

Foreclosure Prevention On The Olympic Peninsula:

Tips On Growing Your Practice

Presented by the Northwest Justice Project and the Jefferson and Clallam Bar Associations

Friday, June 7, 2013 9:00 am to 4:30 pm

Harborside Inn

330 Benedict St., Port Townsend, WA 98368

MORNING SESSION

Registration	9:00 - 9:15
Foreclosure Fairness Act - <i>Lili Sotelo, NJP</i>	9:15 - 9:55
Role of a HUD-Certified Housing Counselor - <i>Donna Loitz, American Financial Solutions</i>	9:55 - 10:35
Meet & Confer and Foreclosure Mediation - <i>Ariel Speser, NJP</i>	10:35 - 11:20
Role of a Foreclosure Mediator - <i>Colette Kostelec, Mediator</i>	11:20 - 12:00

165 general minutes = 2.75 credits

LUNCH ON YOUR OWN 12:00 – 1:00

AFTERNOON SESSION

Net Present Value Analysis - <i>Brian Haaland, NJP</i>	1:00 - 1:45
Post-Foreclosure Remedies - <i>Joseph Jordan, NJP</i>	1:45 - 2:15
Ethics of Referring to Mediation and Ethical Conflicts When Attorneys Serve as Foreclosure Trustees - <i>Joseph Jordan, NJP</i>	2:15 - 3:15
Post-Foreclosure Tenancy Options and the Risk of Remaining Liability - <i>Chelsea Hicks, NJP</i>	3:15 - 3:40
Attorney's General National Mortgage Settlement - <i>Rich Zwicker, Attorney General's Office</i>	3:40 - 4:00
Foreclosure Prevention for Local Attorneys - <i>Paul Richmond, Private Attorney</i>	4:00 - 4:30

150 general minutes = 2.50 credits

60 ethics minutes = 1 ethics credit

Foreclosure Fairness Act – This section will discuss the Foreclosure Fairness Act and the non-judicial foreclosure process in Washington State. The presenter will give an overview of how the Act was passed and the effect it has had on foreclosures to date. The presenter will also give an overview of the current foreclosure trends in Washington State. Lili is the senior attorney for the Foreclosure Prevention Unit and the liaison to the Washington State Bar Association’s Home Foreclosure Legal Aid Project (HFLAP). [40 minutes]

Role of a HUD-Certified Housing Counselor – This section will discuss the role of a housing counselor, which includes financial counseling for homeowners in default on their mortgage. The presenter will discuss what services a homeowner can expect when they call a housing counselor. The presenter will also give a brief overview of the different loss-mitigation (home retention and non-retention) options available to homeowners facing foreclosure.[40 minutes]

Meet & Confer and Foreclosure Mediation – This section will discuss the two opportunities homeowners have to meet with their lender, pursuant to the new Foreclosure Fairness Act. The presenter will give helpful practice tips for how to prepare and present a homeowner’s case in each setting. The presenter will review the process for mediation referral to the Department Of Commerce as well as preparing mediation documents. Additionally, presenter will offer best practices for foreclosure mediation advocacy. [45 minutes]

Role of a Foreclosure Mediator – This section will discuss the role of a foreclosure mediator and their involvement in the foreclosure mediation process. The presenter will discuss best practices for foreclosure mediators as well as what homeowner advocates can expect from a foreclosure mediation session. Additionally, the presenter will give a brief overview of the mediator’s authority and responsibility under the Foreclosure Fairness Act. [40 minutes]

Net Present Value Analysis – This section will discuss the NPV analysis, which is the mortgage industry’s standard for determining when it is financially more beneficial to offer a loan modification versus foreclosure. The presenter will compare the 2 NPV models, Home Affordable Modification Program (HAMP) and Federal Deposit Insurance Corporation (FDIC). The presenter will discuss how the models work and evaluating the NPV inputs used by both beneficiary and borrower to ensure they are credible and up-to-date. The presenter will review best practices for running the NPV in preparation for mediation. [45 minutes]

Post-Foreclosure Remedies – This section will discuss foreclosure prevention strategies when mediation is not an option or has been unsuccessful. The presenter will discuss possible legal defenses to foreclosure and will give practical tips for preparing and filing motion and complaint to enjoin the foreclosure sale. Presenter will also discuss post-foreclosure remedies for rescinding a foreclosure sale, as well as calculating damages for wrongful foreclosure. [30 minutes]

Ethics of Referring to Mediation and Ethical Conflicts When Attorneys Serve as Foreclosure

Trustees – This section will discuss ethical questions that arise in foreclosure mediation and the professional conduct standards for lawyers representing clients. The presenter will review an attorney's ethical duties to review and assess a homeowner's case prior to referral, and when not to refer a case to mediation. The presenter will discuss the attorney's duty to diligently represent the homeowner/client during mediation and through the modification trial period plan (when applicable). The presenter will also discuss the timely subject of conflict of interest when an attorney is acting as counsel for both the trustee and the beneficiary. Presenter will highlight the good faith duty the Deed Of Trust Act imposes on trustees in the foreclosure process. This is a relevant topic as foreclosure law is evolving and there is a continued need for ensuring homeowner rights against unnecessary foreclosures in a non-judicial foreclosure state such as Washington. Presenter will discuss recent State Supreme Court case law and ethics opinions regarding trustee misconduct. [60 minutes]

Post-Foreclosure Tenancy Options and the Risk of Remaining Liability – This section will address tenant's rights in foreclosure and post-foreclosure situations, as well as some of the systemic and collateral consequences of foreclosure. Specifically, the presenter will address remaining liability ('zombie debt') after a foreclosure has occurred. These topics are highly relevant to foreclosure defense practitioners but often overlooked. The presenter would also like to hear from advocates about what foreclosure-related issues and collateral damage the community is experiencing. [25 minutes]

Attorney's General National Mortgage Settlement – This section will address the recent national mortgage settlement which includes WA state. The presenter will review the terms of the settlement and explain how homeowners may receive assistance in foreclosure prevention services or post-foreclosure monetary consideration. Presenter will highlight local agencies which received settlement funds, including NeighborWorks of Grays Harbor. [20 minutes]

Foreclosure Prevention for Local Attorneys – This section will address how local practitioners can include foreclosure prevention as part of their general practice. The presenter will offer helpful tips for managing foreclosure prevention cases, fee scale, and how this area of law can be profitable and rewarding. The presenter will also discuss the need for local legal services in preventing unnecessary foreclosure, retaining property value in the community, and preserving equity for your clients. [30 minutes]