

**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

**IN THE MATTER OF ADOPTION)
OF FAMILY COURT UNIFORM)
CASE MANAGEMENT PLAN)
_____)**

**ADMINISTRATIVE ORDER
No. 2007-034**

Whereas, the Family Court conducted a judicial retreat on August 27, 2004, in response to a directive by the Arizona Supreme Court to improve case processing procedures, and unanimously approved the concept of adopting uniform case management procedures to process family law cases in the Maricopa County Superior Court; and

Whereas, on September 21, 2005, the Family Court Department approved and adopted a Uniform Case Management Plan with detailed processes and procedures applicable to family court cases; and

Whereas, the Uniform Case Management Plan previously adopted is a differentiated case management model that employs early active judicial management, a focus on final resolution, required litigant preparation for conferences, targeted use of ancillary referrals, early firm trial dates, and user-friendly process to manage and resolve each category of cases with common characteristics in a uniform manner; and

Whereas, since the adoption of the Plan, the Arizona Supreme Court, effective January 1, 2006, has promulgated and approved the *Arizona Rules of Family Law Procedure*; and

Whereas, the Family Court Department has subsequently approved and created a series of Specialty Courts to hear and adjudicate various post-decree and post-judgment petitions as outlined in Administrative Order No. 2007-022 and the Plan for Expedited Process attached thereto; and

Whereas, it has become necessary to update and amend the Uniform Case Management Plan previously adopted by the Family Court Department to include the procedures established for processing post-decree and post-judgment petitions in the Specialty Courts, and to approve various other amendments to the Uniform Case Management Plan consistent with the *Arizona Rules of Family Law Procedure*.

Accordingly,

IT IS ORDERED that the Uniform Case Management Plan revised March 1, 2007, and attached hereto is hereby formally adopted and approved as the official Plan to process and hear all family law cases in the Family Court of the Maricopa County Superior Court, effective March 21, 2007.

IT IS FURTHER ORDERED that Family Court Administration shall proceed to process family law cases in accordance with the provisions of the revised Uniform Case Management Plan, the *Arizona Rules of Family Law Procedure* and applicable statutory provisions after the effective date.

DATED this 21st day of March, 2007.

Hon. Norman J. Davis, Presiding Judge
Family Court Department

Original: Clerk of the Superior Court

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Cheri Clark, Family Court Conference Center Director

**Maricopa County Superior Court
Family Court Department**

Uniform Case Management Plan

Approved By
Family Court Department
September 21, 2005
Revised March 21, 2007

Norman J. Davis
Family Court Presiding Judge

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I. Introduction.

In February 2004 the Arizona Supreme Court commissioned an independent study of the operations of the Family Court Department in Maricopa County. As a result of that study the Court directed the Maricopa County Family Court to submit a plan of improvement to, *inter alia*, improve the timeliness of case processing and develop a uniform case management plan. A brief history of the evolution of our Uniform Case Management Plan, and the Arizona Supreme Court's letter of direction are included. **(Admin. Memo)**. Our Final Plan of Enhancement dated December 7, 2004 can be viewed at the Arizona Supreme Court's website: www.supreme.state.az.us (Click on link to "Publications & Reports").

The Arizona Supreme Court General (Trial Court) Time Standards for processing family court cases require that 95% of all cases should be terminated within 6 months of filing, and that 99% of all cases be terminated within 12 months of filing. While it is yet to be determined whether these standards are realistic or achievable, the Maricopa County Family Court proposed a set of interim goals to the Supreme Court in December 2004 in response to the directives from the Court to improve the timeliness of case processing. These interim goals for termination of all pre-decree and pre-judgment cases, excluding Orders of Protection are as follows:

Time Period Ending	Percentage of Cases Projected To Terminate Within		
	7 Months	12 Months	18 Months
December 2004	50%	Remove All Terminated Cases From Reports	
December 2005	70%	90%	95%
December 2006	80%	95%	100%

The Family Court statistics for the month ended June 2005 indicated that the Family Court came into compliance with the termination goals projected for December 2005 by that time. For the month of February 2007, the Family Court terminated 79% of all cases within 7 months, 95% within 12 months, and 98.5% within 18 months.

