

LAF & Housing Counselors

Daniel P. Lindsey

312.347.8365

dlindsey@lafchicago.org



Outline

- * How does LAF work with Housing Counselors?
- * What kind of cases should you refer to LAF?
- * How do you make referrals to LAF?

How does LAF work with Housing Counselors?

- * Takes referrals of legal cases
- * Makes referrals of non-legal cases, typically so that the HC can submit loan mod application
- * Works together
 - * LAF represents client legally while HC submits loan mod app
 - * Where there is no mediation
 - * Where there is mediation
 - * LAF represents client legally while HC submits loan mod app, and LAF assists HC in submitting loan mod app as needed
 - * HC helps LAF by providing affidavit documenting efforts to get a loan mod approved
- * Trainings
- * Ad hoc questions of a legal nature

What types of cases should you refer to LAF?

- * Bogus loan mod denials
- * No response at all
- * Dual-tracking
- * Heirs & surviving spouses
- * Reverse mortgage foreclosures
- * Force-placed insurance
- * Fraud
- * Anyone in foreclosure, to whom we can at least give good advice
- * Bankruptcy

Bogus loan mod denials

- * No written denial
- * Written denial w/no reason stated
- * Written denial w/vague reason stated, e.g.: “We are unable to offer you a home loan mod because we are unable to create an affordable payment equal to 31% of your reported monthly gross income without changing the term of the loan beyond program requirements.”
- * Claim that “the investor isn’t participating in HAMP”
- * Refusal to provide NPV inputs

No response at all

* 'Nuf said.

Dual-tracking

- * Despite a pending loan mod app,
 - * Foreclosure case is filed; or
 - * Plaintiff moves for judgment; or
 - * Plaintiff schedules or conducts judicial sale

Heirs & surviving spouses

- * We can sometimes achieve goal w/Affidavit of Heirship or Affidavit of Joint Tenancy
- * And/or draft quit claim deeds
- * If probate necessary, we may be able to do the probate case or find private attorney to do so (possibly pro bono)

Reverse mortgage foreclosures

- * Failure to pay taxes and/or insurance
- * Failure to fill out residency certification
- * Death of signing spouse, where surviving spouse did not sign the reverse mortgage

Force-placed insurance

- * Client charged for FPI even though she maintained insurance
- * FPI charges not deducted after client shows proof of insurance (or reinstates and shows POI)
- * Not given enough time to repay (usually 12 months)
- * Lack of new required notices
- * New rule: if there is an escrow fund, lender must advance funds to pay existing insurance instead of FPI

Fraud

- * Mortgage loan fraud
- * Title fraud
- * Home improvement fraud
- * Loan servicing fraud
- * Any kind of fraud

Anyone in foreclosure

- * We will talk to anyone in foreclosure
- * We will review their case for possible claims and defenses if they have the income to afford the home (via a loan mod, or via a Chapter 13 bankruptcy)
- * At the very least, we will give them good advice and appropriate referrals

Bankruptcy Options: c. 7 v. c. 13



- * Chapter 7 => liquidation
- * Chapter 13 => reorganization



Chapter 7

- * Net assets paid to creditors
- * Remaining debt is discharged
- * Exceptions
 - * Secured debt (e.g., mortgage debt)
 - * Priority debt (e.g., child support, taxes owed for past 3 years)
 - * Other statutory exceptions (e.g., student loans, rent arrears, parking tickets)

Chapter 13

- * Debtor proposes a plan
- * Makes plan payments for 3-5 years
- * Plan payments = income – expenses
- * All secured and priority debts paid at 100%
- * Other (unsecured) debts paid at small %
- * Remaining (unsecured) debt is discharged
- * Statutory exceptions: e.g., student loans

How do you make referrals to LAF?

- * Basic client eligibility requirements
 - * Lives or being sued in Cook County, Illinois
 - * Household income no more than 80% AMI
- * What to do
 - * Have client call our intake number, 312-341-1070 (call early, b/t 8 and 9:30 a.m.)
 - * If client can't get through, e-mail me

Clients can also apply on-line

- * Clients can apply for assistance from LAF on-line, via Illinois Legal Aid On-line (ILAO), at: <http://www.illinoislegalaid.org/>
- * The HC can help the client apply if necessary.
- * Clients can apply anytime, 24/7, and that they can choose 3-hour time slots during which to be called back. They actually can choose 9-12 and 1-4 for each of the next 5 weekdays after application. We usually call homeowners back right away.
- * With online intakes, we call back 3 times during the designated times and send a no-contact letter after the 3rd failed attempt.

Questions?

