.

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<sup>91</sup> Id.

<sup>92</sup> Id.

<sup>93</sup> Id.

<sup>94</sup> National Consumer Law Center

<sup>95</sup> Illinois Legal Aid Online

<sup>96</sup> National Consumer Law Center

<sup>97</sup> Illinois Legal Aid Online

<sup>98</sup> Id.

<sup>99</sup> Id.



## EVALUATION METHODOLOGY

This evaluation is the first of two that were funded by the Office of the Illinois Attorney General. It is formative, meaning that the goal is to provide guidance to the courts and the programs about what is working well and how they can improve. It is not meant to determine if one particular model is better than any other or to determine whether the homeowners who participated in the programs were better served than those who did not. The evaluation examines program processes, participation, outcomes and the time spent in the programs. It also examines participant experience, with a focus on whether homeowners were treated fairly and with respect, and whether they gained an understanding about their situation.

### Evaluation Period

The evaluation period for this study begins with the launch of each program and ends with cases that were filed by December 31, 2014. This means that there was a year or more of data for the 16<sup>th</sup>, 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> Circuit programs, but only seven months for the 17<sup>th</sup> Circuit program and three months for the 6<sup>th</sup> Circuit program. Additionally, in the 6<sup>th</sup> Circuit program, only two pre-mediation session calls had been held prior to the end of the evaluation period.

### Data Collection Tools

#### ONLINE CASE MANAGEMENT AND MONITORING SYSTEM

One key to this evaluation was the creation and use of uniform data fields across six different program models. The evaluator worked with program coordinators, court personnel and housing counselors to customize a commercially-available online case management system to fit the foreclosure mediation programs' case management and data collection needs. The system was designed so that almost all data were collected automatically and did not require program staff to spend time entering data needed for the evaluation. For example, participant questionnaires were all scannable.

This system was used by five of the six programs in the study. In the 21<sup>st</sup> Circuit program, the mediation provider, Foreclosure Mediation Specialists, wanted to keep its data collection uniform with the other programs it was administering and declined to use the online system. The program administrator did, however, provide data the evaluator could adapt to work with the information the other programs were collecting.

Before each program launched, as well as during the evaluation period, the evaluator continued to work with each program to further customize fields to fit both their case management needs and the evaluator's need for a uniform set of definitions for each data collection field. The customized online

system enabled the five participating programs to collect the same data so that they could be assessed on the same criteria, allowing an apples-to-apples comparison.

The data collected from the online system included homeowner demographics, dates between each milestone to determine how long it was taking for cases to get through each phase of the process, the point at which each homeowner left the program, and case outcomes, including whether temporary loan modifications were converted to permanent modifications.

## **POST-SESSION REPORTS**

The online system included online reports to be completed by the person charged with conducting the sessions. The reports collected data on whether or not the session was held, the reason it was not held and what the result of the session was if it was held. If it was the concluding session, the final outcome was recorded, as well. Finally, it included the amount of time spent in the session and whether the parties complied with the court rules.

These reports were completed after each session. In the 17<sup>th</sup> and 19<sup>th</sup> Circuit programs, the pre-mediation session report was completed by the housing counselor. In the 20<sup>th</sup> and 6<sup>th</sup> Circuit programs, the outcomes were entered by the program coordinator. The reports were not completed in the 16<sup>th</sup> or 21<sup>st</sup> Circuit programs. The mediation session reports were completed by the mediators in the 16<sup>th</sup>, 17<sup>th</sup> and 19<sup>th</sup> Circuit programs.

## **POST-SESSION QUESTIONNAIRES**

Participant questionnaires in a paper-and-pencil format were created for pre-mediation and mediation sessions. In the 19<sup>th</sup> Circuit program, a questionnaire was created for its group informational session as well. The questionnaires were designed as optical mark recognition forms that allowed them to be scanned into software that automatically read the participants' responses into the database.

