

Elkins Family Law Task Force Meeting
Department of Water & Power
111 North Hope Street
Los Angeles, California 90012

February 24, 2009

Present: Hon. Laurie D. Zelon, Chair, Ms. Tülin D. Açikalin, Hon. Sue Alexander, Hon. Lorna Alksne, Hon. Irma Poole Asberry, Mr. Richard Barry, Hon. Louise Bayles-Fightmaster, Hon. Jerilyn L. Borack, Ms. Linda Daeley, Ms. Julie C. Dodge, Ms Patricia Foster, Ms. Ana María García, Hon. Michael Gassner, Hon. Barry P. Goode, Mr. Vahan Hovsepian, Hon. Joan K. Irion, Hon. Irwin Joseph, Hon. Mark A. Juhas, Mr. Lawrence Leone, Ms. Margaret Little, Mr. Drew Liebert, Ms. Judy Louie, Hon. Patricia M. Lucas, Mr. Mark Minyard, Ms. Suzanne Clark Morlock, Ms. Sandra Morris, Ms. Lorie S. Nachlis, Ms. Rebecca Prater, Hon. Vance Raye, Ms. Caron Caines Smith, Hon. Nancy Wieben Stock, Mr. Hugh Swift, Mr. Peter Walzer.

Members via teleconference: Mr. Drew Liebert

Staff: Ms. Deborah Chase, Ms. Bonnie Hough, Ms. Katie Howard, Mr. Joseph Nguyen, Ms. Diane Nunn, Ms. Deana Piazza, Ms. Patricia Rivera, Ms. Julia Weber.

Staff via teleconference: Ms. Charlene Depner, Ms. Rita Mah, Ms. Gabrielle Selden.

Meeting commenced at 11:00 a.m.

Justice Laurie D. Zelon, Chair of the Elkins Family Law Task announced that the meeting was open to the public, and welcomed everyone to the meeting. She discussed the scope of the task force, as well as its broad charge, and emphasized her confidence in the recommendations the task force will make to enhance the status of family law, improve practice and procedure, and make the courts more accessible.

Additionally, Justice Zelon announced the formation of a Litigant and Advocate Input Group, created in response to requests to contribute to the ongoing work of the task force. The task force will host a meeting of the group on April 6, 2009.

Presentation on Public Comment Received to Date

The task force reviewed a summary of public comments received as of February 8, 2009, through the Elkins Family Law Task Force web site and letters via email and post mail. There were a total of 147 commentators and 413 comments received from members of the public, attorneys, and judicial officers via the web site. The main themes include recommendations for improvement, difficulties encountered in the family law process, and the impact of the current process on litigants. The attached PowerPoint presentation was reviewed at the meeting.

Public Comment Period

Seven members of the public addressed the task force. Individuals presented areas in which they felt serious reform was necessary, and proposed recommendations to improve the system.

Individuals stressed the importance of the task force announcing these meetings to the public so that they can receive comments from those interested in their work and reforming family law, as well as allocating more time to hear public input.

Judge Lorna Alksne excused herself from the portion regarding the presentation by Mr. Enrique Monteagudo, J.D.

Public comments provided at the meeting and in writing will be considered as the task force develops draft recommendations to be circulated this fall.

Working Lunch

Members took a brief recess for a working lunch and reconvened after 15 minutes.

Presentation on Attorney Survey

The task force reviewed results and themes from the attorney survey conducted from December 2008 to the end of January 2009. The survey was one of the ways staff collected feedback from experienced family law attorneys. There were 580 responses to the survey. The attached PowerPoint presentation was reviewed at the meeting.

Presentation on Focus Groups

Staff presented an overview of the 19 focus groups completed to date which began in September 2008. Staff emphasized that focus groups are not meant to be a representative sample but rather another way of obtaining more in depth information than is possible through large scale surveys and closed ended information. The attached Power Point presentation was reviewed at the meeting.

Focus Area Presentations and Discussion

Each of the task force's working groups presented on their work thus far, emphasizing particular areas of focus.

The *Research and Best Practices* working group focus areas include (1) early intervention, alternative dispute resolution, (2) parentage and new family realities, and (3) family law research agenda.

The *Process Improvement* working group discussed case management, comprehensive statewide rules of court, family law forms and processes, and education on family law processes.

The *Representation* working group discussed the right to present live testimony; representation issues in family law, representation generally, limited scope representation, and ways to expand the practice of family law. Members also discussed assistance to self-represented litigants, adequate funding for legal assistance, early court intervention, and addressing the role of minor's counsel.

The *Improving the Status of Family Law Litigants and Family Law or Respect for Family Law Litigants and Family Law* working group discussed footnote 20 of the Elkins decision and the importance of procedural fairness in the decision.

Adjournment

The Elkins Family Law Task Force meeting adjourned at 4:36 p.m.

The next task force meeting is a two-day meeting on May 12 and 13, 2009, at the Judicial Council Conference Center in the Administrative Office of the Courts in San Francisco, California.

