

BLUEPRINT FOR A MORE EFFECTIVE FAMILY COURT INTAKE PROCESS AND BEYOND: OPENING THE UMBRELLA TO PROCESS FAMILY COURT CASES

📅 Vol. 95, No. 6 November/December 2021 Pg 22 👤 Linda Fieldstone, Peggie Ward,
Judge Sandy Karlan, and Robert J. Merlin 📁 Family Law

Designing an effective family court intake process is not new for Florida. The Florida Supreme Court Steering Committee on Children and Families recommended a design for a uniform court intake system in 2001.^[1] However, elements for intake and case management were not integrated as a whole; rather, bits and pieces were tried by individual circuits and counties, and some systems were mandated rather arbitrarily. For example, each circuit has some form of self-help office or information center and each circuit includes different information on their websites. Taking into account that a need for a more uniform approach remains today, the Florida Chapter of the Association of Family and Conciliation Courts (FLAFCC) sponsored a Task Force on Family Court Intake in 2017. Co-Chairs Robert J. Merlin, Judge Sandy Karlan, Linda Fieldstone, M.Ed., and Peggie Ward, Ph.D., shepherded the work of the task force through its fruition.^[2]

The task force employed several mechanisms to inform its recommendations with regard to helping parties navigate the family court system more effectively, including gathering existing options from Florida circuits and other national and international jurisdictions; compiling research; creating a “wish list”; initiating a statewide collaboration; and reviewing the possibilities generated. Four committees, comprised predominately of Florida judges, general magistrates, and professional court staff, were established. To create a blueprint for the future, these teams focused on four identified areas of exploration, creating the “ITAC” model, which includes three major components of a court case supported throughout by technology: information, triage, and case management:

1) Self-represented parties (SRPs) include those who are unrepresented by attorneys who want to file cases, as well as those who choose not to file after they better understand the court process. What information do they need and is it currently being provided, or could they be informed better?^[3] ▲

2) Triage is the process for court professionals to determine the needs of the parties with regard to the community services available, in combination with consideration for how to best track progress through the court system. The triage process begins before a case is filed and continues throughout the process as needed so that the parties can be directed in the most efficient and effective manner through the procedural steps of their legal process.

3) Case management (also referred to as case processing) and essential court-related tools to improve the way a case is managed in terms of time and court resources, including case management orders, time schedules, hearings during the process and the scheduling of a timely final hearing.

4) Technology is used to produce a more responsive, customer-friendly, effectively monitored and managed family court system.

The groundwork laid by the previous court opinion, subsequent circuit efforts, and the work of this task force and its committees was essential to the vision presented by the task force. Although the committees began their work independently to explore each specific aspect of the intake process, it became apparent that a systemic, integrated approach was necessary, and their collaboration quickly ensued. As the Florida Supreme Court envisioned:

Case differentiation means that a case should be evaluated at the outset to determine the appropriate resources for that case and the appropriate way to handle that case. Case coordination requires that the judicial system identify all cases involving that family. Case monitoring requires continued attention to the needs of the children and family as the case moves through the judicial system so that the appropriate court resources are made available and linkages to appropriate community resources are facilitated.^[4]

Consequently, educating SRPs, triaging a case, case management, and technology are not limited to intake procedures only; they are integral to the entire flow of each case from beginning to end. Accordingly, it is essential that procedures remain available throughout the court process to help determine the course of a case when new and compelling information is provided to the court; as the needs of the parties and their children, if any, change; and as conflict needs to be addressed and managed. Therefore, the synopsis of the task force recommendations below includes a universal model for processing cases from intake through outcome for Florida's ▲

family courts.^[5]

Self-Represented Parties in the Courts Committee

The purpose of the SRPs in the Courts Committee was to develop best practices and/or recommend solutions to frequent barriers SRPs encounter while navigating the Florida family court system. SRPs are defined as any individual filing an action in the Florida civil courts who is not represented by an attorney. According to recent research, 72% of family cases involve at least one unrepresented party.^[6] There are many reasons that parties choose to represent themselves, which is the subject of other studies. For our purposes, it is enough to know that SRPs make up a majority of family law dockets. The efforts to improve SRPs' experiences are vital and the subject of national attention by the National Center for State Courts.^[7] When consistent best practices are implemented by the court, court support staff, clerks, and other individuals with whom the SRPs have contact, the parties' experiences with the court and legal system will significantly improve.

