

**Judicial Council of California's Elkins Family Law Task Force
November 19, 2008 Meeting
Judicial Council Conference Center
San Francisco**

Members Present: Hon. Laurie D. Zelon (Chair), Ms. Tülin Açikalin, Hon. Sue Alexander, Hon. Irma Poole Asberry, Ms. Kathy Bañuelos, Mr. Richard Barry, Hon. Louise Bayles-Fightmaster, Ms. Linda D. Daeley, Ms. Patricia Foster, Ms. Ana María García, Hon. Michael J. Gassner, Hon. Barry P. Goode, Mr. José Octavio Guillén, Hon. Joan K. Irion, Hon. Irwin H. Joseph, Hon. Mark A. Juhas, Mr. Lawrence E. Leone, Mr. Drew Liebert (by phone), Ms. Margaret Little, Ph.D., Ms. Judy B. Louie, Hon. Patricia M. Lucas, Mr. Mark E. Minyard, Ms. Suzanne Clark Morlock, Ms. Sandra Joan Morris, Ms. Lorie S. Nachlis, Hon. Kimberly J. Nystrom-Geist, Ms. Rebecca L. Prater, Hon. Vance W. Raye, Mr. Stephen B. Ruben, Ms. Caron Caines Smith, Mr. Hugh K. Swift, Hon. B. Scott Thomsen, and Mr. Peter M. Walzer.

Members Absent: Hon. Lorna A. Alksne, Hon. Jerilyn L. Borack, and Hon. Nancy Wieben Stock.

State Bar Liaison Present: Ms. Sharon Ngim.

Staff: Ms. Diane Nunn, Lead Staff, Ms. Charlene Depner, Ms. Bonnie Hough, Ms. Katie Howard, Ms. Ethel Mays, Mr. Joseph Nguyen, Ms. Deana Piazza, Ms. Patricia Rivera, Ms. Gabrielle Selden, Ms. Julia Weber, and Mr. Jens Zeschky.

The four working groups met from 10:00 to 11:00 a.m. to discuss and identify key focus areas and prepare presentations for discussion with the task force. Chair Justice Laurie D. Zelon visited the groups individually to discuss the plan for the day.

Chair's Report

Justice Zelon called the meeting to order at 11:00 a.m.

Outreach Efforts: In addition to a broad solicitation for input through the Website and emailing, to date, task force outreach efforts designed to include input from the bar, judicial officers, and other family court professionals have included the following:

- Certified Public Accountant conference in Los Angeles
- Meetings in Irvine with the Orange County Lawyers and Forensics Study Group
- The Orange County Bar Association Family Law Forum
- Child Custody Symposium in Los Angeles
- Judicial Council of California's Trial Court Presiding Judges Advisory Committee

Members engaging in outreach efforts were asked to fill out the Outreach Form (available from Patricia Rivera).

Working Group Presentations

Process Improvement Working Group

The Process Improvement Working Group focused their presentation on the following three issues: (1) differential case management, (2) rule changes, and (3) education. The group has been discussing the possibility of developing family law statewide rules and what local rules should cover under those circumstances. The group has also been grappling with the question of whether procedural requirements should be the same throughout the state and the impact on litigants and attorneys in differences between jurisdictions around the state.

Members discussed case management and the need for interpreters in many family law cases, stressing the importance of addressing the needs of non-English speaking self-represented litigants and additional challenges they face when navigating the court system.

The task force also discussed improving the process for high conflict cases involving child custody disputes and identifying ways of providing assistance early addressing in a case.

Representation Working Group

The Representation Working Group presented on their discussion addressing the underlying assumption that it is generally best for family law litigants to be represented at all times throughout the case; however, members recognize that the cost of representation and the limited incomes of many litigants makes this unlikely. Given the high proportion of self-represented litigants and limited attorney involvement in many family law cases, the group posed the following questions: How can the court best provide meaningful access? How can the family law process be made less expensive and less cumbersome so parties might have representation for greater periods of time or at critical points in the family law process? Generally, this group defines its purview as assisting the task force in identifying those areas where representation is most needed, ways of providing more services in those areas to a greater pool of litigants, and ways of increasing the likelihood that people accessing family court will have a more meaningful experience.

Areas of potential recommendations are currently focused on improving access, ensuring counsel, due process, limiting costs, and consistently focusing on both the self-represented and represented litigant. The group will also consider issues related to limited scope representation (also known as unbundling) and the role of declarations and evidentiary hearings in family law.

The task force recessed for lunch and reconvened at 1:00 p.m. to hear the rest of the working group presentations.

Approval of Minutes of September 16, 2008

Task force members made a motion to approve the minutes from the September 16, 2008, meeting; other members moved and seconded the motion to approve the minutes. These minutes were posted on the California Courts Web site thereafter.

Research and Best Practices Working Group

The Research and Best Practices Working Group has begun a review of other jurisdictions and has divided family law into functional areas that include spousal support, child support, custody, and visitation. Members have read local rules on processing family law cases of all the 58 counties and have looked at examples of promising practices from other states and countries as well as consulted with task force members on their suggestions for sources of information on promising practices.

Limited resources pose the most significant challenge in implementing some promising practices. Areas the group is considering include effective use of judicial officers' time, court-based services that might be made available to people who have not yet filed a case, the use of mediation and alternative dispute resolution throughout the case, the role of community-based social services in assisting families in court, and how to most effectively address issues related to domestic violence. The group has also been considering the role of early case-assessment and differentiated case management in effectively handling the variety of cases coming into family court, including paternity/maternity matters.

The group asked for suggestions on other areas they should consider in further developing conceptual and specific recommendations.

Improving the Status of, and Respect for, Family Law Litigants and Family Law Working Group

This working group presented on the important role that procedural fairness should play in considering improving the status of family court, which includes focusing on the following elements: trust, respect, voice, and neutrality. In attempting to improve the status of and respect for family law and to address the procedural fairness elements, the working group is focusing on education, communication, and advocacy. Ideas at this point include considering ways of more fully implementing Standard of Judicial Administration 5.30, which addresses family court issues.

The working group is considering the work that has already been done on public trust and confidence.

Focus Group Update

Staff provided an update on the focus groups. The first batch of transcripts have been received are being reviewed, and staff will work with task force members to identify best ways to summarize results. Concerns regarding the composition of the Pasadena focus group were discussed and staff is looking at other ways to gather additional information so that a broader range of input might be received. The focus group is one method of soliciting public comment; the task force is actively seeking input from the public through a variety of methods that will include ongoing submission of public comment by e-mail, presentations at task force meetings, and public hearings.

Preliminary results of the focus groups will be presented at the February 24, 2009 task force meeting. Raw transcripts will not be distributed to the task force, to protect the privacy and integrity of the focus groups. Questions that were posed in focus groups will be posted on the California Courts Web site.

The working group session convened from 2:45 to 4:15. The task force reconvened at 4:15 p.m. after working group meetings. Each of the working groups provided a brief summary of their discussions.

Public Comment

Four members of the public appeared, requesting time to address the task force. Presenters were asked not to speak on any pending cases to avoid conflicts of interest with judicial officers on the task force.

Those four members of the public were Ms. Connie Valentine, Ms. Kathleen Russell, Mr. Stephen Burdo, and Dr. Joe Lazor. Their comments included making recommendations regarding the need for child safety, improvement in court oversight, fairness and due process for family law litigants, and reasonable solutions in existing gaps in the family court. They also discussed issues on family court audits, judicial accountability, and the perceived corruption of family court.

Justice Zelon thanked all the public presenters and relayed her appreciation for their time.

The task force meeting was adjourned at 5:00 p.m.