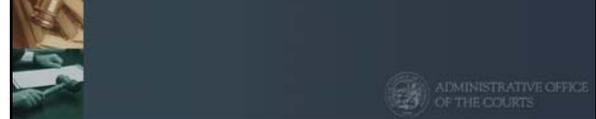
Elkins Family Law Task Force

February 24, 2009 Meeting
Los Angeles



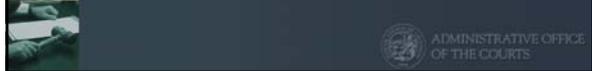
Public Comments (2/8/09)

- Elkins Website
- Letters to Elkins



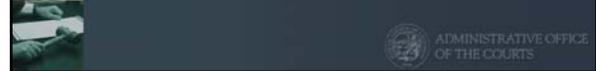
Commentators - 147

- Litigants - 38%
- Attorneys - 25%
- Advocates - 8%
- Therapists - 4%
- Judges - 1%
- CPAs - 1%
- Not Stated - 23%



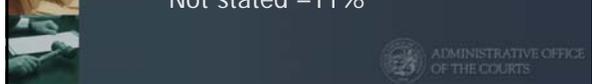
Public Comments

- Alameda
- Contra Costa
- Humboldt
- Los Angeles
- Kern
- Marin
- Napa
- Riverside
- Sacramento
- Santa Clara
- Santa Cruz
- San Diego
- San Francisco
- San Joaquin
- San Mateo
- Solano
- Yolo
- Indiana
- Oregon
- Washington

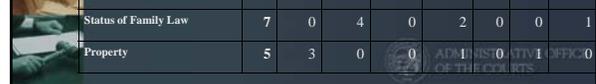


Comments - 413

- Litigants - 54%
- Attorneys - 20%
- Advocates - 5%
- Therapists - 5%
- Judges - 4%
- CPAs - 1%
- Not stated - 11%



Topic Distribution	Total (413)	Litigant (224)	Attorney (81)	Advocate (21)	Therapist (21)	Judge (17)	CPAs (3)	Not Stated (46)
Recommendations for improvement	128	40	35	16	8	9	2	18
Difficulties with Current Process	78	53	11	4	2	4	0	4
Impact on Litigants	57	43	7	0	0	0	0	7
Systems Issues	47	20	14	0	3	3	0	7
Custody/ Visitation	32	22	3	0	2	0	0	5
Domestic Violence	25	22	1	1	1	0	0	0
Access Issues	23	16	3	0	2	1	0	1
Support	11	5	3	0	0	0	0	3
Status of Family Law	7	0	4	0	2	0	0	1
Property	5	3	0	0	0	0	0	2

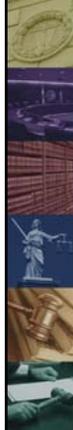




Main Themes

- Recommendations for Improvement
- Difficulties Encountered in the Family Law Process
- Impact of the Current Process on Litigants

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Difficulties - Litigants

- 730 evaluations, court actions, and emotional toll on children in custody litigation.
- Frustration with the court maze, DV-TRO process, different courts, lengthy child evaluations, and high attorneys billings.
- New judge was not aware of the previous orders, missing documents,
- Greatly curtail child custody evaluationshow can a litigant defend such a report when a copy is not given to the litigant.

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Difficulties - Litigants

- No one knows who to complain to at the court... And they've actually told me, "there's nobody".
- One sided justice – judge shut me down as soon as I spoke up
- Judge almost always turns to Atty for answers .and... goes along with the Atty instead of the SRL.

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Difficulties - Attorneys

- System bias toward SRL -fair and equal access time for Attys.
- NO recording or transcription of the record...
- JOs overburdened and neglect the rules of evidence.
- NO permanent family law judge.
- Family Law Stay away orders and Domestic violence orders confuse both law enforcement and the judiciary.

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Difficulties - Advocates

- The appointment by the court of minor's counsel made a bad situation worse.
- Evidentiary hearings should be required and decisions based on clear and convincing evidence rather than unsubstantiated statements.
- Family Court professionals must make decisions based on commonly accepted verifiable scientific findings.
- The court must attend to the need for child safety.

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Difficulties - Therapists

- Need a whistle-blowers process in the courthouses to monitor that all citizens are being treated fairly and justly.

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Impact on Litigants

- Trial dates continued 4X due to court unavailability caused increased and unnecessary atty fees, debts, court appearances, creditors threatening liens.
- Messy 3 year divorce, \$40K on 2 Attys, overburdened SHC, judge bias against SRLs, unable to prepare trial brief, couldn't introduce evidence.




Impact on Litigants

"I have been depleted of funds ...due to court continuances and attorney fees of \$2000 (for each appearance). Married for a split second, and I'm not understanding why I'm having to pay huge amounts of attorneys fees."




Impact on Litigants

- In court since 1995 - Didn't see kids in 6 years
- I was rendered defenseless, left homeless, void of possessions, stripped of any credibility and financial resources.




Recommendations - Litigants

- Double the time Family Court mediators spend with clients so that they are more informed in making recommendations.
- Audiotape FCS mediation.
- Oversight is needed over the supervised visitation centers.




Recommendations - Litigants

- Discourage & limit continuances.
- Instead of one common hearing time, give parties appointments for their hearings.
- Judges should let children testify, instead of depleting resources by appointing minor's counsel or custody evaluators.




