

All-Foreclosure Mediator Event—November 2, 2015

SESSION 4: CASE STUDY

MEDIATION STAGE/TIMELINE

Certification and beyond (incl. complaints)

DISCUSSION FOCUS (based on May 2015 survey)

#1 Good faith determination

#13 Complaints

CASE BACKGROUND

The beneficiary changes after the referral from Commerce. The previous beneficiary does not transfer the borrower's documents to the new beneficiary. Borrower is asked to provide a whole new set of documents. The borrower complains, but he eventually re-submits them. Documents required by statute from the beneficiary were never provided. Throughout the process the new beneficiary attorney participates in a disrespectful, hostile, and volatile manner. During session he is inattentive, condescending, and argues loudly with the mediator and borrower. A modification offer is given during session and the borrower is asked to accept it on the spot or it's off the table. The borrower accepts it. The borrower representative requests a finding of not-in-good-faith participation on the part of the beneficiary and beneficiary's attorney. The beneficiary argues that a modification was offered and accepted, therefore there is no need for such a finding.

One month after the session, the borrower contacts Commerce requesting a copy of the certification—he had not received it, but his representative apparently had within the last week. After Commerce sends him a copy, the borrower complains that the mediator did not find the beneficiary in lack of good faith despite the beneficiary's behavior during the entire mediation process and indicates he had no choice but to accept the loan modification that was offered.

ACTIVITY [Group Work 3:30-4:15; Gather in Ballroom 4:15]

1. **Required by RCW: What are the relevant provision(s) of the FFA for this case? Brainstorm with the group and record.**