### **Informational Session Questionnaires**

Questionnaires for the group informational session in the 19<sup>th</sup> Circuit program examined whether the goals of the session were met and provided an opportunity for homeowners to rate the presenter. They also collected the same demographic data as is collected in the online system. The questionnaires were passed out to homeowners at the end of the sessions. They were available in English and Spanish.

### **Pre-Mediation Session Questionnaires**

The questionnaire completed after pre-mediation sessions in all programs asked homeowners about how much they learned about their options and how to work with their lender, how they were treated, and their overall satisfaction. The questionnaire was available in English and Spanish. Programs had different practices for distributing the questionnaires:

- In the 17<sup>th</sup> and 19<sup>th</sup> Circuit programs, the housing counselor handed the homeowners the questionnaire after their last session. Homeowners completed the questionnaire after housing counselors stepped away.
- In the 6<sup>th</sup> and 21<sup>st</sup> Circuit programs, the program coordinator asked homeowners to complete the questionnaire after their first pre-mediation sessions. The homeowners had already left their session and were therefore no longer in the same room as the person with whom they met for their session.
- In the 20<sup>th</sup> Circuit program, the program coordinator asked homeowners to complete the questionnaire after the final pre-mediation sessions. This meant that they completed it after they completed the program and had negotiated with their lenders, in most cases. The program coordinator stepped away while the homeowners completed the questionnaire.

### Mediation Session Questionnaires

Parties and attorneys completed separate mediation session questionnaires. The questionnaires were adapted from the model forms developed by a joint project of Resolution Systems Institute and the American Bar Association Section of Dispute Resolution. These forms were the product of a national committee of researchers and program administrators and had been tested in two mediation programs prior to their use for the Illinois foreclosure mediation programs.

The questionnaires examined procedural justice factors, mediator coercion and helpfulness, fairness and satisfaction. The questionnaire for attorneys also asked whether they would use their mediators again. The party questionnaire was available in English and Spanish.

The participants were asked to complete the post-session questionnaire at the end of each session.<sup>100</sup> The mediator asked the participants to complete the form, and then left the room. Because the representatives for the lender participated by phone, the lender attorneys read them the questions and filled out the questionnaire for them. For the evaluation, only the last questionnaire completed by each participant was used to calculate aggregate responses.

### INTERVIEWS

The evaluator interviewed all program coordinators, as well as a judge in each of the programs, except the 6<sup>th</sup> and 21<sup>st</sup> Circuit programs. She also interviewed others involved in the programs if they were extensively involved in its administration. This included the housing counselor in the 17<sup>th</sup> Circuit program and a mediator who managed the cases and conducted half of the sessions in the 21<sup>st</sup> Circuit program. Two lender attorneys were also interviewed. All interviews were semi-

<sup>100</sup> The questionnaires were not used in the 21st Circuit program because formal mediation was rare. No mediations had occurred in the 6th Circuit program; therefore the questionnaire had not yet been used there.

structured and conducted over the phone. For all but the program coordinators, the interviews lasted 20 to 30 minutes. The program coordinator interviews took about two hours each.

### **Limitations of the Study**

In setting up the online system for data collection purposes, the evaluator aimed to have uniform data and uniform definitions of what each field represented. However, the programs, at times, developed their own uses for some of those fields and definitions that did not coincide exactly with the other programs. In order to make the data more uniform, the evaluator redefined the fields when analyzing the data; however, there may be some skewing of the data because of the differences in how the data were collected.

The evaluation was conducted by an employee of Resolution Systems Institute. Her status as an employee of RSI may have led to an unconscious bias when evaluating the programs administered by RSI, although she guarded against it.

## ILLINOIS FORECLOSURE MEDIATION PROGRAM

### Information Session Homeowner Survey

To help us to best provide information to homeowners like you, please answer the questions below. Your responses will be kept confidential and will be used to evaluate our services.