Recommendations - Litigants

- Eliminate no fault disso so that marriage is taken seriously.
- If a child refuses to visit with the NCP as ordered, then the CP should lose a percentage of support for missed visitation as an incentive for the CP to cooperate.





Recommendations - Litigants

- Family Law litigants, especially those with mental disabilities, should have legal representation
- Establish a fund so pro per litigants can purchase court transcripts on a sliding scale. That single act would constitute the fastest route to "Equal" access.




Recommendations - Attorneys

- Overhaul the Family Law Code - New Conscious Marriage Statutes with pre-nupt options in the marriage certificate application process.
- Discovery motions like Motions to Compel, or Motions to Quash should be eliminated. Some better system of full disclosure supervised by an automatically appointed master




Recommendations - Attorneys

- Mandatory acceptance of telephone appearances by all JO which will reduce courtroom congestion, atty fees, traffic, and gas.
- Retain dedicated FL JOs in FL assignments and not switch assignments;




Recommendations - Attorneys

- Use digital recording instead of court reporters since the poor cannot afford court transcripts.
- Give Attys priority on calendars




Recommendations - Attorneys

- FL Bench officers should have contact with the children who are the subjects of custody orders as in Dependency cases
- Offer a Case Management Path and provide trained JO or Attorney Case Managers as an alternative to litigation




Recommendations - Advocates

- Give more weight on Children's preference and focus on Children's rights
- Improvement in oversight to ensure justice fairness and due process for represented and non-represented family court litigants and their children.





Recommendations - Advocates

- False accusers must be sanctioned to the fullest extent of the law to reduce false accusations.
- Family Courts should approach DV similar to Juvenile Court.
- Presumption of Equal Parenting




Recommendations - Advocates

- Need for child safety, and to improve the status of and respect for litigants and the family law court
- SHC should be publicly or privately funded and operated independently from family court
- Eliminate minor's counsel




Recommendations - Advocates

- clear roles for court appointees
- Judges, commissioners, evaluators, mediators, and other professionals should be credentialed and well qualified in child psychology prior to working in family or dependency court




Recommendations - Therapists

- Need a mandatory financial audit in the discovery phase of any divorce, by an outside certified forensic public accountant paid equally by the parties.
- ONLY CFLS can handle family-law/divorce cases.




Recommendations - Therapists

- Judges/commissioners who have recently gone through a divorce themselves should be required to go through counseling, have a psychological evaluation, and not be allowed to sit for a divorce case for at least 2-3 years.
- Raise caps on Summary Dissolution limitations




Recommendations - Therapists

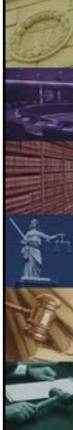
- Prenuptial Marriages" to resolve property issues before marriage
- Provide divorce mediation to resolve disputes
- Need a judicial review committee at each courthouse to address citizen's concerns and complaints about a judge/commissioner without fear of recourse by the judge/commissioner handling their case.





Recommendations - Judges

- Simplify family law in every way possible.
- Establish a routine case flow management (functional equivalent to Civil Case Management Rules) so that the family court move the cases toward final determination and quickly assess cases.

Recommendations - Judges

- The State Bar needs to create new incentives to encourage attorneys to do pro bono work
- The State Bar and the legislature should consider revising professional standards and malpractice liability definitions to enable further progress in making unbundled and limited-scope legal services more affordable (similar to the MICRA limits on medical malpractice and the "Good Samaritan" statutes).




Recommendations - Judges

- Soliciting more outside collaborative assistance for advice on how family law courts can simplify processes, and how they can best "interface" with litigants.
- Consider individual and cultural differences. Provide information, instructions, procedure, and requirements in different ways (Dual messaging) - on forms, information sheets, etc.




Recommendations – Not Stated

- Court reporters and AUDIO TAPES must be available at a nominal fee, due to omissions by court reporters.
- Oversight and supervision over Judge Pro Tems" needed since the CJP claims that the State Bar handles these issues.




Recommendations – Not Stated

- Encourage judges to reschedule trials when attorneys quit on short notice
- Judges should not be allowed to serve on any board of non-profit, visitation / parenting centers.




Recommendations – Not Stated

- Education the public that if "collaborative law" fails, the client who must find a litigator and may still be on the hook for his or her "collaborative" attorney's fees.
- larger firms need to actively commit to pro-bono work in family court



Recommendations – Not Stated

- Longer judicial assignments in Family Court so that judges can become educated as to the process of divorce, esp. in high conflict cases.
- Increase salaries of Family Court Judges, esp. those who preside 2+ yrs.



