



NEW JERSEY STATE BAR ASSOCIATION

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Honorable Glenn A. Grant, J.A.D.
Administrative Director of the Courts
Report and Recommendations of the Judiciary Special Committee
on the Non-Dissolution Docket
Hughes Justice Complex, P.O. Box 037
Trenton, NJ 08625-0037

Re: Comments on Report and Recommendations of the
Judiciary Special Committee on the Non-Dissolution Docket

Dear Judge Grant:

On behalf of the New Jersey State Bar Association (NJSBA), thank you for the opportunity to provide comments on the Report and Recommendations of the Judiciary Special Committee on the Non-Dissolution (FD) Docket (FD Committee). We appreciate the tremendous effort made by the FD Committee to critically evaluate the non-dissolution docket and offer specific recommendations that are designed to eliminate the disparity that presently exists between how matters are handled on the FD docket when compared to the Family Matrimonial (FM) docket. We fully endorse the FD Committee's goal of ensuring "equity and procedural fairness consistent with similarly situated cases" in the FM docket.

As the NJSBA has previously expressed, the experience of our members has been that cases pending on the FD docket are no different than cases pending on the FM docket in terms of complexity and importance. The litigants who appear in the courts are deserving of the same level of respect and consideration regardless of the docket. We urge the Court to take all necessary and appropriate steps to afford all litigants the same level of fairness and access to justice, both from a substantive and procedural perspective.

With that goal in mind, the NJSBA supports the recommendations of the FD Committee, but offers the following addition clarifications for consideration:

With respect to Recommendation Eight, we ask that the Court consider adopting a standard form of Case Management Order to be completed at the initial hearing in all non-summary matters, regardless of whether the case is deemed complex. To only enter Case Management Orders in FD matters that are deemed complex reinforces a difference between the FD and FM dockets. In FM matters, the case is evaluated at the first case management conference, and the parties receive the benefit of a Case Management Order that clearly sets forth the timeframes and schedule of the case regardless of whether the FM matter is deemed complex or standard. FD cases would benefit from that same type of analysis and evaluation. In the recommendation, it is stated that FD actions should “not be automatically treated as a summary action requiring expedited resolution.” We agree and submit that adopting a form of Case Management Order for all non-summary matters will benefit the litigants, counsel, and the courts.

With respect to Recommendation 11, we ask that the Court consider adopting the Family Part Case Information Statement form instead of revising the Financial Statement for Summary Support Actions form (the Financial Statement). Recommendation 11 refers to revising the Financial Statement to “ensure the disclosure of assets, liabilities, childcare costs, healthcare expenses” The Family Part Case Information Statement has sections and line items for each of these concepts. If the goal is to have equality between the FM and FD dockets, adopting the Family Part Case Information Statement for use in *both* dockets would help to achieve it. We also note there would be a certain level of administrative ease if the forms in both dockets were unified. Practitioners and litigants alike would have a clearer understanding of which form to submit to the court. As such, we ask the Court to consider adopting the Family Part Case Information Statement form for use instead of revising the Financial Statement.

With respect to Recommendation 12, we ask the Court to consider amending Rule 5:5-3 to explicitly require a party to complete and serve a Family Part Case Information Statement form when that party is seeking support on the FD docket. The recommendation indicates that “to ensure due process and procedural fairness in FD modification of support actions, the FD process should be analogous to the FM process.” We agree with the recommendation in part but ask that instead of making the process “analogous” that it be made the same. In an application to modify or seek support, neither a party's marital status nor the docket on which the application is filed should be determinative of the depth and level of information that is necessary to obtain a fair adjudication. Moreover, we believe that the proposed change to Rule 5:5-3 that permits a court to order the non-filing party to file a “current financial statement *or* Family Part Case Information Statement” if the filing party has established a *prima facie* showing of changed circumstances will lead to confusion. There is no indication as to when a financial statement or a Family Part Case Information Statement should be ordered. This confusion will lead to divergent results. This outcome can be avoided if the amendment simply references the Family Part Case Information Statement. If the goal of the recommendation is to eliminate “inequalities that exist between the FD and FM dockets” as the last sentence of the recommendation indicates, we believe this goal is more likely to be accomplished by requiring the same form, the Family Part Case Information Statement, to be submitted for both the FM and FD dockets when seeking to establish or modify support.

In addition, the NJSBA urges the Court to consider further clarifications to the FD docket processes:

The Confidential Litigant Information Sheet is required to be filed on multiple occasions in matters submitted under the FD docket. In contrast, the Confidential Litigant Information Sheet is only filed in FM matters with the initial complaint. We ask that the Court evaluate whether it is necessary to require FD litigants to file the Confidential Litigant Information Sheet as often as the Court Rules (and the motion instruction packets) seem to require.

Under Rule 5:14-2, the concept of an *in camera* consent conference is discussed in matters involving establishment of the parent-child relationship. It is unclear whether the *in camera* consent conference is confidential or on the record. This should be clarified. If the goal is to encourage candid discussions and an attempt to resolve the issues being discussed, we recommend that the discussions occurring at the consent conference constitute inadmissible settlement discussions. We submit that the parties should clearly understand at the outset of the consent conference whether the discussion that will ensue is on the record/off the record and inadmissible/inadmissible.

Again, the NJSBA appreciates the efforts of the FD Committee to analyze the FD docket and prepare its report and recommendations. We support the goal of eliminating the differences that exist between matters filed on the FD and FM dockets. We also agree it is critical to ensure procedural fairness for litigants regardless of the docket on which their matter is filed. To address these issues further, we suggest that consideration be given in the future to addressing most matters through the FM docket and reserving the FD docket solely for summary matters.

We thank the Court for permitting the NJSBA to participate in this important process. The NJSBA stands ready to assist in implementing these recommendations in any way it can.

Respectfully,



Jeralyn L. Lawrence, Esq.
President

cc: Timothy McGoughran, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director