How do we provide better outcomes to SRPs? Cases often resolve faster and with outcomes that are more desirable when the court and parties actively participate. When SRPs can receive procedural guidance from the court, including access to rules of procedure, discovery tools and statutory requirements, they can present their case in a more efficient and effective manner. SRPs prefer and need a mix of services that comprise administrative support, legal information, and legal advice through online and in-person help.^[8] From the perspective of SRPs, simple encouragement and assurances can sometimes be as meaningful as legal help from a person trained in court procedures and resources, or from attorneys providing legal advice. SRPs are skilled at identifying the level of help they want at a given time and are likely to utilize multiple modalities over the course of a case, provided they are aware of available options.^[9]

Recommendations of the Self-Represented Parties in the Courts Committee

1) Establish full-service self-help centers in each county or circuit, using a combination of on-premises and virtual locations where a person can learn about the kinds of cases that can be filed, which one is most likely to fit their needs, what forms need to be filed, and what services are available in the community. The self-help centers can be in the courthouse, in a library, and at a legal aid office and can be staffed by community resource representatives from places such as the housing division, ▲

shelters, and economic relief offices.

2) Establish statewide standards or guidelines for the operation of the self-help resources and centers.

3) Obtain and utilize regular feedback from SRPs to improve self-help centers.

4) Incorporate plain, clear language into family law forms in multiple languages.^[10]

5) Increase awareness of and accessibility to family court forms.^[11] The SRP committee has created several completed forms as samples, such as the affidavit of diligent search.^[12]

6) Create a series of short family law videos with family court partners and the cooperation and input of the judiciary, state court administration, and other stakeholders. The videos and accompanying educational materials can be another medium to help SRPs navigate the family court system and the videos should be made available to the public (e.g., posted on each court's website and throughout social media). The committee believes important topics such as completing forms, service of process, discovery, presenting evidence during a hearing and preparation for final hearing can be better understood by watching a short video and accompanying educational materials. The committee has created two videos as examples. These videos are modeled after the Alaska State Court's Family Law Self Help video series and should be made available in both physical and virtual self-help centers, as well as in circuit and state websites.

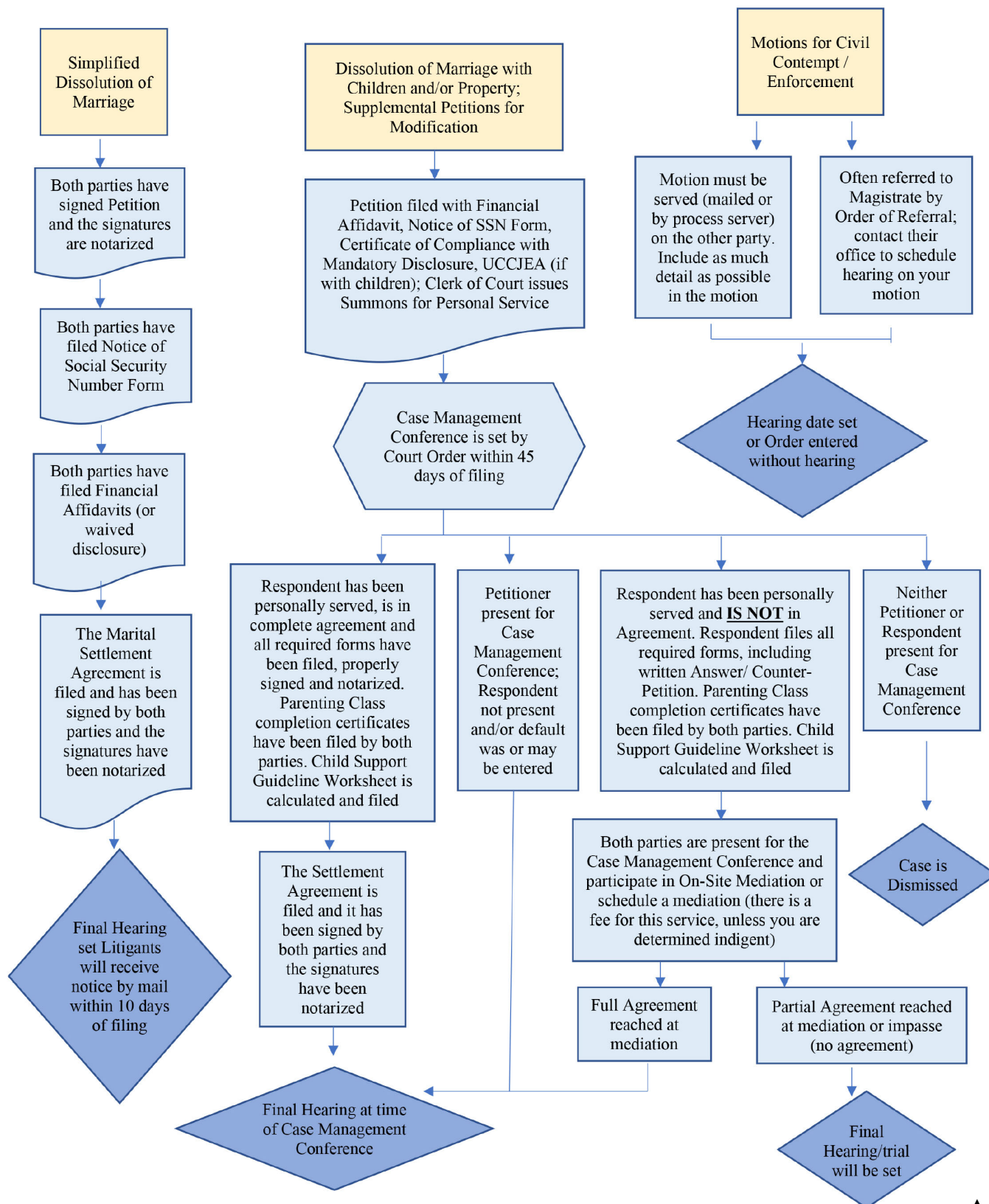
7) Help SRPs avoid common missteps in court proceedings. The committee has prepared a list of these along with how to avoid them, as well as a family law process for SRPs flow chart that covers all dissolution of marriage cases from beginning to end, which should be made available at all self-help centers and posted on every court website.