**Answer Selection:** Correct = ● Incorrect = ✕ ✓ ⊖

Date of Class:

Presenter:

	Excellent	Good	Poor	Very Poor
1. How would you rate the class overall?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Please let us know how well you understand the following topics from the presentation:**

	Very well	Somewhat	Not at all
2. The options available to you to save your home	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. How the foreclosure mediation program works	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. How to contact AHC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Please rate the presenter on the following:**

	Excellent	Good	Poor	Very poor
5. Presentation of the material	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Knowledge of the material	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Organization of the material	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. Are you eligible to participate in the foreclosure mediation program? This is the program where you can sit down with the bank to mediate the foreclosure.

☐ Yes

☐ No

9. What did you like most about the class?

10. What did you like the least about the class?

**PLEASE TURN OVER ⇒**

## ILLINOIS FORECLOSURE MEDIATION PROGRAM

### Information Session Homeowner Survey

Do you have a comment about this class or AHC we can share on social media (e.g., Facebook?) If so, please write it below. If we can use your first name, please write it here: \_\_\_\_\_

It is important for us to know who our program is serving. Your responses to the following questions will help us do that. You don't have to answer the questions, but your help is appreciated. Your answers will remain completely confidential.

#### What is your zip code?

—	—	—	—	—
—	—	—	—	—
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
◀	◀	◀	◀	◀
▶	▶	▶	▶	▶
▲	▲	▲	▲	▲
▼	▼	▼	▼	▼
◀◀	◀◀	◀◀	◀◀	◀◀
▶▶	▶▶	▶▶	▶▶	▶▶
◀◀	◀◀	◀◀	◀◀	◀◀

#### Ethnicity:

- ☐ American Indian/Alaskan Native
- ☐ Asian
- ☐ Black/African-American
- ☐ Latino/Hispanic
- ☐ Native Hawaiian/Pacific Islander
- ☐ White, Not Hispanic
- ☐ Multiracial
- ☐ Other: \_\_\_\_\_

#### Age Range:

- ☐ Under 30
- ☐ 30-39
- ☐ 40-49
- ☐ 50-59
- ☐ 60-69
- ☐ 70-79
- ☐ 80+

#### Household Income:

- ☐ Less than \$20,000
- ☐ \$20,000 - \$34,999
- ☐ \$35,000 - \$49,999
- ☐ \$50,000 - \$74,999
- ☐ \$75,000 - \$99,999
- ☐ \$100,000 - \$149,999
- ☐ \$150,000+


#### Gender

- ☐ Male
- ☐ Female

## FORECLOSURE MEDIATION

### Pre-Mediation Session Report

Please fill out this form after your pre-mediation session.

Final Report	<input type="checkbox"/> Yes <input type="checkbox"/> No
Type of Service	<input type="checkbox"/> Facilitated Bi-Lateral Session <input type="checkbox"/> Housing Counseling Session <input type="checkbox"/> Pre-Mediation Session <input type="checkbox"/> Legal Services (Required)
Was the session held?	<input type="checkbox"/> Yes, Service Completed (R) <input type="checkbox"/> Yes, Service Continued <input type="checkbox"/> No, Return to Court <input type="checkbox"/> No, Session Rescheduled
Session Date	<input type="text"/> mm/dd/yy 
Time Spent in Session (hours; can be in portions: 1.25 etc)	<input type="text"/>
Final Session Result	<input type="checkbox"/> Referred to mediation <input type="checkbox"/> Referred to other service <input type="checkbox"/> Accepted homeowner as client (legal services only) <input type="checkbox"/> Return to court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement <input type="checkbox"/> Other (indicate below)
Reason returned to court (check all that apply)	<input type="checkbox"/> Homeowner did not appear <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> Homeowner did not provide complete documentation in required timeframe <input type="checkbox"/> Homeowner withdrew <input type="checkbox"/> Other (indicate below)
If other reason returned to court, describe	<input type="text"/>

