

[Edited and paraphrased from a confidential J&A internal memo.]

REO Evictions: Nature of Legal Process.

Introduction.

The REO industry has long been intent on refining the practice of timeline management across all aspects of its operations. Timelines are of critical importance to every REO operation, as they account for a significant portion of the loss severity associated with REO, and can apply to most operational functions that exist in REO (i.e. days needed to determine market value, days on market, days in eviction, et cetera). This focus on timelines is especially apparent when it comes to REO evictions – the idea here is that if the steps involved in a particular REO eviction can be better identified, they can then be better managed and controlled, which can compress the overall time in eviction and thus positively impact the associates loss severity. As a result, almost every REO servicer employs some sort of timeline management system with their REO evictions, and has their staff use these timeline-based systems to manage the legal process being performed by its attorneys.

A critical assumption made in developing these timeline-based management systems is that REO legal process is relatively linear and straightforward in its nature – that is, REO legal process is an environment where timelines move from one step to another in a linear fashion, with a certain number of assigned days between each step. Given the ubiquitous nature of timeline-based management systems, most in the REO industry today simply accept this underlying assumption as true, and move right on to the business of developing a "better" timeline template to reach better management of loss severity. We at Jackson and Associates, Inc. ("J&A") joined this fray in the mid-1990s, and developed what many thought were, and still are, the best timeline templates in the industry for REO evictions, which templates grew out of our unique focus and experience in doing nothing but REO evictions.

With any rules-based system, the idea is to have most cases managed within the system, and to then identify and manage a small percentage of exceptions that require additional management and control. This sort of approach allows an organization to better allocate its resources, especially in labor and intellectual capital. J&A has been using its current timeline-based management systems – developed using a methodology prevalent in REO, but utilizing proprietary templates – since early 1999. J&A users, and particularly J&A management, however, have been reporting dissatisfaction with the system due primarily to the issue of false positives. Users have reported that it is much more common for a file to not fit its assigned template than for a file to actually abide by its description. J&A management believes much of these exceptions are actually not exceptions – and believes it is creating significant inefficiencies to monitor and manage so many false positives outside the schema of the timeline-based management systems currently in place.

Rather than respond by spending more time, effort, and resources to seek the REO "holy grail" – that is, the perfect template – J&A has decided to test its hypothesis against its REO eviction database. J&A's eviction database is sufficiently large and detailed enough to allow for this analysis, so the current project was thusly initiated. The hypothesis to be tested in this analysis: REO legal process is not linear in nature, and is in fact more complex and dynamic than ever before believed. If this hypothesis proves correct, it would indicate that REO's "holy grail" doesn't exist in practice, and J&A would be best served to shift its resources into developing an alternative that will generate better returns in efficiency as well as in straight terms of capital investment. In effect, if legal process is indeed dynamic, timeline-based management is the proverbial square peg.

This paper gives a short summary of the results of our research into the issue of whether legal process was linear or dynamic in nature, and gives a short synopsis of what our findings mean in a practical sense.

Background.

For the purposes of the present investigation, three areas of segmentation are employed. Two of these are considered in the public domain, while the third segmentation technique is proprietary to J&A. The first method, segmentation by whether a lockout actually occurred or not, is common within the REO industry and roughly captures whether a given process model – which generally varies by state – reached its conclusion or not. The second method is also rather straightforward, although not as commonly employed: segmentation by case status. Tracking whether a case is contested or uncontested permits the capture of differences that inevitably occur in legal process when a case is contested.

The third method of segmentation involves analyzing the entire legal process using a proprietary Matrix Management System (MMS) developed at J&A. In this segmentation strategy, the granular process of the eviction is analyzed to determine if a case is a "clean" versus a "not clean" eviction. A clean eviction is said to occur when MMS-generated process management prescriptions are consistently met; when an eviction is not clean, some aspect of the eviction process failed to meet these internally-generated prescriptions. In essence, MMS is J&A's version of a timeline-based management system.

These segmentations serve as the basis for subsequent analysis.

Data and Findings.

The data comprise 9,844 closed evictions processed by J&A over a period of nineteen months, from January 1, 2003 until July 15, 2004. The evictions in the data set include nearly every state in the United States (with the exception of Alaska). A sample of this size, and of this distribution, and of this duration, is statistically significant in its own right when used in aggregate, and so further qualifications analysis, including confidence intervals and standard

deviations, is not provided. It is assumed for purposes of this analysis that the confidence intervals approximate a standard 3%.