SRPs often do not know what family law action to initiate. To this end, we have prepared a family law process for SRPs chart^[13] that covers all dissolution of marriage cases from beginning to end that should be available at all self-help centers and every court website (see Family Law Process for Self-Represented Parties Chart).

The committee also incorporated recommendations regarding the use of technology to assist SRPs. Although some are mentioned in the preceding paragraphs, the

committee's recommendations have been integrated into the Technology Committee report.

FAMILY LAW PROCESS FOR SELF-REPRESENTED PARTIES



The Triage Committee

The Triage Committee focused on a process to identify the best initial pathway for a court process dependent upon the specific needs and characteristics of each unique case, as well as options to consider if the family structure or individual circumstances change.

Recommendations of the Triage Committee

1) Use a language-friendly questionnaire^[14] for parties to initially identify their issues, which can be used again at other junctures throughout a court process according to the changing needs of the parties and family. The parties' responses identify their issues and needs, help to place their case on the correct track, and provide the basis for referrals to best meet their current needs according to the level of conflict and particular issues involved. The Pathway Identification Chart indicates the most appropriate process according to each conflict level. Referrals to services indicated by the questionnaires would also depend on the services and resources available in the location, cost/affordability, and language spoken. Cases in which the parties do not require services to move through their court process effectively can move directly to their final hearing or enter an uncontested final order.

Pathway Identification Chart		
Conflict Level	Possibility of Resolution	Processes Indicated
Low conflict or no contest (few if any resources)	Can resolve with information and little or no dispute resolution process	Parent education, resource referrals, mediation
Medium conflict (some resources necessary to facilitate case flow)	Can resolve with input/recommendations and/or professional team in collaborative process	In addition to those above: co-parenting facilitation, issue-focused evaluation, collaborative process
High conflict (more extensive resources, in addition to those above, that are necessary to facilitate case flow)	Requires more extensive conflict resolution and coparenting oversight	In addition to those above: intensive parent education, parenting coordination, social investigation, parenting plan evaluation, guardian ad litem, relocation risk assessment, mental health assessment, ▲

		psychological evaluation of adult/child, substance misuse/abuse evaluation, supervised parenting time, therapeutic parent-child therapy/visitation, family therapy reunification specialist, domestic violence/intimate partner violence services
Significant financial issues (resources pertinent to finances and distribution necessary to facilitate case flow)	Requires independent financial experts, CPA	Business valuation/CPA, real estate appraisal, retirement plan valuation, mediation, certified divorce financial analyst, vocational evaluation, collaborative process
List of community resources or dial 211, available at any time to facilitate participation of party toward case resolution		

As the case progresses, information may appear that can trigger triage to a new pathway/track: mediation impasse (moderate to high conflict); multiple attorneys (moderate to high conflict); numerous court hearings on non-legal matters (moderate to high conflict); allegations of child abuse (high conflict); request for relocation of child (moderate to high conflict); child special needs (moderate to high conflict); capacity/physical disability limiting participation in court process (moderate to high conflict); mental-health issues (moderate to high conflict); allegations of domestic violence/intimate partner violence (high conflict); allegations of substance misuse/abuse (high conflict); parent/child contact problems including child resisting or refusing contact, allegations of parental alienation, risk of abduction/parental removal of child (high conflict); extensive criminal history (high conflict).