Currently, each division is provided a "Cal Acti" Report listing all active pre-decree and pre-judgment cases assigned to that division that have been pending for 7 months or longer. It is important for each division to develop a consistent and detailed procedure to review its case inventory to ensure that every case is promptly resolved and/or terminated. We are currently in the process of developing a series of "Exception Reports" to identify in a much more concise way those cases that fall outside of case management standards. A copy of the statistical enhancement proposal awaiting action by the Court Technology Services is included at Tab 1.

Each division should ensure that no case is forgotten or not receiving proper attention. While it is important to manage all cases, as a starting point, every case that was filed more than 7 months previously should be scheduled either for a Resolution Management Conference or Trial, or scheduled for dismissal on a date certain. With the passage of 7 months, sufficient time has elapsed for a case to be served, for a default or consent decree or judgment to be entered (or at least scheduled), for all self-represented cases to be resolved or set for trial by the Early Resolution Triage Program, for court administration to schedule cases for dismissal that have not been served or prosecuted, and for all contested cases to be scheduled for Trial or a Resolution Management Conference. Included as **M.E. FC695**, **M.E. FC696** & **M.E. FC697** are several minute entries to assist in managing these older cases.

II. Uniform Case Management.

The Uniform Case Management Plan currently in effect in the Maricopa County Family Court is a differentiated case management model that employs early active judicial management, a focus on final resolution, required litigant preparation for conferences, targeted use of ancillary referrals, early firm trial dates, and user-friendly processes to manage and resolve each category of cases with common characteristics in a uniform manner. While each category may have different characteristics and procedures for resolution, significant effort has been expended to ensure that all cases are managed and resolved in a fair and efficient manner. All processes and programs have been designed with the following goals in mind:

1. Do No Harm. The overall guiding principle should be to “Do No Harm” to the family relationship.
2. Preservation of Family Relationships. The family court system should allow for easy exit upon the parties’ reconciliation, and for prompt diversion to counseling to repair family relationships if the parties are so inclined. This is in accordance with Justice Jones’ directive that: “It is important that preservation of the family be a clear priority in any plan we adopt.”
3. Prompt Action. The proceeding should be completed within a reasonable time with the least number of trips to the courthouse for the litigants. This goal recognizes that unnecessarily protracted litigation in itself can cause financial and emotional distress that is destructive to family relationships.
4. Early Judicial Management. All cases should be proactively managed and assessed early in the process with a view toward

final resolution of all issues and appropriate early management of unresolved issues. All unnecessary steps and procedures should be deleted.

5. Targeted Ancillary Services. The use of ancillary services to manage and prepare each case for trial should be sparingly utilized with a clearly targeted objective after considering all other available options. All services should be applied in a manner that will minimize the cost and delay to bring final resolution of each case.
6. Easily Understood Procedures. The system should have easily understood rules and procedures to allow efficient and common sense navigation through the process. Court appearances should be scheduled, whenever possible, at the convenience of the public.
7. Simplified Forms & Documents. The court should encourage and facilitate the filing of simplified pleadings, forms and documents. All redundant and unnecessary forms and documents should be eliminated.
8. Written Agreements. All progress in resolution of conflict and issues should be memorialized with written agreement at every step of the proceeding to avoid repeating steps in the process.
9. Uniform Procedure But Individual Justice. All case management procedures and programs should be applied uniformly and consistently wherever possible to promote consistency and predictability without interfering with the independent judicial discretion needed to do justice in every case.

The most obvious differentiation of cases occurs in distinguishing, as we have for many years, between pre-decree and post-decree cases. Within each of these case types, however, are significant sub-categories of cases that have general characteristics in common and should be handled differently. It is also important for accurate tracking and statistical accuracy to clearly define when a pre-decree case ends and a post-decree matter begins.

III. Pre-Decree v. Post-Decree Cases.

For case management purposes the definition of a pre-decree case is a case that is pending (not finalized or dismissed) calculated from the date of filing of the initial petition in the case until a final Decree or Judgment is filed (entered) by the clerk. Everything filed thereafter in the case would be post-decree. In addition, the guiding principle that logically should be used for statistical accuracy in determining the pre-decree time period, is to count the number of days from and after the date an initial petition is filed **that the court should, or even could, take some action to finalize the case**, continuing until the day a final Decree or Judgment is entered to finalize all of the issues in the case. Under this approach, time during which the case was dismissed or inactive by reason of the termination of a prior petition would be excluded.

