

## Home Foreclosure Legal Aid Project News & Updates

**October 2009**

### **Project Update:**

To date, 381 attorneys have signed up with the Home Foreclosure Legal Aid Project. Over 40 volunteers have provided advice and counsel and/or representation on about 125 foreclosure prevention matters. About 80% of our cases have been in Western Washington. 82 volunteers have certified that they have completed the training modules and are eligible for the 3 hour MCLE credits.

In the wake of option ARMs adjusting in the coming months, monthly mortgage bills are going to skyrocket. We're all bracing ourselves for a new wave of homeowners in need. We need you more than ever; your help is critical in these challenging times. You all make a concrete difference in improving people's lives.

### **Need Some Additional Guidance With Your Pro Bono Case?**

#### **Announcing WA State's Brand New Foreclosure Prevention List Serve!**

Volunteer attorneys with active cases can now participate and benefit from case strategizing and information sharing directly with WA State's foreclosure prevention experts! This is not the same thing as this e-newsletter that all of our signed up volunteers receive. This is a new and unique opportunity for civil legal aid attorneys, volunteer attorneys, attorneys with the Attorney General's office and the Federal Trade Commission and other advocates working to prevent foreclosures to share best practices and case strategies. The discussions may also include policy solutions to the foreclosure crisis. Want to join this listserv and learn from these experts? Contact [colleenm@nwjustice.org](mailto:colleenm@nwjustice.org) about accepting a pro bono case and you will be automatically added to this listserv. We look forward to your participation!

### **Hot! Hot! Hot! Current Pro Bono Case Opportunities:**

Nine Washington homeowners with a story to tell:

(1) A single mom is told by the Grantee of her second mortgage that if she doesn't sleep with him he'll call her loan due. She doesn't and within a couple of weeks gets a notification that the entire amount of her second loan is due in four months or he will foreclose. (Pierce Co).

(2) A woman who has survived the horrors of domestic violence only to lose her job as a result of the medical issues from the abuse. Her brother-in-law offers to help by entering into a lease/option agreement with her. She feels this is her only choice to keep her home. (Island Co).

(3) A homeowner manages to cut through all the red-tape and get a modification on her loan. She's doing everything to up hold her end of the deal but the new servicer won't abide by the modification despite Bank of America's commitment to do so. (Pierce Co).

(4) A man's brother acts as his realtor and his sister-in-law as his mortgage broker when he purchases a home in 2005. The loan terms are horrible and he needs a modification to avoid a trustee's sale on November 30, 2009. (Snohomish Co).

(5) A senior citizen needs to explore options to avoid foreclosure. He has been draining his retirement account to remain in his home after attempts to modify with his lender failed. (This case was previously

assigned to a volunteer who can no longer assist with this project – we need to get it reassigned ASAP). (King Co.)

(6) A single mom has her own business taking care of vulnerable seniors. She's been paying her mortgage but has been late. Her Fannie Mae backed loan should be modified under the Making Home Affordable plan. She needs counsel and advice on how to save her home. (King Co.)

(7) A lender claims that excess equity is the reason why a homeowner, desperate for a modification, can't qualify for one. (King Co)

(8) A homeowner who has gotten a lay off notice. He'll be off work at the end of October and knows with his loss of income that he can't make his mortgage payments. What can he do before he's even out of work and delinquent? (King Co)

(9) A father who finds a job a few months after being laid off, only to get injured and unable to work. The home he and his family built from the ground up is in danger if he can't get a modification. He'll be headed back to work in November and doesn't know how to navigate through a modification process when he's technically not working yet. (Clark Co)

The stories above might sound like fiction but they aren't. These are Washington state homeowners who are waiting for an attorney to help them through the Home Foreclosure Legal Aid Project keep their homes. If you are able to offer your assistance to any of these homeowners, please contact Colleen Mold at [colleenm@nwjustice.org](mailto:colleenm@nwjustice.org) and let her know by indicating which number for the matter you're able to assist with. Let's help these homeowners write a happy ending to their stories of foreclosure.

#### **Training Opportunities and CLEs:**

October 30- Pro Bono Workshops: Hope & Help in Hard Times

An ABA "Celebrate Pro Bono Week" Event

For more information, see attached flyer.

