

By Attorney Matthew Katz

1. **From the banks to their attorneys:** after approximately 3 months, the bank delivers the file to their foreclosure attorneys to start the judicial process.

2. **The lawsuit is filed at the court:** the attorneys present the lawsuit with the court and they give to the sheriff to deliver it to you.

3. **Service of the lawsuit:** the sheriff has to service the lawsuit in your hands, if not there are other defenses! You have 30 days to respond to the lawsuit after it's serviced to you-if not, the petitioner has the right to ask for the lawsuit to be decided in their favor in your absence.

4. **Motion for Summary Judgment:** if the bank does not receive a response, the bank presents to the court a motion to allow for foreclosure trial (this is when the bank is given the right to sell the property in an auction)

5. **Judgment:** The court gives the foreclosure to the bank: the bank now has the right to sell the property, 7 months after the lawsuit was delivered (6 months if you are not living in the property) or 3 months after the judgment, whichever is the furthest-that is the time in which you can redeem and pay off the past due balance of the property.

6. **Auction:** the bank sells the property in a public auction, advertising it for 3 months in a local newspaper.

7. **Confirmation of the Sale:** the bank will present a motion in court to approve the sale of the property in the auction and you have 30 days to vacate the property.

Defenses, counterclaims and Solutions

1. **Fraud during the Loan Modification:** in 2009 out of more than 750,000 "loan modifications" only 31,000 were permanent; this means that the banks committed fraud against consumers with more than 30 million dollars. This is an important counterclaim to call upon the judge.

2. **Violations in your Mortgage:** the TILA, HOEPA and RESPA laws offer demands to help buy time and force the bank to modify.

3. **Motion for Mediation:** a conference with both parties is requested in court to negotiate the loan modification; this is a full opportunity to resolve the problem but if you don't prepare, the case is lost.

4. **Discovery:** under the civil procedure of the state of Illinois you have the right to force the other litigant to render all documents relevant to any claim or counterclaim and to summon any bank agent to a deposition in front of a court reporter.

5. **Consumer Fraud:** there are many examples of fraud that give the consumer the right to compensation-such as, the negation was presented in your language but the documents were in English, this is a violation under section 2N of the Consumer Fraud Law in the state of Illinois.

6. **Lack of revision of the HAMP/Modification:** if the bank participates in the program, they have to review your application and not ignore it or make up that they didn't receive the paperwork. The Federal Court has found to be illegal to not review the application accurately.

7. **The "IMFL":** the Illinois Mortgage Foreclosure Law requires for the banks and your attorneys to rigorously follow the procedures and policies of the law. When errors are attacked, you buy more time, the process becomes more expensive for the bank, and this opens another window to negotiate your loan modification. For example If the demand letter is not delivered in your hands, a motion to rule out the demand is present to court and the bank has to start the process all over again.

SAVING YOUR HOME REQUIRES PROFESSIONAL LEGAL ATTENTION