At the present time pre-decree cases will be tracked as pre-decree from the date the initial petition in the case is first filed and the initial case number assigned until a final decree or judgment is filed (entered) that resolves all issues raised in the initial petition, with the following exceptions and clarifications:

1. Order of Protection Cases. Not infrequently a *Petition for Dissolution of Marriage*, a *Petition for Legal Separation*, or a *Petition for Paternity* will be filed in (or consolidated into) a pending case file established originally by the filing of a *Petition for Order of Protection* some days, weeks, months or years earlier. Under this circumstance it would be extremely inaccurate to assess the timeliness of resolving the second petition from the original filing date of the *Petition for Order of Protection*. A further problem exists if an order of protection case is not dismissed or terminated in a routine way. We will track cases involving an order of protection in three ways:
 - a. Order of Protection Only. We will separately track all files involving only a *Petition for Order of Protection*. They will become “post-decree” cases when an order is entered either granting or denying the Petition. Pursuant to **Administrative Order No. 2005-046**, cases in which a *Petition for Order of Protection* is filed and abandoned will be dismissed after no action has occurred for 30 days after filing.
 - b. Consolidated/Combined Filings. In those cases where a judicial officer deems it appropriate to consolidate an order of protection case with a substantive dissolution, separation or paternity matter, our policy will be to presumptively consolidate the order of protection case into the substantive case, regardless of which case was filed first. Not only is

this more statistically accurate, but will normally allow the judicial officer with the greater knowledge gained in handling the more substantive case to continue with the case.

- c. Subsequent Filings. When a *Petition for Dissolution of Marriage*, a *Petition for Legal Separation*, or *Petition for Paternity* is filed in an existing order of protection only file the subsequent substantive petition will be tracked as a “Post-Decree” case with its time-to-disposition calculated from the date the substantive petition was filed until the Decree or Judgment is filed (entered).
2. Paternity Cases With Multiple Filings. It is not uncommon for paternity cases, particularly Title IV-D cases to be filed in a piecemeal fashion. By their nature Title IV-D cases usually seek to establish paternity and child support, but do not address the custody issue. On occasion only an *Acknowledgement of Paternity* will be filed with no requests to adjudicate custody or child support. When the omitted issues are later addressed by subsequent filings it appears that the case has languished when in reality no issues were pending for adjudication during the time the case was dormant. To address this problem we will consider the first filed petition or request in any case to be the only pre-decree petition. After all issues raised in this first petition have been adjudicated with a formal written judgment or order, any subsequent filings to address other issues will be treated statistically as post-decree petitions.
3. Petitions To Convert Legal Separations To Dissolution. Initial petitions for legal separation are, of course, properly tracked and reported as pre-decree matters when they are originally filed. Once a *Decree of Legal Separation* is entered, however, the case is concluded and no further judicial action is required or contemplated unless and until one of the parties files a petition to convert the legal separation into a dissolution of marriage. The intervening time period should be excluded for accurate reporting. These cases will be tracked and reported as post-decree after a formal *Decree of Legal Separation* is filed (entered).

IV. Pre-Decree Cases.

Within the broad category of pre-decree family court cases, we have established policies and procedures for essentially 6 subcategories of cases that have obvious common characteristics: 1) Cases terminated by entry of a **Default Decree or Judgment**; 2) Cases terminated by the entry of a **Consent Decree**; 3) Cases **dismissed for lack of service**; 4) Cases **dismissed for lack of prosecution**; 5) **Contested cases involving two self-represented litigants**; and 6) **Contested cases with one or more attorneys**. Court Administration and the court's Attorney Case Managers involved in the Early Resolution Triage Program have significant responsibility for the first five categories of cases. The assigned judicial officer has ultimate responsibility and oversight for all assigned cases, but has primary responsibility for contested cases involving attorneys.

All pre-decree cases are randomly assigned to each division of the family court within a geographic region (Downtown, Northwest, Northeast or Southeast) by a computer-generated algorithm. Each region is comprised of the exterior boundary of a number of combined postal zip codes designated by Administrative Order of the Presiding Judge in accordance with Local Rule 10 (**Administrative Order No. 078**). All parties are required to file their case at the regional court center determined by the zip code of the attorney or self-represented party filing the case as designated by the appropriate Administrative Order. Cases assigned to regional courts other than the downtown court are assigned a case number with a numerical prefix to designate the region. The prefixes assigned to each regional court, and Administrative Orders included in the Appendix specifying the zip codes comprising each region are as follows:

