Senate Judiciary Committee
Hearing on "Foreclosure Mediation Programs:
Can Bankruptcy Courts Limit Homeowner and Investor Losses?"
February 1, 2011

Statement of U.S. Senator Al Franken

Mr. Chairman, thank you for holding this important hearing on how foreclosure mediation programs in bankruptcy courts can better protect consumers. You have been a real leader on bankruptcy issues, and you should be applauded for your work in this important area.

Many problems have come to light since the beginning of the foreclosure crisis. Most recently, we have seen mortgage servicers fraudulently signing affidavits to execute foreclosures, when they have zero personal knowledge of the individual borrower's situation. This problem, known as "robo-signing," is particularly troubling to me.

Last year, I wrote letters to Ally Financial and JP Morgan Chase calling for a suspension of all foreclosure proceedings until this issue had been resolved. I also joined with Senator Menendez in asking GAO to investigate the role of federal regulators in overseeing foreclosure proceedings. While some mortgage servicers have taken action on this issue, I worry that it is a day late and a dollar short.

Borrowers are at such an extreme disadvantage in these foreclosure proceedings that I fear robo-signing is only one of many ways that servicers have been able to take advantage of vulnerable families and homeowners. And because most homeowners don't have access to legal advice or even basic counseling, most of these abuses never come to light.

Many of you have heard me tell the story of Tecora, a Minneapolis homeowner who fell behind on her mortgage when her payments went up. She entered the Home Affordable Modification Program, or for short, HAMP, but was told by her mortgage servicer that her file was closed because she had "declined a final modification of her mortgage." The problem was that she actually hadn't done that. Tecora is working with the Twin Cities' Habitat for Humanity, a wonderful nonprofit that is helping her fight this mistake and stay in her home. Every homeowner deserves this type of assistance. Unfortunately, not everybody gets it.

Minnesota has taken important first steps to address this matter by requiring mortgage service providers to provide homeowners with pre-foreclosure notices that include foreclosure prevention counseling resources. Every state needs to adopt this and other services to help give homeowners a fighting chance.

I'm pleased that Judge Drain could join us today to tell us about the innovative foreclosure mediation program that was developed in the Southern District of New York. In Minnesota, more than 22,000 people filed for bankruptcy this year. This is more than 87 percent higher than the bankruptcy rate in 2007, before the recession occurred. Although I realize bankruptcy reforms won't help all families going through devastating foreclosures, these types of mediation programs are one important way we can help families in Minnesota and elsewhere to stay in their homes.

Thank you, Mr. Chairman.