## FORECLOSURE MEDIATION

### Pre-Mediation Session Report

Reason case rescheduled or continued (check all that apply)	<input type="checkbox"/> Servicer required new packet <input type="checkbox"/> Servicer didn't have requisite documents prepared <input type="checkbox"/> Servicer didn't review homeowner documents <input type="checkbox"/> Homeowner did not provide sufficient documents <input type="checkbox"/> Homeowner's change in circumstances <input type="checkbox"/> Rescheduled at request of homeowner <input type="checkbox"/> Rescheduled at request of servicer <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> More time needed to negotiate <input type="checkbox"/> Other (indicate below)
If "other" above, reason rescheduled/continued	<input style="width: 100%;" type="text"/>
Which service was homeowner referred to?	<input type="checkbox"/> Land of Lincoln Legal Services <input type="checkbox"/> Prairie State Legal Services <input type="checkbox"/> Bankruptcy attorney <input type="checkbox"/> Credit/debt management agency <input type="checkbox"/> Social services agency (select below) <input type="checkbox"/> Other (indicate below)
If "particular agency" above, which one?	<input style="width: 100%;" type="text"/>
If "other" above, which other service was the homeowner referred to?	<input style="width: 100%;" type="text"/>
Final Case Outcome	<input type="checkbox"/> Program Not Completed - Return to Court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement: Retention <input type="checkbox"/> Agreement: Relinquishment <input type="checkbox"/> No Agreement <input type="checkbox"/> Other (indicate below)
If other case outcome, please describe	<input style="width: 100%;" type="text"/>



## FORECLOSURE MEDIATION

### Pre-Mediation Session Report

If home retained, what was agreed to?	<input type="checkbox"/> Permanent loan modification <input type="checkbox"/> Reinstatement <input type="checkbox"/> Forbearance <input type="checkbox"/> Short payoff <input type="checkbox"/> Refinance <input type="checkbox"/> Other (indicate below)
If other retention option, please describe	<input style="width: 100%;" type="text"/>
If home relinquished, what was agreed to?	<input type="checkbox"/> Short sale <input type="checkbox"/> Deed in Lieu <input type="checkbox"/> Relocation assistance (cash for keys) <input type="checkbox"/> Consent judgment <input type="checkbox"/> Other (indicate below)
If other relinquishment option, please describe	<input style="width: 100%;" type="text"/>
Did both parties comply with program requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If not, who didn't comply? (check all that apply)	<input type="checkbox"/> Lender <input type="checkbox"/> Homeowner

**Illinois Foreclosure Mediation Program  
HOUSING COUNSELING SESSION SURVEY**

To help us to maintain the quality of the housing counseling program, please answer all of the questions below. Your responses will be kept confidential and will be used to improve our services. No identifying information about you will be released.

Case Number:

Date:


The following questions ask about your experience with the pre-mediation counseling session. Please fill in one circle for each question.

**Answer Selection:** Correct = ● Incorrect = ☒ ☒ ☒ ☒

	Not at all	Somewhat	Very much
1. Did the counselor treat you with respect?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. Did the counselor treat you fairly?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. Do you understand how to work with your lender better than you did before the session?			
<input type="radio"/> No, I still don't understand. <input type="radio"/> No, because I understood before the session. <input type="radio"/> Yes, somewhat better. <input type="radio"/> Yes, very much better.			
4. Do you <u>understand the options</u> you have regarding your home better than you did before the session?			
<input type="radio"/> No, I still don't understand my options. <input type="radio"/> No, because I understood my options before the session. <input type="radio"/> Yes, somewhat better. <input type="radio"/> Yes, very much better.			
4. How satisfied are you with your <u>overall experience</u> with the counseling session(s)?			
<input type="radio"/> Very unsatisfied <input type="radio"/> Unsatisfied <input type="radio"/> Satisfied <input type="radio"/> Very satisfied			
5. Please let us know what you <u>liked</u> about the session(s):			
6. Please let us know what you <u>didn't like</u> about the session(s):			