<u>Prefix</u>	<u>Region</u>
5	= Northeast Regional Center (Example: FC2006-051111)
7	= Northwest Regional Center (Example: FC2006-071111)
9	= Southeast Regional Center (Example: FC2006-091111)
All Others	= Downtown

V. Uncontested Pre-Decree Cases.

Uncontested pre-decree cases are categorized into four general groups: 1) Those cases that are terminated by the entry of a default Decree or Judgment after a Respondent is served and fails to appear; 2) Cases that are terminated by the entry of a Consent Decree or Judgment by agreement of both parties; 3) Cases that are dismissed for failure to serve the Respondent after the required time; and 4) Cases that are dismissed for failure to prosecute the case to completion in a timely manner. A small number of dismissed cases may technically be contested cases that are dismissed for inaction or by sanction, but all dismissed cases are grouped here because they are handled in a uniform manner and no contested activity usually occurs after the case is on track for dismissal.

A. Defaults & Consent Decrees (Decree on Demand).

Approximately 30% of all pre-decree cases are terminated by default. An additional 20% are terminated with the entry of a Consent Decree or Stipulated Judgment. Until August 2004, all default and consent decrees and judgments were submitted for file review to assure compliance with rules and statutes prior to the scheduling of a default hearing or approval of a consent decree. This process typically took 6 to 8 weeks or longer if deficiencies were identified in the submitted paperwork. This delay created some confusion and frustration, and required the court designate a "cut-off" date in the last month or two of each year to ensure decrees that needed to be entered for tax reasons before December 31 could be signed.

On August 2, 2004, the Family Court began the "Default on Demand" program at the downtown courthouse. Once the statutory 60-day waiting period had passed, this program allowed the petitioner to call a dedicated phone line at the court to schedule a default hearing at their convenience and as early as the next court day. During the phone call the litigant is interviewed by court staff using a computer worksheet to verify that all legal requirements appear to have been satisfied. If so, the litigant selects a hearing date and is instructed to report to the "default room" prior to entering the courtroom on that date. Publication and interpreter cases are also identified in this phone call. Staff in the default room conduct a final file review, review final paperwork, allow the litigant to correct any deficiencies that can be cured with available forms, and calculate child support prior to sending the litigant to the courtroom for hearing with a Court Commissioner. This program expanded to the Northwest Regional Court Center in Surprise on February 1, 2005, to the Southeast Regional Court Center on April 4, 2005, and to the Northeast Regional Court Center on November 1, 2005.

The program subsequently evolved to include all Consent Decrees and Stipulated Judgments submitted downtown and at the northwest center effective March 1, 2005, and at southeast on April 4, 2005. Consent Decrees and

Stipulated Judgments can now be submitted for regular processing by mail or for expedited processing on demand. Decrees and Judgments submitted by mail are reviewed and returned within one week. Expedited processing requires the litigant to schedule a hearing at his or her convenience in the same manner as a default hearing when a commissioner will review and sign the decree or judgment. The entire program is now known as “**Decree on Demand**”. To reduce the massive phone call traffic generated by this program, an online computer interview was added to the program on June 27, 2005 that allows litigants to have their case initially reviewed and schedule a hearing entirely online.

Currently, litigants can participate in the Decree on Demand program telephonically or online as follows:

1. Defaults. To schedule a default hearing at any location, litigants are instructed to log onto the court website, or call the Decree on Demand phone number if the online option is unavailable. All hearings are scheduled at the available times listed below at the convenience of the public with the only limitation being that a hearing scheduled the next day must be scheduled before noon of the day prior. This allows time for file review prior to the hearing. The website and telephone number are:

Website: www.ecourt.maricopa.gov

Phone: (602) 372-3332

Downtown: Hearings are scheduled Monday through Friday each week with some lesser used language and publication cases scheduled on Mondays and Wednesdays. Spanish Interpreter cases scheduled on Fridays.

Check In: Default Room located at CCB3.

Hearings: CCB 3.

Southeast: Hearings are scheduled Thursday and Friday each week with lesser used language and publication cases heard on the 2nd and 4th Thursday of each month, and Spanish Interpreter cases scheduled one Friday each month.

Check In: Suite 1300.

Hearings: Courtroom 403.

Northwest: Hearings are scheduled Tuesday and Thursday afternoons each week with all interpreter and publication cases heard one Friday each month.