Letters to Elkins - *Sample*

- A certified family law specialist wrote to ask the task force to be creative in its approach and consider such strategies as:
 - Unified family courts
 - Case management
 - Increased settlement opportunities
 - Attention to the use of experts
 - Judicial Knowledge & training
- Suggests looking at Oregon and Arizona



Letters to Elkins - *Sample*

- A judge from a large court analyzes his calendars – provides data
 - 91% OSC hearings
 - 4% DV Hearings
 - 4% Trials
- Points out that majority of FL contests do not occur at trial – but at hearings on the basis of hearsay declarations
- Suggests many hearings should not be *Reiflerized*



Letters to Elkins - *Sample*

- A children's rights advocate wrote with concerns about:
 - SHC funding – private
 - Evidentiary standards
 - Perjury sanctions
 - DV litigations
 - Training for judges and other professionals
 - Issues with minor's counsel



ATTORNEY SURVEY



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BACKGROUND

On-line survey – available December 1, 2008 – January 23, 2009

Publicized through State Bar publications, listservs, presentations

One of many ways of gathering information from attorneys including – focus groups, letters, meetings

Preliminary report – still reviewing and verifying



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WHO RESPONDED

- Over 580 attorneys completed the entire survey
- Vast majority (85%) had more than ¾ of their practice in family law, more than ½ had 100% of their practice in family law
- 30% Certified Family Law Specialists/ 70% non-specialists



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WHO RESPONDED - experience

Have been practicing family law for over 15 years on average

½ have had less than 15 years of experience (approx 1/3 less than 10)

¼ had 15 -25 years,

¼ had more than 25 years



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WHO RESPONDED – type of practice

Almost ½ solo practitioners

1/3 practice in firms

Remainder are legal services, family law facilitators, others



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WHO RESPONDED – geographical distribution

Broad distribution throughout the state –

attorneys reporting practice in all courts except Del Norte and Mono

Most practice in more than one county



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Percentage of practice in mediation

Nearly $\frac{1}{2}$ reported doing mediation as a part of their practice

Among those who do mediation, $\frac{3}{4}$ do 20% or less of mediation about $\frac{1}{10}$ have 50% or more of their practice in mediation




Percentage of practice in collaborative law

- $\frac{1}{6}$ reported having some of their practice in collaborative law
- Among those who do collaborative law, $\frac{3}{4}$ have 15% or less of their practice in this area




Percentage of practice as minor's counsel

- $\frac{1}{5}$ reported having some percentage of their practice serving as minor's counsel
- Of those who serve as minor's counsel, $\frac{3}{4}$ have 15% or less of their practice in this area




LANGUAGES OFFERED

- More than $\frac{1}{4}$ of the attorneys offered services in languages other than English. Of those:
 - Over 80% of those offered services in Spanish
 - 5% offered Mandarin, French or Vietnamese




INCOME OF CLIENTS

- For 5% of respondents – most clients make more than \$1 million
- For 14% of respondents – most clients earn between \$250,000 - \$1 million
- For 24% of respondents – most clients earn between \$100,001 - \$250,000
- For 47% of respondents – most clients earn between \$25,001 - \$100,000
- For 17% of respondents – most clients earn less than \$25,000




Most common income category for each practice type

Practice in firm - \$100,000 - \$250,000

Solo Practice - \$25,000 - \$100,000 (most common income category overall)

Facilitators/Legal Services - \$25,000 or less



Challenges faced by practicing in other counties

- Local rules and procedures (written and unwritten) – $\frac{3}{4}$
- Apparent Preference for local attorneys – $\frac{1}{7}$
- Travel expenses/time – $\frac{1}{10}$
- Lack of knowledge of Judges/Staff – $\frac{1}{10}$



Short cause hearings

- Slightly less than $\frac{1}{2}$ make less than 6 court appearances per month; approximately $\frac{1}{4}$ make 10 or more appearances per month
- Average is approximately 8 appearances per month except for DCSS attorneys



Ex parte applications for temporary orders

- Domestic violence –
 - Nearly $\frac{1}{3}$ submit no ex parte applications regarding domestic violence
 - More than 40% submit one per month
 - Among those who submit ex parte applications re: domestic violence issues, average is 7-8 per month



Ex parte applications for temporary orders

- Custody and Visitation –
 - More than 20% submit no ex parte applications regarding child custody and visitation;
 - More than 25% submit two to four per month
 - Among those who submit ex parte applications re: custody and visitation, average is: 3 – 4 per month



Ex parte applications for temporary orders

- Other Issues –
 - Nearly $\frac{1}{3}$ submit no ex parte applications regarding issues other than child custody and visitation and domestic violence;
 - More than 40% submit one per month; more than 20% submit 2-5 per month
 - Among those who submit ex parte applications on other issues, average is: 7 – 8 per month



Trials / Long Cause Hearings

- More than 10% made no long cause hearing or trial appearance in the last 12 months; roughly $\frac{3}{4}$ made less than 6 appearances last year
- Average approximately 6 trials or long cause actions last year





Day-to-Day Trials

- If unable to complete a trial or long cause hearing by the end of the day only 15% are able to continue it to the next consecutive court day and on each day thereafter until the matter is submitted

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Issues with not being able to continue day to day

- “Court calendars are jammed, being ordered to come back once a week, for an hour/two hours at a time, very demanding/hard on the client.”
- “Sometimes our hearings are so protracted that by the time we are done the order is meaningless. Start one day. Continue another few hours 2-3 months down the road. Then finish up in another two months. Who remembers where everyone left off with this disjointed system?”

