

"A Tough Day's Work:" Spotlight on the Foreclosure Conference Part

The Court Attorney Referees who work in the Foreclosure Part have difficult days—not because the work is so hard, but because of the hard luck stories they hear. Day in and day out, they schedule over 30 conferences between homeowners and the banks in the hope that agreeable settlements for all can be reached. Currently, there are 3,636 foreclosure cases pending in the five Supreme Courts in the District.



Sitting around the conference table at various times with homeowners, lawyers, housing counselors, and bank representatives, they explain the process and keep it on track. They answer questions, make sure the homeowner understands what documents are needed and work with both sides to reach a settlement. The ideal settlement is for the homeowners to be able to remain in their homes. Despite major efforts to achieve that, for a variety of reasons, continued home ownership happens only between 20-30% of the time. But when it does, everyone feels good.

In Orange County, for example, Court Attorney Referee John Lindstrom remembers the day when, after 8 months of conferences, a retired professor who had been in a car accident was able to get a loan modification to keep his house. "The lawyers on both sides worked hard. It was a good day," he said.

Lindstrom presided over 5718 foreclosure conferences in the last 11 months, 480 this past January. Orange County was hit particularly hard in relation to its population because of the building boom after September 11, 2001. One of the fastest growing counties, it was one of the hardest hit when the housing bubble burst. The number of conferences do not denote the number of cases. In each case, there are several conferences that can last over an extended period of months.

In Westchester, where Court Attorney Referee Al Degatano and Joe Licare work together, 670 foreclosure conferences were held in January. In Dutchess County, Court Attorney Referee Juliana Maugeri handled 248 conferences and in Rockland, where Sam Adelson is the Mediator Special Referee, there were 309 conferences. In Putnam, where Degatano, Licare and Maugeri share the load, there were 116 cases.

"The homeowners who come to the conferences are good people. They want to honor their commitment to the bank. In many cases, they find themselves in this position because of an unforeseen hardship: cancer and no health insurance so mortgage money goes for treatment; construction workers who are laid off and have no income," Lindstrom said.

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Degatano and Licare agreed. "Most of the people we are seeing now are in foreclosure due to loss of income or reduced income, not because of the subprime problem. They appreciate that we are trying to help them; that we understand what they are going through."

The problem is that 63 percent of the homeowners whose homes are in foreclosure do not have attorney representation. The banks, of course, do. This inequity was passionately brought to light in Chief Judge Jonathan Lippman's State of the Judiciary Message. In announcing a new pilot program to provide attorneys to those homeowners who cannot afford one, the Chief Judge said:

"We will establish a program to ensure, over time, that all homeowners who cannot afford a lawyer will be provided with legal assistance or representation at foreclosure settlement appearances. The settlement conferences, mandated by law several years ago, are considered the defining moment in the foreclosure process: the first opportunity for many defendants to learn about their legal rights and protections, about settlement options, and about the court process that lies ahead. It is the moment when having a lawyer at the table matters most."

Administrative Judge Alan Scheinkman said he was delighted that Orange County was chosen as one of the first courthouses in the State to begin this new program, with Hudson Valley Legal Services providing the attorneys.

In the meantime, the District has housing counselors available to assist homeowners and their help is invaluable. The biggest battle, according to Lindstrom, is getting the documents to the banks.

"Banks are forever saying they didn't get the paperwork, or it wasn't updated, or they misplaced it."

The counselors work for non-profit agencies designated and funded by the federal and/or state governments to do this work. They copy documents, which could run into hundreds of pages, to save costs for the homeowner. They also send the documents to the banks, where they have made contacts. Their knowledge, expertise and understanding is a great source of assistance to the homeowner who comes to a conference without representation. In fact, the most successful endings come when homeowners use the free housing counselors available.

[See Video: News 12 Interviews Judge Scheinkman on Foreclosure Conferences](#)