Check In: Information Center.

Hearings: Courtroom 123.

Northeast: Hearings are scheduled Wednesday evening, Thursday and Friday afternoons each week and every other Saturday with interpreter cases being heard three times a month and publication cases heard on Wednesday, Thursday and every other Saturday.

Check In: Family Court Administration.

Hearings: Courtrooms 105.

2. Consent Decrees. Consent Decrees and Stipulated Judgments can either be submitted by mail (or in person) or at an “on demand” hearing. The phone number and website for an on demand hearing are the same as those listed above for a default hearing. The mailing addresses to submit a Consent Decree or Stipulated Judgment by mail are:

Downtown: Maricopa County Superior Court
Family Court Administration
201 W. Jefferson, 6th Floor
Phoenix, Arizona 85003

Northeast: Maricopa County Superior Court
Northeast Regional Court Center
18380 North 40th Street
Phoenix, Arizona 85032

Northwest: Maricopa County Superior Court
Northwest Regional Court Center
14264 West Tierra Buena Lane
Surprise, Arizona 85374

Southeast: Maricopa County Superior Court
Southeast Regional Court Center
Family Court Administration, 1st Floor, Suite 1300
222 East Javalina
Mesa, Arizona 85210

Paperwork can also be submitted in person at these locations between 8 a.m. and 5 p.m.

B. Dismissals For Lack of Service & Lack of Prosecution.

Approximately 25% of pre-decree family court cases are terminated by dismissal for lack of service or for lack of prosecution.

1. Lack of Service. Rule 40(I), *Arizona Rules of Family Law Procedure*, requires that the court, after notice to the Petitioner, dismiss all cases not served upon the Respondent within 120 days after filing. Court

administration is charged with generating a computerized *Notice of Failure To Serve and Intent To Dismiss Your Case (Admin. Form)* when an affidavit of service has not been filed with the court within 120 days after the case is filed. The notice instructs the Petitioner that the case will be dismissed without prejudice and without further notice 60 days after the date of the notice unless proof of service is filed with the court, an order continuing the time to served is granted by the judge, or the case is voluntarily dismissed by the party. If the requirements of the notice are not met, court administration ensures that the case is in fact dismissed with an electronically signed written *Order Dismissing Case Without Prejudice For Lack of Service (Admin. Form)*. The original order is filed in the court file. Currently a copy of the order is not mailed to the Petitioner, but will be mailed when a more automated process is fully implemented.

In the event the Petitioner files a *Motion To Extend The Time For Service*, the assigned judge rules on the motion. If the motion is denied the judge dismisses the case with a signed order (**M.E. FC518**) if the time to serve has expired. If the motion is granted, the time to serve is extended to a date certain with notice that the case will be dismissed if service is not accomplished (**M.E. FC517**). Once the judge has acted to grant the motion, court administration is no longer authorized to dismiss the case, and the assigned judge needs to track the case to ensure the case is completed or dismissed with a signed written *Order of Dismissal (M.E. FC516)* if service is not accomplished within the extension.

2. Lack of Prosecution. If the parties have not filed a *Motion to Set* within 120 days after a family court case is filed, and if the court has not scheduled the matter for trial, hearing or conference, Rule 46(B), *Arizona Rules of Family Law Procedure*, allows the court to issue a notice that the case will be dismissed in 60 days if a proper *Motion to Set* or other request for hearing or conference is not filed. If a *Motion to Set* is not filed within 120 days after the filing of a family law case, court administration is responsible for scheduling the case for dismissal 60 days thereafter by sending the parties a *Notice of Intent to Dismiss (Admin. Form)*. The notice informs the parties that their case will be dismissed in 60 days in accordance with Rule 46(B), *Arizona Rules of Family Law Procedure* unless a final Decree is signed, a *Motion to Set* is served in a contested case, or the court grants a *Motion to Extend the Dismissal Date* prior to the dismissal date. If none of these actions are taken to move the case forward, court administration then dismisses the case with an electronically signed formal *Order of Dismissal Without Prejudice (Admin. Form)*. The original dismissal order is filed in the court file. Currently copies of the order are generally not mailed to the parties pursuant to **Administrative Order No. 98-012**, with the exception that copies are mailed to both parties if a response has been filed.