2) Use various methods of dissemination to increase accessibility to the triage questionnaire, once a response to an initial filing occurs. Optimally, the triage questionnaire would be generated electronically (e.g., SurveyMonkey) and sent automatically through an e-portal to both parties in the same manner that an order of related cases and the notice of non-action orders upon filing are available. The parties could also receive the triage questionnaire at the time of filing through an ▲

initial packet from the clerk with the link to the questionnaire or hard copies of the triage questionnaire could be obtained through self-help centers, flcourts.org, the clerk's website, each circuit's website, and/or FLAFCC. Additionally, a court intake professional could administer the triage questionnaire directly with the parties, similar to the intake process in the 20th Circuit.

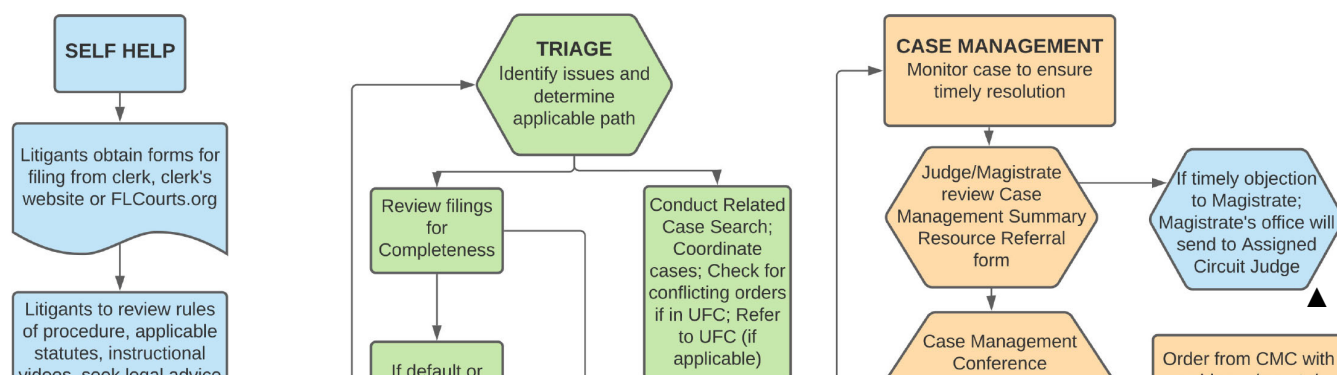
3) Use a case management summary for resource referral to the judge form^[15] to report the information gleaned from the questionnaire to the court. Ideally, once the triage questionnaire is completed, technology will be able to sort the data provided on the triage questionnaire and generate a case management summary for resource referral (see the template created by the Triage Committee),^[16] which would prompt the judge/magistrate to schedule a case management conference as soon as possible, to openly discuss with the parties and their representatives, if any, the pathway and recommended services indicated by the questionnaire. In the 20th Circuit, that case management conference is held the same day as an appointment between the court intake professional and the parties. A court order setting judicial/quasi-judicial case management conference form^[17] was also created by the committee.^[18]