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Why lack of continuity

- Over 90% cited lack of resources to family courts, judges and courtrooms for the delay

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Are there motions that should require live testimony?

More than 2/3 answered yes

Of those:

- custody/visitation – 2/3
- domestic violence – 1/3
- child support – 1/4
- all OSCs/motions – 1/6

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Factors in determining whether need live testimony

- Situations in which the facts are in dispute;
- When credibility would be an issue,
- When substantial issues are involved,
- When expert opinion is involved;
- When self-represented litigants are involved,
- When there is a substantial change in circumstances, and
- When issues are particularly complex.

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Any difficulties obtaining a record of court proceedings?

- Yes – 1/3
- No – 2/3
- Of those answering yes –
 - 1/2 reported long delays in getting transcripts
 - 1/4 reported costs a barrier
 - Other issues – lack of consistent reporters in court and challenges contacting reporters

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How often do potential clients contact you, but can't afford to hire you?

Solo Practitioners –

- Often - 45%
- Sometimes - 46%
- Rarely/Never - 6%

Practice in firm –

- Often - 49%
- Sometimes - 43%
- Rarely/Never - 4%




If ended attorney/client relationship ended before case

- Lack of resources by client was the most common reason for nearly 2/3 of respondents
- Disagreement between client and attorney was the most common reason for 1/6 of respondents
- Lack of communication with client was the most common reason for less than 1/10




Fees and costs

Typical Hourly Rate for FL cases
\$330/ hour for solo and firm practitioners
(range 0 - \$900)

- ¼ charge less than \$275;
- ¼ charge more than \$375;
- Less than 10% charge \$500 or more




Average retainer

- Range 0 - \$50,000
- Average approximately \$5,575
- Less than \$5,000 for solos
- Nearly \$6,500 for firms
- Approximately ¼ charge \$3,500 or less, and ¼ charge more than \$7,000




How many cases to private judge in past 5 years?

- More than ½ took at least one case to a private judge in the last 5 years
- Among those who used a private judge in last 5 years, mean was 8 cases
- More than ¼ took 10 or more cases, roughly ½ took 3 or fewer cases




What factors considered in opting for a private judge?

- Strong family law expertise of judge – 4/5
- Less waiting time in court – 3/4
- Get into court sooner – 2/3
- Longer blocks of court time – 2/3
- Trials can be heard on a day-to-day basis – 2/3
- Quicker decisions – 2/3
- More privacy for client – 1/2
- Overall cost savings – 1/2





Which unbundled services do you provide?

- Prepare documents without appearing as attorney of record – 1/2
- Review documents prepared by clients – 1/2
- Coach clients to prepare for hearings – 2/5
- Make appearance for limited number of hearings – 2/5
- None – 1/4




Why don't provide unbundled services

- Busy with full-service cases – 3/5
- Worried about liability – 1/2
- Worried that judges won't let me withdraw from case – 1/4
- Worried about damage to clients – 1/4
- Policy of firm I work for – 1/6
- Am never asked – 1/6




How many pro bono cases did you have last year?

- 1/3 had no pro bono cases
- Among those who had pro bono cases, range was 1 – 50, mean was 3-4
- Among those who had pro bono cases, 1/4 had less than 2, 1/4 had 5 or more




What would encourage you to take more pro bono cases?

- Earning enough in paid practice – 2/5
- Time limited cases – 2/5
- Knowing I could withdraw from case – 1/3
- Pro bono cases receiving priority in courtroom – 1/3
- Nothing – 1/6




Common complaints from clients

- Takes too long – 3/5
- Too expensive – 3/5
- Too many continuances – 2/5
- Loss of time from work – 2/5
- Not enough time in court – 2/5
- Bias or unfair treatment – 1/3




What is working well in Family Law in California

- Mediation/ADR
- Judicial officers
- Self-Help
- Judicial Council forms





What is not working well in Family Law now

- Child custody processes (including mediation)
- Judicial officers
- Self-Represented Litigants
- Delays
- Cost of services




How to improve family court experience

- Devote more judges to family law – 2/3
- Greater uniformity in family law practice – 2/3
- Lengthen assignment of judges for family law court – 3/5
- Increase opportunities for mediation, settlement discussions – 3/5




How to improve family law

- Allow telephonic hearings in family law – 1/2
- Provide more judicial management of cases to assist in more timely resolutions – 1/2
- Make the process easier to understand – 1/3
- Other – 1/3



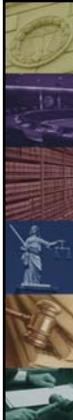

Statutes, rules or procedures that unduly increase attorneys fees

- Declarations of Disclosure
- Trial Setting Conferences, Mandatory Status Conferences (particularly if can't make phone appearance)
- Discovery Procedures
- Too many matters scheduled at once, too many continuances granted




Suggestions for family law forms

- Make easier to understand/simplify -
- Make Fewer of them
- Income and Expense Declaration
- Problems with local forms
- Suggestions for new forms

Additional suggestions

- Many other suggestions and comments were made
- Staff is continuing to code and review for the final report of the Task Force



ELKINS FAMILY LAW TASK FORCE FOCUS GROUP STUDY BACKGROUND AND METHODOLOGY

To support the work of the Elkins Family Law Task Force, focus groups are being conducted with family court stakeholders in an effort to identify issues and possible solutions the task force may consider exploring. A private contractor has been hired to facilitate a series of focus groups, each of one and a half hours in duration. Each focus group consists of participants representing one type of family court stakeholder, as outlined below.