In the event a party files a *Motion To Extend the Dismissal Date*, the assigned judge rules on the motion. The policy of the Family Court Department

is to deny the motion if an extension is not warranted (**M.E. FC515**) or, if granted, to schedule a Resolution Management Conference (RMC) and schedule the case for dismissal on the day of the scheduled conference (**M.E. FC514**) to facilitate dismissal of the case on that date if the parties fail to appear (**M.E. FC516**).

Once a *Motion To Extend the Dismissal Date* or any other substantive motion is filed, court administration no longer will send a *Notice of Intent To Dismiss*. The assigned judge is then responsible to rule on the motion and track the case thereafter to ensure that the case is completed or dismissed, as appropriate. The assigned division rules on the motion, and if the motion is denied, Court Administration will continue to monitor and dismiss the case if appropriate action is not taken. If the motion is granted, the assigned division will need to ensure that the case is appropriately scheduled for a future meaningful event designed to finalize or terminate the case (Resolution Management Conference, trial date, or dismissal date).

VI. Contested Self-Represented Cases. (Attorney Case Managers)

Approximately 25% of all terminated cases are contested cases that require active judicial management and resolution. At any one time approximately 80% to 88% of all filed cases in the Family Court involve one or two self-represented litigants, although a significantly higher percentage of the contested cases have attorney representation. All contested cases involving two self-represented litigants are settled or initially managed in an early intervention program known as the Early Resolution Triage Program.

It is necessary for each division participating in the Early Resolution Triage Program to provide 6 trial dates of 1 hour in length each month to court administration for use by the Program. **(Admin. Form)** Court administration will contact each division at least annually to obtain trial dates for the coming year. Each division also has the option of providing an additional 1 or 2 trial dates each month of 2 hours in length for more complex cases that may require additional time. If the longer dates are not provided the division will be contacted to obtain instructions from the division when a more complex case arises. If the trial dates are not utilized 30 days before the scheduled date, they are released back to the division to utilize as appropriate.

The details of the Early Resolution Triage Program are outlined in **Administrative Order No. 2005-045**, together with the policy statement and forms attached thereto. The program is directed by attorneys, known as Attorney Case Managers (ACMs) that are trained to mediate and conduct settlement conferences in family court cases. The program also involves the services of a Conciliation Services Conference Officer, if appropriate. All contested self-represented cases (with the exception of cases involving a DOC inmate) in which a response is filed are scheduled for an Early Resolution Conference with an ACM by issuance of an Order To Appear **(Admin. Form)** at the earliest possible date. The parties are provided and ordered to complete a form Resolution Statement **(M.E. FC691)** attached to the Order to Appear, to personally meet and confer to resolve or narrow issues prior to the ERC unless an Order of Protection is in effect, to complete disclosure requirements, and to complete or schedule attendance at a mandatory parent education program prior to the ERC. The goals of the program are: (1) To obtain full and final settlement of all issues where possible, assist the parties to memorialize all agreements, and facilitate the entry of a Consent Decree if full agreement is reached; and (2) To manage unresolved custody and child support issues, evaluate the need for pre-trial custody and child support services, and initiate referrals and services appropriate to prepare the case for trial. Every case should be finalized with the entry of a Consent Decree or scheduled for a trial or future event to bring closure to all of the issues in the case. Every ERC participant should leave the courthouse with a signed Consent Decree or a *Notice of Trial Date*. In this regard, the Attorney Case Managers are directed to take the following actions:

1. Full & Final Settlement. If the parties are able to reach full and final agreement on all issues in the case, the ACM assists the parties to complete and sign an appropriate form of Consent Decree, Consent Judgment, or stipulated Order that incorporates either an *Agreement Between The Parties Pursuant To A.R.F.L.P. Rule 69 (Divorce) Without Children (Admin. Form)*, an *Agreement Between The Parties Pursuant To A.R.F.L.P. Rule 69(D) (Divorce) With Children (Admin. Form)*, or an *Agreement Between The Parties Pursuant To A.R.F.L.P. Rule 69 Paternity/Custody (Admin. Form)*. The parties are then directed to the Decree on Demand program to facilitate review and entry of the Consent Decree by a court commissioner on the same day utilizing the expedited processing procedure. If for any reason full agreement is reached, but the case is not terminated with the entry of a final Decree, Judgment or Order on the date of the ERC, a trial of 15 minutes in duration is scheduled on the assigned judge's calendar to ensure submission of the final documents, and to resolve any minor disagreements on wording if necessary.