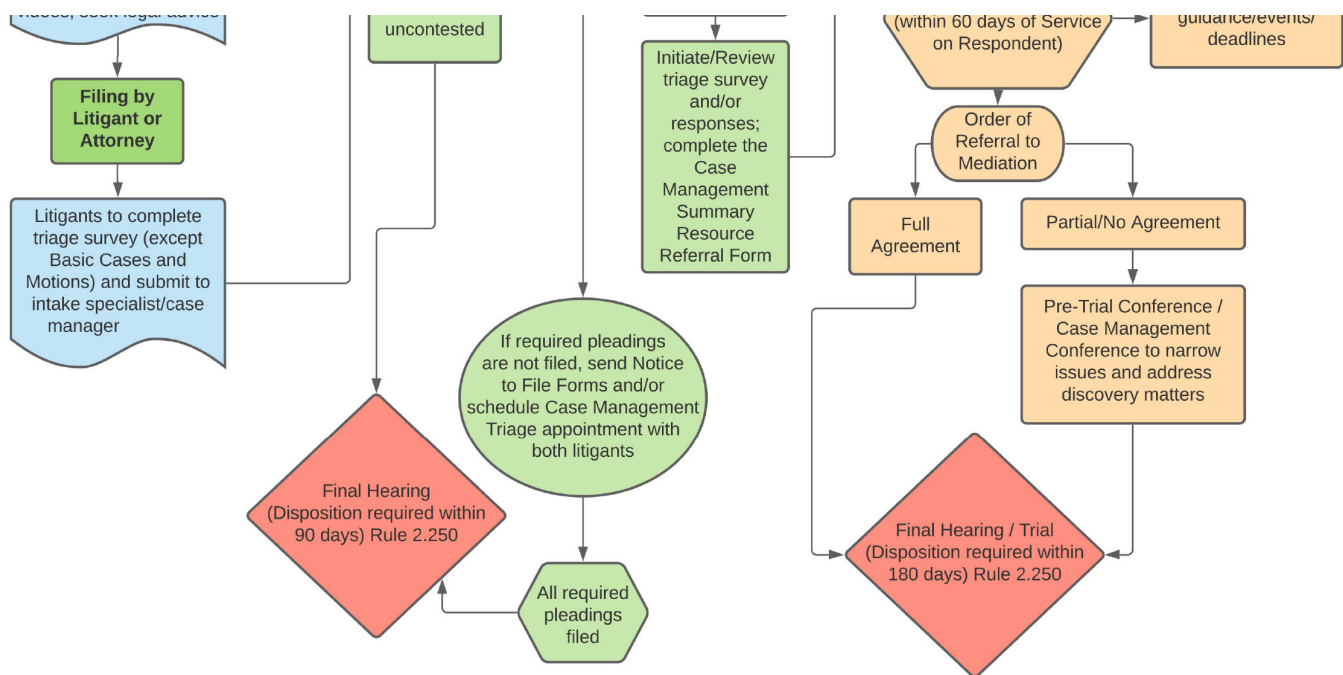
The earlier a referral to the resource or an affordable service, as indicated by the triage questionnaire, the better for the parties and their children (if any), as timely intervention can address issues, reduce risks, and decrease or manage conflict between the parties.

The Case Management Committee

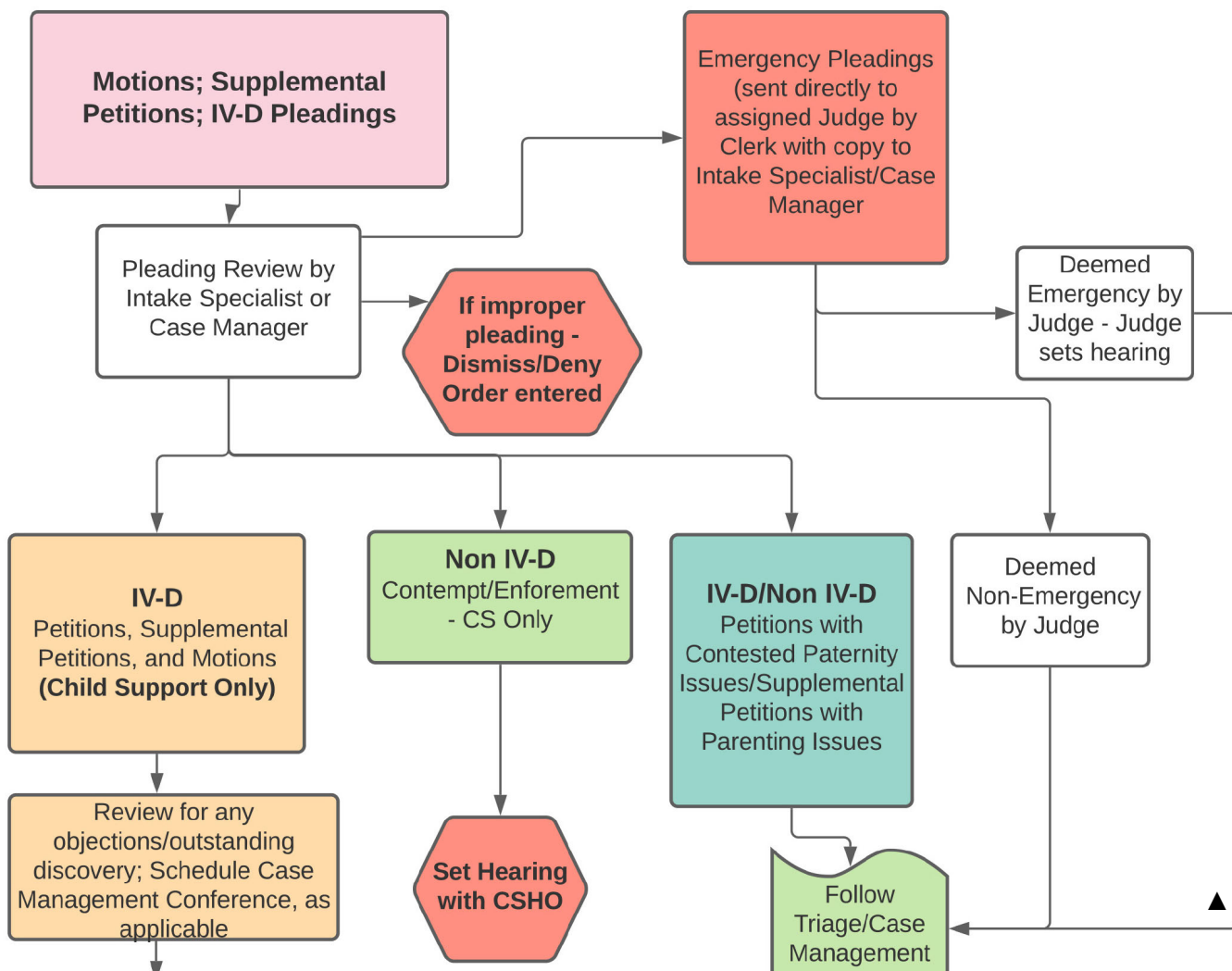
The Case Management Committee created a model case management flow chart^[19] that outlines the processes that should be implemented for case processing of family matters, including the suggestions from the Self-Help and Triage committees (see Dissolution of Marriage Model Case Management Flow Charts 1 and 2).