## FORECLOSURE MEDIATION PROGRAM

### Mediator Report

Final Report?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Was mediation held?	<input type="checkbox"/> Yes, Mediation Completed <input type="checkbox"/> Yes, Mediation Continued <input type="checkbox"/> No, Return to Court <input type="checkbox"/> No, Mediation Rescheduled
If not held, reason returned to court (check all that apply)	<input type="checkbox"/> Homeowner did not appear <input type="checkbox"/> Homeowner did not provide complete documentation in required timeframe <input type="checkbox"/> Homeowner withdrew <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> Other (indicate below)
If other reason returned to court, describe	<input type="text"/>
Reason mediation rescheduled or continued (check all that apply)	<input type="checkbox"/> Servicer required new packet <input type="checkbox"/> Servicer didn't have requisite documents prepared <input type="checkbox"/> Servicer didn't review homeowner documents <input type="checkbox"/> Homeowner didn't provide sufficient documentation <input type="checkbox"/> Homeowner's change in circumstances <input type="checkbox"/> Rescheduled at request of homeowner <input type="checkbox"/> Rescheduled at request of servicer <input type="checkbox"/> Servicer did not appear/did not have authority <input type="checkbox"/> Servicer attorney did not appear <input type="checkbox"/> More time needed to negotiate <input type="checkbox"/> Other (indicate below)
If other reason rescheduled or continued, describe	<input type="text"/>
Date of mediation session	<input type="text"/> mm/dd/yy 
Time spent in mediation session (in fractions of hours - e.g., 1.25)	<input type="text"/>
Time spent on case outside of mediation session	<input type="text"/>

## FORECLOSURE MEDIATION PROGRAM

### Mediator Report

Final Case Outcome	<input type="checkbox"/> Program Not Completed - Return to Court <input type="checkbox"/> Temporary Loan Modification <input type="checkbox"/> Agreement: Retention <input type="checkbox"/> Agreement: Relinquishment <input type="checkbox"/> No Agreement <input type="checkbox"/> Other (indicate below)
If other case outcome, please describe	<input type="text"/>
If home retained, what was agreed to?	<input type="checkbox"/> Permanent loan modification <input type="checkbox"/> Reinstatement <input type="checkbox"/> Forbearance <input type="checkbox"/> Short payoff <input type="checkbox"/> Refinance <input type="checkbox"/> Other (indicate below)
If other retention option, please describe	<input type="text"/>
If home relinquished, what was agreed to?	<input type="checkbox"/> Short Sale <input type="checkbox"/> Deed in lieu <input type="checkbox"/> Relocation assistance (cash for keys) <input type="checkbox"/> Consent Judgment <input type="checkbox"/> Other (indicate below)
If other relinquishment option, please describe	<input type="text"/>
Did both parties comply with program requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If no, who didn't comply (check all that apply)	<input type="checkbox"/> Lender <input type="checkbox"/> Homeowner

**ILLINOIS FORECLOSURE MEDIATION PROGRAM  
EVALUATION FOR PARTIES**

Case Number:

Date:

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

**Answer Selection:** Correct = ● Incorrect = ✗ ✓ ⊖

1. What is your role in the case?

- ☐ Lender/Servicer
- ☐ Homeowner
- ☐ Other: \_\_\_\_\_

The following questions ask about your experience during the mediation session. Please fill in one circle for each question.

2. Were you able to talk about the issues and concerns that were most important to you?

- ☐ I was able to talk about none of the issues and concerns that were most important to me.
- ☐ I was able to talk about some of the issues and concerns that were most important to me.
- ☐ I was able to talk about most of the issues and concerns that were most important to me.
- ☐ I was able to talk about all of the issues and concerns that were most important to me.

3. Was the mediator active enough in helping you to work out the issues in the dispute?

- ☐ No
- ☐ Yes

	Not at all	Somewhat	Very much
4. How much did the mediator understand what was important to your side?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. Did the mediator treat you with respect?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6. Did the mediator treat you fairly?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

7. Did the mediator push too hard to get you to settle?

- ☐ No
- ☐ Yes

**8. To the best of your knowledge, were any of the following true at the time of the mediation? Please fill in the circle for all that apply**

- A. ☐ Some information that would have been helpful in the settlement discussions was not available at the mediation.
- B. ☐ When mediation began, the other party and I were very far apart in what we wanted the outcome of the case to be.
- C. ☐ The time we had to mediate was too short.
- D. ☐ One or more participants did not have authority to settle.
- E. ☐ There was anger/hostility between the other party and me.
- F. ☐ There was a large power imbalance between the other party and me.