2. Partial or No Settlement. In those cases where the ERC results in partial settlement, the assigned attorney assists the parties to complete the appropriate agreement form (**Admin. Forms**) as a partial agreement pursuant to Rule 69, *Arizona Rules of Family Law Procedure*, file the original in the court file, and provide a copy to the assigned division and both parties. In these partial settlement cases and in those cases where no agreements are reached, the ACM also completes a *Notice of Trial Date (Admin. Form)* scheduling a trial for not more than one hour on the assigned judge's calendar, obtains the signature of both parties on the notice to verify that both received a copy of their trial date and a separate *Notice of Trial Requirements* document (**Admin. Form**). The original Notice of Trial Date is filed so that the assigned judge will know the parties actually knew of the trial date and the pre-trial requirements.

3. Complex Issues. In the event the Attorney Case Manager determines that the case may require additional trial time, or involves more complex issues that may involve judicial management, the Attorney Case Manager is encouraged to contact the assigned judicial officer for discussion and direction. If attorneys appear in a case after an ERC is scheduled for the previously self-represented parties, the Attorney Case Manager may conduct the conference or have the attorneys complete a Stipulation or Motion To Schedule a Resolution Management Conference for filing and submission to the assigned judicial officer for further action.

4. Continuances. The assigned Attorney Case Manager is allowed to permit one continuance of a scheduled ERC for good cause shown provided the ERC is rescheduled and both parties notified of the new date. Any further requests to continue must be made to the assigned judge.

5. Failures To Appear. In the event both parties fail to appear at the ERC after notice, the case will be scheduled for automatic dismissal by court administration on a day certain thirty (30) days following the ERC. If only one party fails to appear at the ERC after notice, the ACM will contact the assigned judge to determine if the judge is available to conduct a default hearing on that date. If so, the ACM will send the appearing party to the courtroom with a completed Default Decree as directed by the judge. If the judge is unable to hear the case on that date, the case will be set for a combined default and/or trial date with the assigned judicial officer to allow the court discretion on how to proceed at the time of the scheduled default hearing/trial using a form *Notice of Trial / Default Date (Admin. Form)*. The ACM is directed to have the appearing party sign the original Notice and file it in the court file, deliver a copy to the appearing party, and mail a copy to the non-appearing party.

The assigned judge's responsibilities under this program include: 1) Periodically, as requested by court administration (usually annually), provide at least six (6) trial dates each month of one (1) hour in length each to allow trials to be scheduled by the ACM for unresolved cases; 2) Conduct trials on issues not resolved by the early resolution program; 3) Monitor case management and Exception Reports to ensure all cases are properly and timely managed; and 4) Give appropriate direction to the assigned Attorney Case Manager when requested.

VII. Contested Pre-Decree Cases.

The final category within the approximate 25% of Family Court pre-decree cases that are contested are grouped into contested cases that have attorneys representing one or both parties. They are directly managed and resolved by the assigned judicial officer. The assigned judge is ultimately responsible for all case assigned to him or her, hears all motions, petitions for temporary orders, petitions for emergency orders, conducts trials not resolved by the Early Resolution Triage Program, and determines all other matters and issues not resolved elsewhere as indicated herein.

As referenced in the *Evolution of Uniform Case Management Plan (Admin. Memo)*, on August 27, 2004, the Maricopa County Superior Court Family Court Department adopted a uniform case management system to address all of these contested cases. The success of the case management plan depends upon early intervention and active management of every case.

The concept of the Family Court Uniform Case Management Plan requires judicial officers to intervene early in every case to conduct a meaningful conference with the parties to settle as many issues as possible on a final basis, to manage all necessary pre-trial activity, to enter or schedule hearings on temporary orders, and to schedule a trial date in every case. All but the most complex cases require no more than two court appearances for the parties. The first court involvement is a comprehensive Resolution Management Conference, and, the second, if necessary, is a trial. The essential elements of the Family Court Department Uniform Case Management Plan for contested pre-decree cases are as follows:

A. Temporary Orders.

Requests for temporary orders are processed by one of three different methods:

1. Temporary Child Support Administrative Process. Effective June 1, 1999, the Family Court established an administrative process to establish child support in all dissolution of marriage and separation of marriage cases involving minor children. Initially this process was mandatory but was made voluntary effective January 20, 2005 pursuant to **Administrative Order No. 2005-190**. The current process is now detailed in Rule 47(l), *Arizona Rules of Family Law Procedure* but essentially allows the petitioner to file a verified *Motion for Simplified Temporary Child Support Order*, a *Child Support Worksheet*, and a proposed form of *Order* at the time of filing the dissolution or separation containing information sufficient to calculate child support under the guidelines. If unopposed, a child support order is expeditiously entered by a court commissioner. If opposed, a settlement conference is conducted by the Family

Court Conference Center. Unresolved issues are referred to a court commissioner for hearing and entry of appropriate orders.