DISSOLUTION OF MARRIAGE MODEL CASE MANAGEMENT FLOW CHART 1





DISSOLUTION OF MARRIAGE MODEL CASE MANAGEMENT FLOW CHART 2





The Unified Family Court is also an integral and necessary component of case management to ensure that related family cases are heard before one judicial officer, that cases (families) are not piecemealed, and that conflicting orders are not entered. The Case Management Committee created a “protocol for handling UFC cases.”^[20] Related cases for families in multi-counties or involving multi-related families should also be managed with some modifications for logistics,^[21] using the same essential model of management.

Recommendations of the Case Management Committee

- 1) The court should control the progress of the case, not the attorney or party. One way to do so is to limit the number of continuances in cases.
- 2) Timeframes should be established and adhered to for each case (or type of case). Cases should be prioritized at the time of filing with a focus on the issues of each specific case.
- 3) The staff from the case management office (or self-help center) should review each case to ensure all required information is provided. Case managers or the self-help center should have a system to communicate with the parties on a regular basis with respect to missing documents and information, scheduling mediation and scheduling hearings. Each party should be advised of missing information as soon as possible after information is submitted.
- 4) Every case should have a case management conference date set soon after the case is filed. Further, future event dates (e.g., discovery, status conference) should also be set early in the case to provide guideposts for case preparation for parties and/or counsel to facilitate a timely resolution.
- 5) A standard order setting judicial case management conference should be adopted and also contain document submission deadlines, referrals to services and dates for completion or initiation.
- 6) Well-trained staff need to conduct effective case management, which encompasses, but is not limited to, case review, related case searches, resource



referrals, scheduling/court hearing facilitation, case coordination, judicial liaison for court and parties, form orders and document preparation.

7) Use general magistrates and hearing officers as an integral part of the team for managing family court cases.

8) Parties should not be required to appear in person for uncontested final hearings. When a file is complete, including the documentation necessary to prove all the elements required to obtain relief from the court, the parties should be contacted to schedule a virtual final hearing. The committee suggests that final hearings should not be required when all the documentation is in the court file. The judge should be able to enter a final judgment without a hearing, based upon the documents in the court file.

9) The case management staff should stay the same when a new judge is rotated into a division. It would be best to have experienced court staff assigned to a new judge in a family division.

Technology Committee

The COVID-19 pandemic forced technology on the judicial system and it will be here to stay, increasing interface between the judiciary and the parties and helping the courts remain as accessible as possible to parties and legal professionals. The COVID-19 pandemic introduced new hurdles across the country regarding how the courts handle due process matters. Technology platforms, such as Zoom and Microsoft Teams video conferencing, help to overcome some of those hurdles. These platforms have shown the courts that remote access can benefit the public and the family court system and identified the benefits of technology that should be further pursued and developed. Technology must be the conduit, not a barrier, to help systems work together. For example, the county clerks and the comptroller's office often use different software platforms than court administration/judiciary have for viewing records. Technology should be used to integrate systems. Technology gives the family court system an opportunity to dramatically increase its efficiency and to better serve the public.

Recommendations of the Technology Committee

1) There should be uniformity of technology platforms between all the circuits in Florida and the county courts within each circuit. The same systems should be used ▲

by the courts and the clerks, or systems that can easily integrate shared data between the courts and clerks.