	Very Unsatisfied	Unsatisfied	Satisfied	Very Satisfied
9. How satisfied are you with the <u>outcome</u> of the mediation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. Regardless of the outcome, how satisfied are you with your <u>overall experience</u> in the mediation session(s)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**11. Overall, was the mediation process fair?**

- ☐ Not at all
- ☐ Somewhat
- ☐ Very much

**Please let us know more about your experience:**

**12. Please let us know what you liked about the mediation:**

**13. Please let us know what you didn't like about the mediation:**

## ILLINOIS FORECLOSURE MEDIATION PROGRAM

### EVALUATION FOR ATTORNEYS

Case Number:

Date:

To help us to maintain the quality of the mediation program, please answer all of the questions below. Your responses will be kept confidential and will be used to evaluate our services. No identifying information about you will be released.

**Answer Selection:** Correct = ● Incorrect = ✗ ✓ ⊖

1. Which party did you represent in the case?

- ☐ Lender/Servicer
- ☐ Homeowner
- ☐ Other: \_\_\_\_\_

The following questions ask about your experience during the mediation session. Please fill in one circle for each question.

2. Was your side able to talk about the issues and concerns that were most important to you?

- ☐ We were able to talk about **none** of the issues and concerns that were most important to us.
- ☐ We were able to talk about **some** of the issues and concerns that were most important to us.
- ☐ We were able to talk about **most** of the issues and concerns that were most important to us.
- ☐ We were able to talk about **all** of the issues and concerns that were most important to us.

3. Was the mediator active enough in helping the parties work out the issues in the dispute?

- ☐ No
- ☐ Yes

	Not at all	Somewhat	Very much
4. How much did the mediator understand what was important to your side?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. Did the mediator treat you with respect?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6. Did the mediator treat your side fairly?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

7. Did the mediator push too hard to get your side to settle?

- ☐ Yes, the mediator pushed too hard

- ☐ No, the mediator did not push too hard

**8. To the best of your knowledge, which of the following were true at the time of the mediation?**

*Please fill in the circle for all that apply*

- A. ☐ Additional documents were needed.
- B. ☐ A question of law needed to be determined.
- C. ☐ The time scheduled for mediation was too short.
- D. ☐ The case required a mediator with a different skill set.
- E. ☐ One or more participants did not have authority to settle.
- F. ☐ There was a high level of anger/hostility in the relationship between the parties.
- G. ☐ There was a large power imbalance between the parties.

	Very Unsatisfied	Unsatisfied	Satisfied	Very Satisfied
9. How satisfied are you with the <u>outcome</u> of the mediation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. Regardless of the outcome, how satisfied are you with your <u>overall experience</u> in the mediation session(s)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**11. Overall, was the mediation process fair?**

- ☐ Not at all
- ☐ Somewhat
- ☐ Very much

**12. If given the choice, would you use this mediator again?**

- ☐ Yes
- ☐ No
- ☐ Possibly

Why or why not?