- 19 focus groups were completed between September and November 2008
 - 8 litigant groups (2 in Spanish); 58 participants
 - 5 court staff groups; 43 participants
 - 3 attorney groups; 22 participants
 - 3 judicial officer groups; 18 participants
- 2 additional litigant focus groups will be completed by March 2009

Why Focus Groups as the Primary Research Method?

Focus groups are a good method of data generation if the question to be addressed:

- Involves gathering opinions and impressions from lay people;
- Affects many people the same way; or
- Suggests that group discussions would help people to be frank.

Other benefits of using focus groups in this research context include:

- Focus groups provide data from a group of people much more quickly and at less cost than would be the case if each individual were interviewed separately. They also can be assembled on much shorter notice than that required for a more systematic, and larger survey.
- The open response format of a focus group provides an opportunity to obtain large and rich amounts of data in the respondents' own words.
- Focus groups allow respondents to react to and build upon the responses of other group members. This synergistic effect of the group setting may result in the production of data or ideas that might not have been uncovered in individual interviews.
- Focus groups provide information not only on what respondents think, but why they think the way they do.

It is important to emphasize that regardless of the many benefits of using focus group as a research method in this context, focus groups do not provide generalizable results—that is, the findings cannot be applied to all people similar to the participants.

According to the American Statistical Association, “Unlike surveys in which a representative sample of the population is selected to study, a planned sample is chosen

for focus groups. The composition of a focus group is usually based on the homogeneity or similarity of the group members. Bringing people with common interests or experiences together makes it easier for them to carry on a productive discussion.”¹

Selection of Study Sites

To date, there have been 14 county-based focus groups and 5 event-based focus groups. The study counties were chosen to cover a wide range of California’s local family courts. The following factors were considered their selection:

- Geographic diversity: for example, both urban and rural and small and large counties;
- Service diversity: both service-rich and service-limited counties, including; counties that have instituted promising programs/practices in the family court; and
- Presence of non-English-speaking or underserved populations;

The seven study counties are: Alameda, Los Angeles, San Diego, Santa Cruz, Tulare, Sutter/Yuba (joint focus group).

In addition, five focus groups were conducted at events that assembled a broader range of family court stakeholders from throughout the state, allowing participants from outside of the study counties to share their perspective. The event-based focus groups were held at the statewide AB 1058 conference (one group of family law facilitators and one group of child support commissioners), the State Bar conference, and statewide and regional Family Dispute Resolution meetings and trainings (one group of directors and one group of line staff).

Development of Topic Guide

The focus group topic guide was created in consultation with the task force. The general research topics are:

- What are the experiences of court users at various family court processes? What is the quality of treatment and assistance received?
- What are the ways to promote fairness, accessibility, timeliness, and cost effectiveness of practice and procedure in family law court proceedings?
- What are the resource needs of family court professionals to ensure quality assistance for the court users?

To the extent possible, similar questions were asked of each stakeholder group in order to identify common themes, but other questions were tailored to the unique perspectives of each stakeholder group.

¹ See www.whatisasurvey.info.

Litigant Recruitment

Each participant in the litigant focus groups receives a \$75 incentive in appreciation for his or her time and travel. Providing incentives to participants is a very common practice in focus group research, particularly when participants are private citizens and may be of limited means, which may make it difficult for them secure the transportation or child care necessary to allow them to participate.

The focus group contractor has worked with a designated liaison in each court to identify ways to recruit participants to ensure representation of a broad range of experiences in the family law system. Recruiting methods were designed to target litigants whose cases were active in the last two to three years, both with and without attorneys, with a variety of family law case types, and from a variety of demographic groups.

Litigants who visited court-based self-help centers were given information on the focus groups either verbally or in writing, following a script developed by the contractor under the direction of task force and court staff. Those who expressed an interest in participating were asked to put their names and contact information on a sign up sheet. The sign-up sheets were forwarded to the contractor, who called potential participants to ensure that they met the criteria for participation. Represented litigants were recruited through their attorneys. Letters or e-mails were sent to the local family law bar or to attorneys who regularly appear on the court's family law calendars explaining the focus groups and asking attorneys to refer interested clients to the contractor for formal screening.

Focus Group Procedure

Before starting each focus group session, the facilitator reviews the informed consent information, which explains the nature and purpose of the focus groups and the parameters of their participation, and assures the participants' confidentiality and that the information they provide will be used in an aggregated form for research purposes only.

In addition, focus group participants are asked to complete an anonymous information sheet that contains questions on the demographics of participants and their experience with the family court, in order to paint a general picture of the overall composition of the focus groups.

Each focus group is audio recorded and the contractor produces a transcript of the audio recording with identifying information redacted. Transcripts of the data are analyzed by the Administrative Office of the Court's research team. Information from all of the focus groups is combined for presentation to task force.