The results from an SPSS analysis of this data presented in an OLAP cube are attached to this analysis. In short, this data analysis indicates that of the nearly 10,000 evictions in the sample, only 12.7% of them had their legal processes accurately described by their assigned template. The converse of this finding is that 87.3% of all REO evictions did not reach their conclusion, were contested, or became tainted at some point by at least one external variable recorded in MMS – in short, they followed a path that diverged from its prescription.

This finding, in an objective environment, validates the hypothesis of this analysis – in sum, the majority of J&A's eviction files are not being managed by the timeline-based system, but rather by the individual labor and time spent outside of that system. This suggests that the supposed benefits of the timeline-based system – greater productivity, lower labor costs per unit, better and more accurate quality control, et cetera – are being lost on the great majority of our files, and that J&A in essence really isn't using a computer system to manage its evictions at all. J&A is instead using hard work, good internal management practices, and smart employees to manage the vast majority of its evictions. While ultimate time in eviction – the metric clients most concern themselves with – remains acceptable across this data range, it is suggested that this approach is resulting in great inefficiencies, as well as an essentially flat return on the investment into the timeline-based system.

Discussion.

As with any empirical undertaking, there are limitations to the current analysis. For example, this analysis restricts its focus to a more global level, aggregating across states in order to make reasonable statistical inferences about the eviction process. Some states may certainly be more or less likely to have problem files and to have evictions come under contest, but such issues are not broached in this analysis. In addition, no quantification analyses are provided regarding impact on time in eviction or on internal rate of return, although the impact is believed to be significant from anecdotal evidence and common sense. These analyses are beyond the scope of the hypothesis to be tested.

The finding here that REO legal process is dynamic and non-linear indicates that, at its core, the primary assumption underlying today's primary REO eviction management tool is incredibly weak, if not outright false. It also means that utilizing timeline-based systems to manage what is in fact a dynamic and stochastic process is clearly causing significant inefficiencies in operations, affecting not only the return on any investment in timeline-based solutions, but also affecting work product, work quality, per unit output rates, and thus per unit labor costs. Ultimately, these inefficiencies must manifest themselves in increased loss severity, either through extended timelines or through other related soft costs, such as an increased potential for legal exposure (which can result if false positives drown out true exceptions).

This analysis indicates a new approach to managing REO legal process is needed, one that takes better account of the demonstrated dynamic and complex nature of that legal process. In any industry, an inclusion rate south of 15% is considered abysmal, and indicative of a fatal failure. Any alternative solution must increase its rate of inclusion significantly, and research into those alternatives needs to propose solutions that can properly account for unpredictable external factors occurring at any point in the process, as well as occurring in variable order and volume. If the alternative theory cannot better account for external shocks in multiple dimensions – i.e. shocks coming from outside its universe (which universe in REO generally consists of attorneys, brokers, and clients) – its rate of inclusion is not likely to be significantly better than demonstrated in this analysis. It is suggested to look to other fields, such as manufacturing, for these alternative approaches, evaluate their appropriateness in modeling a dynamic process like REO legal process, and then build new systems around a qualifying architecture.

[Revisional Footnote: J&A has since identified a qualifying alternative theory to timeline-based management: events-based management, which has an extensive following in the manufacturing arena. J&A built its latest version of MMS and its Symphony web services platform by applying the theory of events-based management to their design and development. As a result, Symphony and J&A do much more than manage the same timelines that everyone in the industry uses – industry-leading analytics power an event-driven process model that literally obliterates the performance of management-by-timeline. It's this patent-pending approach to legal process management that makes Symphony one of the most innovative solutions available in REO today. Contact us directly for more information or a demonstration.]

OLAP Cubes

Case Processing Summary

	Cases					
	Included		Excluded		Total	
	N	Percent	N	Percent	N	Percent
ACTUAL * CLEAN * TYPE * lockout?	9844	99.9%	14	.1%	9858	100.0%

OLAP Cubes

CLEAN: clean

TYPE: uncontested

lockout?: lockout

	Sum	N	Mean	Std. Deviation	% of Total Sum	% of Total N
ACTUAL	54804	1247	43.95	28.379	13.5%	12.7%