**13. How many mediations have you participated in prior to this mediation?**

- ☐ None ☐ 26-50
- ☐ 1-10 ☐ 51-100



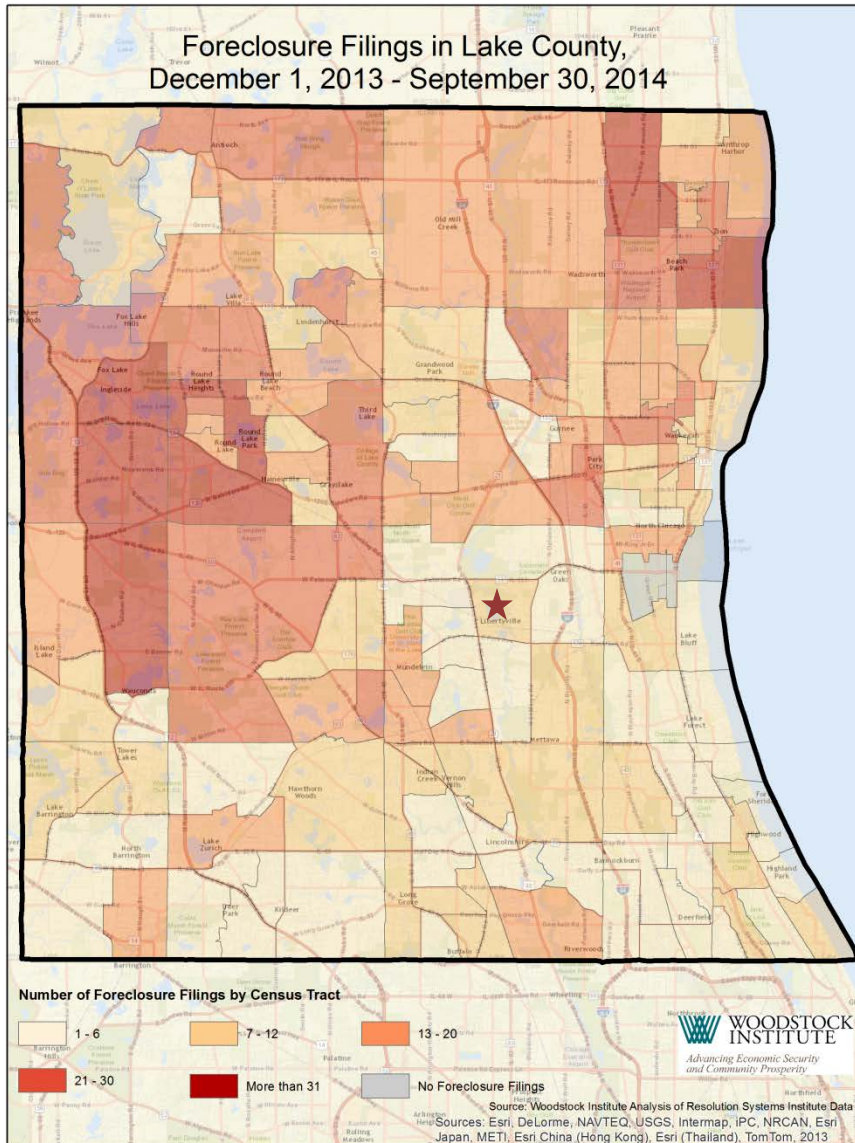
- ☐ 11-25                      ☐ More than 100