A statewide case management system should include all aspects of the courts, including criminal, domestic violence, unified family court and dependency. Judges need to know if a party has been involved in another relevant matter in a different circuit, county, or jurisdiction.

A consistent system should be used for submitting documentary evidence to the courts in virtual hearings and trials throughout Florida, including through smartphones. A communication process should be established to provide information to parties and the public.

2) A communication process should be established to provide information to parties and the public.

A call-in system with integrated smartphone capability and “mobile first” content for easy access, easy display, and easy use should be made available for parties who cannot access a computer or a telephone with video capacity.

Public computers with video capability should be made available to the public for free, in the courthouses, and in other public areas. Public service announcements should be used to promote the use and locations of the kiosks.

A process should be created for SRPs to email questions to a clerk or case manager that can be timely answered by the self-help center or case management.

The courts should utilize an automated court messaging system to communicate with parties and attorneys.

Easily accessible forms are available to the public online. The best practice is for forms to be populated online with initial information that is provided by each party.

3) Information should be readily accessible to increase parties’ and the public’s knowledge of the family court process.

The courts should have detailed explanations on their websites on how to access hearings that are taking place through electronic means.

Self-help centers should establish an easily accessible clearinghouse of information▲

(e.g., through a link to www.flcourts.org) with access to family law forms, circuit-specific forms, links to the local county clerk and comptroller's website, link to Florida's e-Portal website, and other useful tools for SRPs. Information should also be accessible on the court's Facebook/Instagram pages or other social networking platforms that the court uses.

4) Judges and magistrates should be specially trained on how to use the technology for virtual hearings and how to handle documentary evidence and testimony of witnesses.

Integrating Task Force Recommendations: Creating a More Effective Family Court Process

The members of this task force believe it is crucial to assist those who come to family court in times of great stress to get through the process and leave in better condition than when they came to the court. To do that, we must make our system as efficient and time-conserving as possible for the health and well-being of the families, the lawyers, the judges, the court management team, and the clerks that participate in the family court system. As modern authors Victor E. Flango and Thomas M. Clarke remark in their book, *Reimagining Courts, A Design for the Twenty-First Century* (2014), those of us who work for and in the courts need to treat the families as customers.

The FLAFCC Family Court Intake Task Force is thrilled to be able to present this work as it has been a labor of love and devotion for all of us who have been struggling with the complexities of the family court process and human interactions. We believe that there is enough in this model for every circuit and county to adopt innovations that improve their efficiency and better serve the public, *thereby opening the umbrella to processing family court cases*.

^[1] *In re: Report of the Family Court Steering Committee*, 794 So. 2d 518 (Fla. 2001).

^[2] Contributing members of the task force committees include facilitators Linda Fieldstone, M.Ed., Judge Sandy Karlan (ret.), Robert J. Merlin, and Peggie Ward, Ph.D.; Co-Chairs General Magistrate Kristen Smith-Rodriguez (18th), Baily Smith (12th), and Kim Stephens (Second), and Pamela Anderson (First), Michelle Ardibily (Sixth), Carol Cochran (19th), Cathy Cox (15th), Mary Lou Cuellar-Stilo (13th), Lourdes Diaz (Ninth),

Victoria Duponty (16th), Craig Fabrikant, Ph.D.; Maria Gonzalez; Robert Greenberg (17th), Robert Griepner (17th), Tara Kranz (15th), Anna Kraweic (Sixth), Tammy Mancini (Seventh), Debbie Mravic (20th), Judge Mary Polson (First), Courtney Pringle (Seventh), Yumaris Pichardo (Ninth), Celia Lopez Portobanco (Ninth), Judge Lee Schreiber (20th), Anne Marie Schuller (Eighth), Amanda See (20th), Paulina Skerett (13th), Andrea Small (10th), Jennifer Steimle (10th), Patricia Sullivan (Sixth), Judge Diana Tennis (Ninth), Carmen Torres (Ninth), Roberta Walton (Ninth), and Katrina Volker (our family wizard).

[3] John M. Greacen, *Eighteen Ways Courts Should Use Technology to Better Serve Their Customers*, Family Court Review (Oct. 23, 2019), available at https://iaals.du.edu/sites/default/files/documents/publications/eighteen_ways_courts_should_use_technology.pdf.

[4] *In Re: Report of the Family Court Steering Committee*, 794 So. 2d 518, 529 (Fla. 2001).


[5] More in-depth recommendations and information provided by the Florida Chapter of the Association of Family and Conciliation Court's Task Force on Family Court Intake can be found at www.FLAFCC.org.