To register go to: <http://www.regonline.com/builder/site/Default.aspx?eventid=776003#>

November 6- Save the date! Upcoming live training: Foreclosure Defense 101

When: 11/6/2009, 9:30AM to 3:30 PM

Where: First United Methodist Church- 621 Tacoma Ave South, Tacoma

Stay tuned for more information about registration and CLE credits

#### **Foreclosure Prevention Advocacy Resources:**

Landmark Kansas Supreme Court Decision Favorable to Homeowners

A landmark ruling in a recent Kansas Supreme Court case may have given millions of distressed homeowners the legal wedge they need to avoid foreclosure. In *Landmark National Bank v. Kesler*, 2009 Kan. LEXIS 834, the Kansas Supreme Court held that a nominee company called MERS has no right or standing to bring an action for foreclosure. MERS is an acronym for Mortgage Electronic Registration Systems, a private company that registers mortgages electronically and tracks changes in ownership. The significance of the holding is that if MERS has no standing to foreclose, then it is possible that *nobody* has standing to foreclose – on 60 million mortgages. That is the number of American mortgages currently reported to be held by MERS. Over half of all new U.S. residential mortgage loans are registered with MERS and recorded in its name.

<http://www.kscourts.org/Cases-and-Opinions/opinions/supct/2009/20090828/98489.htm>

### Noteworthy Creative Arguments

A Wisconsin pro bono attorney makes an interesting and successful foreclosure prevention argument: see attached brief

### Additional resources for homeowners

FDIC info: foreclosure prevention tool kit

<http://www.fdic.gov/consumers/loans/prevention/index.html>

### **Foreclosure News:**

A Reckoning on Option Arms

[http://www.nytimes.com/2009/09/20/realestate/20mort.html?\\_r=1](http://www.nytimes.com/2009/09/20/realestate/20mort.html?_r=1)

Bank of America Reneging on Loan Modification Agreements

<http://news.cincinnati.com/apps/pbcs.dll/article?AID=/AB/20090918/BIZ01/909190367/>

Countrywide dispute

[http://www.nytimes.com/2009/08/20/business/20bofa.html?\\_r=1](http://www.nytimes.com/2009/08/20/business/20bofa.html?_r=1)

Another Kind of Foreclosure Crisis

<http://www.nytimes.com/2009/10/09/opinion/09fri2.html>

### **Housekeeping:**

Please Check Your Email Spam Filter!

Please make sure you are receiving email from Lili Sotelo and Colleen Mold, our Home Foreclosure Legal Aid Project legal team; their emails are [colleenm@nwjustice.org](mailto:colleenm@nwjustice.org) and [lilis@nwjustice.org](mailto:lilis@nwjustice.org) and [hflap@nwjustice.org](mailto:hflap@nwjustice.org). Almost all attorneys should have gotten a chance to accept at least one case.

Anyone who has not received a request for case acceptance should contact Aline at [alinec@wsba.org](mailto:alinec@wsba.org) as soon as possible.

### Really Eager to Get a Case?

Have you been really eager to get a case but feel like you haven't been quick enough on the draw when our legal team sends out volunteer opportunities? Have you been unable to handle a matter that's been offered but are still really interested in getting a case? If so, please email [hflap@nwjustice.org](mailto:hflap@nwjustice.org) and also let us know if you'd be willing to take matters in neighboring counties or statewide.

### Too Busy Right Now to Take a Case?

If you are not currently able or believe that you will not be able to accept cases through the Home Foreclosure Project for the next six months, please take a moment to let us know so that we can remove you from our volunteer list. Please contact Aline at (206) 727-8204 or [alinec@wsba.org](mailto:alinec@wsba.org) to be removed from our volunteer list. You can always rejoin us when your schedule opens up.

### Time to Report CLE credits!

Our MCLE department is now collecting 2009 MCLE credit reporting information. If you wish to get credit for doing the online foreclosure prevention training now's the time to let us know. To be sure that our MCLE department knows that you've taken our foreclosure prevention CLE go to <http://www.mywsba.org/> and click on the drop down menu where it says, "HFLAP home" and scroll to the last option to select "Certify MCLE Credit."

### Track Your Volunteer Hours!

Please report your volunteer hours. We won't know until you tell us! If you've been actively volunteering with our project, we'd like to know how many hours you've donated. Your hard work and generosity deserves to be recognized. Please keep track of your hours and contact Aline at (206) 727-8204 or [alinec@wsba.org](mailto:alinec@wsba.org).

Remember RPC 6.1: the amendment encourages lawyers to render at least thirty (30) hours of *pro bono publico* legal services per year, to voluntarily contribute financial support to organizations that provide legal services to persons of limited means and to **voluntarily** report *pro bono* services on the annual WSBA licensing fee statement. Lawyers rendering a minimum of fifty (50) hours of *pro bono* service shall receive a recognition award for such service from the WSBA.

### **Questions, Comments and Feedback: We want to hear from you!**

Please contact Aline at [alinec@wsba.org](mailto:alinec@wsba.org) or at (206) 727-8204.

Thanks again for doing your part to put an end the foreclosure crisis and helping Washington state homeowners!