Focus Group Study



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Overview

- 19 focus groups completed to date (began in Sept. 2008)
 - 8 litigant groups (2 in Spanish); 58 participants
 - 5 court staff groups; 43 participants
 - 3 attorney groups; 22 participants
 - 3 judicial officer groups; 18 participants
- 2 additional litigant groups will be completed by March 2009



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Study Counties

- 14 county-based focus groups: Alameda, Los Angeles, San Diego, Santa Cruz, Tulare, Sutter/Yuba (joint focus group)
- Geographic diversity – urban/rural, small/large
- Range of service availability, implementation of promising programs/practices
- Non-English-speaking or underserved populations

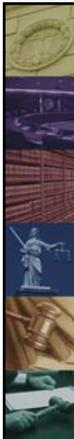


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Other Study Sites

- 5 event-based focus groups
 - One child support commissioner group and one family law facilitator group at the AB 1058 annual conference
 - One attorney group at the Statewide State Bar conference
 - One family court service (FCS) director group at the FDR directors meeting
 - One FCS mediator group at a regional training



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Characteristics of Focus Group Participants

- Litigants
 - Two-thirds female
 - Racially/ethnically diverse
 - Three-quarters had incomes of \$50,000 or less
 - Three-quarters were self-represented in their most recent cases



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Characteristics of Focus Group Participants

- Judicial Officers
 - Roughly half had ten or more years of experience in family law
 - More than three-quarters had prior professional experience as a family law attorney
 - Preside over a variety of calendars: General family law, IV-D, DV, SRL



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Characteristics of Focus Group Participants

- Attorneys
 - More than two-thirds had been practicing family law for 20 years or more
- Court staff
 - Family law facilitator and self-help attorneys, family court services directors and mediators, judicial assistants, and court services assistants
 - Roughly 4 in 10 had ten or more years of family court experience

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Preliminary Focus Group Themes

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Judicial Officer Themes

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Judicial Officers: Challenges

- Caseloads too high
 - Not enough time to make decisions on important, complex issues
- Resources not in line with workload or issues handled in family law
 - Family law not well-resourced relative to other departments

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Judicial Officers: Challenges

- Judicial rotation/assignment practices hinder ability to have experienced family law bench officers
 - Steep learning curve for family law

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Judicial Officers: Challenges

- Family law assignment may not be desirable
 - Heavy caseload/workload
 - Personal, sensitive issues being adjudicated
 - Perception of lower professional standards
 - Tendency for burnout

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Judicial Officers: Challenges

- Tension between assisting SRLs to get their cases through and applying same standards to all cases
- Local rules not consistently followed
- SRLs unaware of local rules

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Judicial Officers: Helpful Services

- Case management/case managers
- Specialty calendars with day-of-court assistance available
- Research attorneys
- Minor's counsel – with appropriate training

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Judicial Officers: Resource Needs

- More judicial officers to better handle caseload
- More mediators, evaluators
 - Need for more information about family to inform decisions
- Ancillary services for litigants
 - More referral options
 - Lower-cost alternatives

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Judicial Officers: Other Recommendations

- Develop caseload standards for judicial officers
- Offer evening hours to increase litigants' access to court

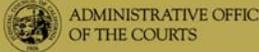
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Court Staff Themes



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Court Staff: Challenges for the System

- Family court handling higher volume, more complex issues without increase in resources
- Judicial rotation
 - Lack of continuity
- Local rules, programs may change with judicial officers

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Court Staff: Challenges Serving Litigants

- Can be difficult to work in family court environment
- Clerks limited in assistance they can provide; legal info vs. legal advice
 - Litigants may misunderstand clerk's role
- Difficult for non-attorney court staff to explain legal terms

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Court Staff: Challenges for Litigants

- May not understand steps in process they need to initiate (vs. what court is responsible for)
- May not know how to present their cases, unfamiliar with "court etiquette"
- Have difficulty understanding legalese
- Have difficulty understanding evidence

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Court Staff: Challenges for Litigants

- May not have adequate resources to pay for court-ordered services
- Services may be limited in availability in the community
- Litigants may receive inaccurate info about court system from friends and family, media, paralegals

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Court Staff: Helpful Services

- Case management
- Early intervention and assessment
- Mediation and other ADR
 - Earlier and more frequent opportunities
 - More staff available to provide services (FCS, FLF)
- Assistance preparing orders after hearing

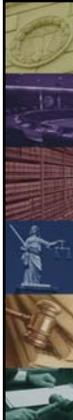
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Court Staff: Helpful Services

- General family court orientation
 - Lay out all steps in process, what to expect
 - Flow charts, tip sheets, info sheets to accompany forms
- Night court, evening hours
- Co-location of services, one-stop-shop concept

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Court Staff: Resource Needs

- More judicial officers
- More self-help, facilitator services
- More time to handle cases
- More language services (bilingual staff, court interpreters)
- More courtrooms, more space for services

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Court Staff: Other Recommendations

- Reduce or find ways to more evenly distribute caseloads
- Develop caseload standards
- Expand role of facilitator to assist with more aspects of case
- More uniformity in resource allocation and availability across counties