14. What, if anything, made the mediation effective?

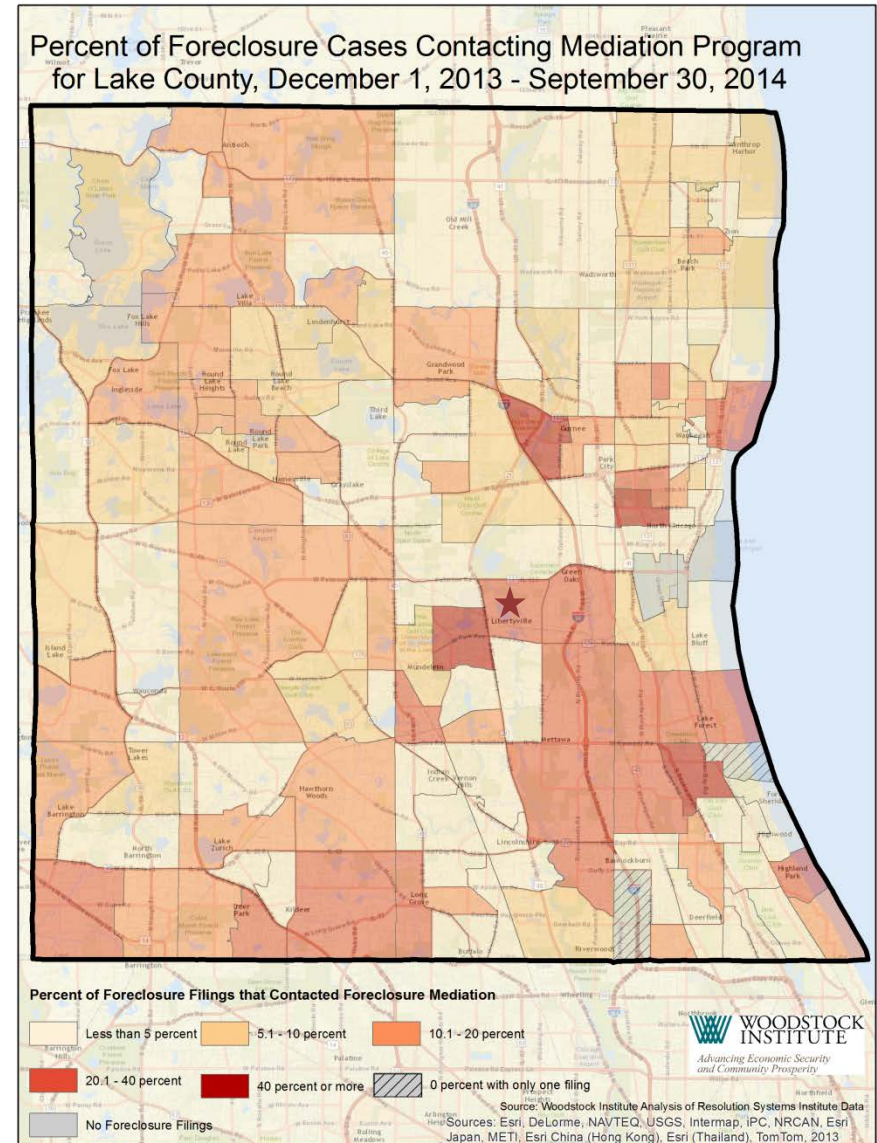
15. What could have improved the mediation?

## 19<sup>TH</sup> CIRCUIT

### FORECLOSURE FILINGS v. HOMEOWNERS ATTENDING INFORMATIONAL SESSION



★ Location of Housing Counseling Services



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## ABOUT THE AUTHOR

Jennifer Shack has been Director of Research at Resolution Systems Institute since 2000. In this role, she conducts complex evaluations of court-based mediation programs and researches the effectiveness of mediation in court settings. As part of RSI's efforts to help courts to monitor the functioning of their mediation programs, she has designed data collection systems that are in use around Illinois. This includes the cloud-based case management and monitoring system used by the Attorney General-funded foreclosure mediation programs.

Nationally, Ms. Shack has led a national committee to develop model evaluation forms for civil case mediation programs and serves on the American Bar Association Section of Dispute Resolution Research Task Force. Over the past decade, she has presented on program monitoring and evaluation at numerous conferences.

Ms. Shack's evaluations include a comprehensive evaluation of the Child Protection Mediation Program in Cook County, Illinois, and evaluations of the mediation programs in the U.S. District Court for the Northern District of Illinois. Ms. Shack has also written a number of articles, including "Mediation in Courts Can Bring Gains, But Under What Conditions?" in *Dispute Resolution Magazine*, Winter 2004, and the co-authored, "Judicial Settlement Databases: Development and Uses," *Judges' Journal*, Winter 2004. Most recently, she co-authored two articles on foreclosure mediation: "Foreclosure Dispute Resolution Programs: Do They Work?" in *Probate and Property*, December 2013, and "A (Mortgage) Crisis in Communication: Foreclosure Dispute Resolution as Effective Response?" in *Arkansas Law Review*, Spring 2013. Ms. Shack also discusses issues related to research on issues related to court ADR on RSI's blog, *Just Court ADR*.