[6] National Center for State Courts, *Family Justice Initiative: The Landscape of Domestic Relations Cases in State Courts* (2018), available at https://www.ncsc.org/_data/assets/pdf_file/0018/18522/fji-landscape-report.pdf.

[7] See National Center for State Courts, <https://www.ncsc.org>.

[8] Katherine Alteneder & Eduardo Gonzalez, *Voices in the Civil Justice System: Learning from Self-Represented Litigants and Their Trusted Intermediaries* (Mar. 2020), available at <https://www.flcourts.org/content/download/633407/file/voices-in-the-civil-justice-system-final.pdf> (a study prepared for the Florida Commission on Access to Civil Justice).

[9] *Id.*

[10] When drafting and amending family law forms, the Florida Family Law Rules Committee, the Family Law Section Rules and Forms Committee, and the Florida Supreme Court Steering Committee on Families and Children in the Court are encouraged to reference the National Association for Court Management Plain Language Guide on How to Incorporate Plain Language Into Court Forms, Websites, 

and Other Materials (2019), available at <https://nacmnet.org/resources/publications/guides/plain-language-guide/>.

[11] Florida Courts, *Family Law Forms*, https://www.flcourts.org/Resources-Services/Court-Improvement/Family-Courts/Family-Law-Self-Help-Information/Family-Law-Forms?parentId=669505&sort=form/number%20asc,%20form/date%20desc&view=embed_custom&searchtype=form&limit=50&query=&offset=0.

[12] *Id.*

[13] Florida Chapter Association of Family and Conciliation Courts, <https://flafcc.org>.

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id.*

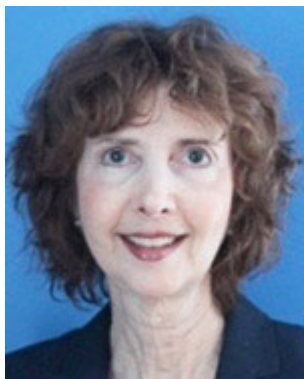
[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *In re: Report of the Family Court Steering Committee*, 794 So. 2d 518 (Fla. 2001). See Karen Cole, *A Model Family Court in Florida, Recommendations of the Florida Supreme Court's Family Court Steering Committee* (2000), available at <https://www.flcourts.org/content/download/218181/file/Model2000.pdf>.

Linda Fieldstone, M.Ed., co-chair of the ACR/FLAFCC Elder Justice Initiative on Eldercaring Coordination, is past president of the Association of Family and Conciliation Courts (AFCC) and its Florida chapter, secretary of the AFCC Task Force on Parenting Coordination 2005 and recorder for the 2019 Task Force to update the Guidelines. She is former supervisor of Family Court Services, 11th Judicial Circuit, Miami-Dade County, working with families experiencing high conflict for 26 years. She can be contacted at Lindafieldstone@outlook.com. ▲



Robert J. Merlin has been practicing law for more than 42 years, and exclusively practices family law in Coral Gables. He specializes in using the collaborative process in family matters. He also uses other non-adversarial processes to help clients resolve their family matters without litigating. He is Florida Bar board certified in marital and family law, he is a Florida Supreme Court certified family

mediator and he is an accredited collaborative professional by the Florida Academy of Collaborative Professionals. Merlin can be contacted at rmerlin@merlinlaw.com.



Peggie Ward, Ph.D., is a clinical-forensic psychologist and Overcoming Barriers.org founder who has specialized in the areas of child sexual abuse, alcohol abuse, and parent child contact problems for 30 years. Her primary practice is located in Bradenton, where she is a certified Supreme Court family mediator and a qualified parenting coordinator. Ward serves on the board of directors of Florida AFCC, the Family Court Professional Collaborative for the 12th Circuit and the Advisory Counsel for Overcoming Barriers.org. She is a member of the

FLAFCC Intake Task Force. Ward can be contacted at drpeggieward@gmail.com.





Judge Sandy Karlan served as a circuit court trial judge in Miami-Dade for almost 20 years, five of which she served as the administrative judge of the Family Division. Since leaving the court full time, she continues to serve as a senior judge throughout the state and as a Florida certified mediator in bankruptcy, family, and commercial law. She is a trained arbitrator, certified in marital and family law, and serves as a panel member for the American Arbitration Association and has served as a special magistrate in both the Family and the Complex Business divisions. She can be contacted at [**Karlanresolutions@gmail.com**](mailto:Karlanresolutions@gmail.com).

This column is submitted on behalf of the Family Law Section, Douglas A. Greenbaum, chair, and Krystine Cardona, editor.

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