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Attorney Themes



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Attorneys: Challenges

- Resources devoted to family law not in line with importance, complexity of issues or resources involved
- Family law calendars are crowded
- Inability to have cases heard day-to-day
- Difficult to get timely access to family court services staff, reports

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Attorneys: Challenges

- Many judicial officers relatively inexperienced in family law, due in part to judicial rotation
- Lack of appreciation for complexity and workload involved in family court
- Perception that different standards are applied to attorney and SRL cases

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Attorneys: Challenges re: Rules

- Perceptions that rules are not consistently followed, evenly applied
- SRLs often unaware of or do not understand rules
- Confusion about which rules apply to family law
- County-to-county variation in rules difficult for attorneys who practice in multiple counties

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Attorneys: Challenges

- Very paperwork-intensive, especially relative to time spent in court
 - Declarations become too long, a lot of time spent reading/writing
 - May be more expensive for attorneys to draft lengthy declarations than to appear in court
 - May be easier to get clarifications on paperwork with short time in front of judicial officer

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Attorneys: Perspectives on Unbundling

- Mixed feedback on unbundling
- Concerns
 - Difficulty withdrawing from case
 - Dealing with expectations to work outside scope
 - Liability, malpractice
 - Inability to provide comprehensive services

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Attorneys: Perspectives on Unbundling

- Suggestions
 - Raise public awareness
 - Educate attorneys and judicial officers
 - Develop limited scope referral panel
 - Require notice to withdraw instead of substitution of attorney

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Attorneys: Helpful Services

- Case management and settlement conferences
- Volunteer attorneys
- More information for SRLs on steps they need to take to move their cases forward

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Attorneys: Resource Needs

- More judicial officers or lower caseloads
- More settlement opportunities
- More mediators
- More physical space

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Attorneys: Other Recommendations

- Stricter enforcement of rules; apply same standards to all cases
- Improve coordination of services within court

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Attorneys: Other Recommendations

- Ways to encourage pro bono:
 - Create more "levels" of pro bono
 - Use it to allow law school students and young attorneys to get practical experience
 - Provide MCLE credits and other incentives
 - Require pro bono work to be placed on minor's counsel panel

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Litigant Themes



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Litigants: Challenges

- Crowded calendars
 - Long waits
 - Not enough hearing time
- Insufficient time in mediation
- Lack of continuity in judicial officers
- County-to-county variations in services, fees, procedures



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Litigants: Challenges

- Going to court is expensive
 - Attorney fees
 - Filing fees
 - Related services (evaluation, counseling, etc.)
- Need to make multiple trips to court



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Litigants: Challenges

- Concerned about not having their day in court
 - Perceived lack of familiarity with details of case
 - Insufficient opportunity to speak and be heard
 - Evidence does not seem to be fully considered
 - Perception that both sides' arguments not given equal weight



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Litigants: Challenges

- Ongoing difficulties locating and serving other party
 - Frustration with inability to move case forward
- Difficulty with enforcement and compliance
- Other party fights for custody to reduce or avoid paying child support



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Litigants: Challenges

- Nervous, intimidated in court
- Clerks not as helpful as they could be due to concerns about legal advice
- May receive inconsistent or inaccurate information from different court staff



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Litigants: Challenges

- Issues with attorney representation
 - Not taking client's direction
 - Make cases more protracted
- Issues with interpreters
 - Perception that translation is inaccurate/incomplete
 - Feels like interaction is more between judge and interpreter than judge and litigant

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Litigants: Challenges

- Perception that system is biased toward litigants with attorneys
- Perception of cronyism in family court
- Perception that system is set up to make money

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Litigants: Helpful Services

- Family law facilitators and self-help centers
- Overview of court process and required steps
- Night court, extended hours
- Mixed feedback on mediation – more positive than negative
- Support groups

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Litigants: Other Recommendations

- More judges and court staff who are knowledgeable about/sensitive to issues involved in family court
- More respect and compassion from judges and court staff
- Appropriate recourse for complaints about judges, more accountability

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Litigants: Other Recommendations

- Make more information from mediation available to judge
- Appoint attorneys for litigants unable to afford one
 - Especially when other side is represented

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Global Themes Across Stakeholder Groups



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Global Themes: Challenges

- Caseloads too high, calendars too crowded
 - Cases protracted, inability to have day-to-day trials
- Inadequate time to present cases, make decisions

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Global Themes: Challenges

- Family court resources not in line with caseload/workload and issues being adjudicated
- Limited/inconsistent availability of judicial officers who are knowledgeable, experienced in family law

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Global Themes: Helpful Services

- Family law facilitators and self-help centers
 - More staff, expand range of services provided
- General orientation or overview class that explains steps in process, how to present a case, what to expect
- Night court, extended hours for services, evening and weekend workshops

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Global Themes: Helpful Services

- Case management
- Mediation and other ADR
 - More opportunities for mediation
 - More staff to provide services
 - Mediation of all appropriate issues

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Global Themes: Other Recommendations

- Reduce caseloads, develop caseload standards
- Greater consistency from county to county in terms of rules, procedures, and services

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