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Counsel, not Staff
Provide **PROPOSED SOLUTIONS**
along with Problematic Issues
Presented by Steve S

intersect

servicing + **foreclosure**

intersect

BREAKOUT SESSION 3 OPERATIONS TRACK

MANDALAY EAST

Time 10:45 - 11:45 AM

Operations Track

Join law firm leaders as they discuss operational pain points and walk through specific opportunities for firms and servicers to shorten timelines, avoid controllable delays, and improve communications. Panelists will also discuss the future of reporting, via servicer and portfolio comparison performance reports, state-specific litigation and its byproduct, and the next generation of technology built for better reporting, communications, and analytics. Attendees will get a frank discussion about the investments and returns of such efforts and walk away with actionable tools to improve their operations, client interactions, technology outputs, and file processing.

INTERSECT | PRESENTERS



Moderator



Julian Cotton
Attorney - Dallas Office
Padgett Law Group
jcotton@padgettlaw.net

Speaker



Reggie Corley
President & Managing Attorney
Scott & Corley, P.A.
reggie@scottandcorley.com

Speaker



Marcy Ford
Partner
Trott Law, P.C.
mford@trottlaw.com

Speaker



Brady J. Lighthall
Managing Partner
Weltman, Weinberg & Reis Co.,
L.P.A.
blighthall@weltman.com



TAKING ACTION TOGETHER



Today's mortgage servicing landscape is effectively squeezing both law firms and servicers. Today we will explore how servicers and law firms can partner together to leverage process efficiencies and achieve timeline improvements. How can we continue to work together keeping in mind we are all on the same team?



LAW FIRM APPROACH TO TIMELINE IMPROVEMENTS

1. Reducing Delays Prior to Referral.

- a. **Pre-referral methodology** : Strategic controls of first fews steps are critical.
 - “**Perfect Referral**” is needed at the time the referral is sent to the law firm.
 - Common issues are:
 - AOM
 - Payoff
 - Note
 - Untimely referral
 - Servicers should poll each state to determine what constitutes a “Perfect Referral”.
- b. **Internal studies and audits to determine real time events.**
 - ex. Referral to title ordered results/findings.

LAW FIRM APPROACH TO TIMELINE IMPROVEMENTS

2. Service of Process.

- a. **Technology** : Electronic transfer of documents from court to firm and out to service vendor.
 - Some exceptions -sheriff serve only counties in some states
 - Benefits - expedited process to reduce exceptions in doc transfer (leaving out a required pleading), accurate information sharing, immediate updates.

- a. **Courier Services or Overnight Delivery** : Discussion on cost of doing business to law firm vs billable/recoverable to servicer and borrower.
 - Does provide added value for additional cost.



LAW FIRM APPROACH TO TIMELINE IMPROVEMENTS

3. REO Auction Companies & Private Sale Officers.

a. Benefits

- Increase 3rd party sales.
- “*Buyer Beware*” - option to resolve title issues.
- PSO’s can reduce time from judgment to sale.

b. Risks

- FDCPA violation concerns.
- Can be a big problem in judicial states where the Courts control all aspects of the sale process.



LAW FIRM APPROACH TO TIMELINE IMPROVEMENTS

4. Communication.

a. Reporting.

- Bucket Reporting.
- Comparison Reporting.
- Exception Reporting.

b. Emails.

- Shorter is better.



LAW FIRM APPROACH TO TIMELINE IMPROVEMENTS

5. Document Execution & Loss Mitigation Reviews.

- Working in a much better space today and previous years but still enhancements can be made. How do we get there?
- Make sure the servicer's Loss Mitigation and Foreclosure Departments are talking with each other and the information is given to FC Counsel.
*Required by South Carolina Administrative Order 2011-05-029-01.

6. Law Firms Doing Their Part.

a. Vendor Audits.

- Which vendors are performing and how to manage expectations for timelines.

b. Internal QC & QA Reviews.

- Identification of root cause issues.



UNDERSTANDING UNCONTROLLABLE DELAYS

Uncontrollable delays happen and often cannot be attributable to the law firm or servicer. These delays can strike even the best law firms and the best servicers. Understanding how these delays affect the default process is the key to developing a healthy and productive relationship between all sides of the mortgage servicing industry.



TOP REASONS LAW FIRMS SEE UNCONTROLLABLE TIMELINE DELAYS:

1. Service Transfers.

- Ways to handle on non-judicial vs judicial states
- Restarts/Publication/Standing/POA
- What can be expected in terms of delays
- When does it make sense to move a file vs keep with existing counsel

1. State Court Litigation.

- Florida - *Bartram v. U.S. Bank, N.A.* SC14-1265 (Fla. Nov. 3, 2016)
- Maryland - *Blackstone v. Sharma, Shanahan v. Marvastian, O'Sullivan v. Altenburg*
- New pending case law or state legislation.



TOP REASONS LAW FIRMS SEE UNCONTROLLABLE TIMELINE DELAYS:

3. Title Issues.

- Ways to handle on non-judicial vs judicial states.
- All title issues are not created equal.
 - i. Examples of title issues that can destroy first legal deadline.
- Moving the file forward with title issues pending.
- Use of Mutual Indemnification.
 - i. Freddie Mac pilot program.
- Servicers can improve delays by including copies of title policy, HUD1 and full copy of origination file quickly.

3. Other Areas of Concern.

- FEMA holds.
- Newspaper publication holds.



BUILDING A BETTER TIMELINE TOGETHER

Building a strategic business partnership can offer some opportunity for servicers and law firms to collaborate together. The result is the recognition of substantial working benefits in specific lines of business and the further development of uniformity in areas of vendor performance across the mortgage servicing landscape. Ultimately, these efficiency gains will naturally bridge gaps, build process improvements and promote law firm transparency.



ACTIONABLE ITEMS

1. Servicer Audits.

- What is the most useful information collected by the servicer during an audit?
- What can servicers do to work together to gain efficiencies?
 - Core metrics – if so, what are they?
 - MBA Law Firm Certification Question Set
- Benefit vs Risk of uniformity?
- Rebuttals: What is the best response to an audit finding?
 - Acknowledge issue.
 - Remediation effort.
 - Servicer open to changing a metric to reduce inaccurate findings.



ACTIONABLE ITEMS

2. **BK Litigation**

- US Trustee issues – Different approaches
- Periodic Billing Statements
 - Consistent Responses
 - Proper Escalations
- Court mandated loss mitigation - DMM Portal.

3. **Witness Preparation.**

- How would servicers like to see witness prep handled?
- What are our panelist doing to prepare their clients?
- Job aides.



CONCLUSION – Q&A

In today's mortgage servicing space, profitability is typically the driving force behind most policy and procedure development. A trickle down effect has clearly been in place for some time now. Understanding how each party can work together in order to identify key performance metrics, develop timeline improvement initiatives and achieve process efficiencies, will most certainly enhance the ultimate bottom line for both servicer and law firm. The burden of these process gains must be shared together through a recognized business partnership.



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