2. Temporary Orders By Agreement At RMC. The initial objective of a Resolution Management Conference is to obtain final agreements on as many issues as possible and focus any remaining disputed issues for trial. When full agreement of all issues is not reached after discussion, the court normally will have enough information to discuss the contents of temporary orders in a meaningful way. The court should facilitate the entry of temporary orders by agreement at the RMC whenever they are requested.

3. Hearing on Motions For Temporary Orders. When a request for temporary orders is pending, an RMC should be scheduled not later than 30 days after receiving the motion as required by Rule 47(D), *Arizona Rules of Family Law Procedure* using **M.E. FC580** if both sides have appeared or **OTA FC585** if the Respondent has not yet been served. If temporary orders are not entered at the RMC and absent agreement of the parties to a later date, the court is required to schedule a brief evidentiary hearing to hear evidence and enter appropriate temporary orders within 30 days of the RMC. Many of these can be heard in 30 to 45 minutes. The court also has the option in appropriate cases to convert the RMC to an evidentiary hearing on temporary orders or a combined RMC/evidentiary hearing on temporary orders with advance notice to the parties. To efficiently use scarce court time and encourage out-of-court resolution whenever possible, the court should require the parties to comply with all pre-trial management orders, including the requirement to meet and confer, comply with disclosure requirement, and exchange position statements.

B. Temporary Orders Without Notice (Emergency Orders).

The Family Court routinely receives *Motions for Temporary Orders Without Notice* typically seeking a change in custody, parenting time or decision making authority on an emergency basis. A smaller number of requests for emergency orders regarding property or other financial issues are also filed. Generally, these motions are submitted *ex parte* with little or no real notice to the adverse party, although attorneys may make some efforts to contact the opposing side before filing. These requests must be carefully reviewed to determine if they meet the applicable statutory requirements and the standard of Rule 48, *Arizona Rules of Family Law Procedure*. If the emergency request is granted, the court may sign the appropriate order submitted to the court by the parties, along with an appropriate notice of hearing to be served. If the motion is procedurally or legally inadequate, the court may reject the submitted documents without prejudice to be resubmitted when corrected or may simply deny the motion. Form minute entries outlining a number of options are included as **M.E. FC300** and **M.E. FC301**.

C. Resolution Management Conferences.

1. Authority. Effective January 1, 2006, Rule 76, *Arizona Rules of Family Law Procedure*, authorizes the court to conduct Resolution Management Conferences. The elements of the Resolution Management Conference in Rule 76 were previously piloted by the court under the provisions of Rule 16(a), *Arizona Rules of Civil Procedure*, governing Comprehensive Pretrial Conferences and the Return Conference authority of Local Rule 6.7.

2. Timing of Court Intervention. The current management standard is for each family court division to schedule a Resolution Management Conference (RMC) as soon as possible after the parties file any motion or request any other action from the division in any contested case. The pending motion is also concurrently scheduled for oral argument, if appropriate, at the date and time of the RMC. The RMC is normally scheduled for 15 to 30 minutes in length, depending on the likelihood of additional time being needed to effect full settlement. Under consideration by the department is a proposal to intervene even earlier in every contested case by scheduling a Resolution Management Conference in the assigned division as soon as a Response is filed.

3. Minute Entry or Order To Appear. The Resolution Management Conference is scheduled either by minute entry (**M.E. FC580**), or, if the Respondent has been served in the case, by an Order to Appear (**Order FC585**). The parties are ordered to complete a form *Proposed Resolution Statement*, or in paternity cases, a *Proposed Paternity Resolution Statement*, in a form substantially in accord with Form 4 or Form 5 adopted by Rule 97, *Arizona Rules of Family Law Procedure*. If the division receives a *Motion for Temporary Orders* with a proposed form of Order To Appear before Respondent has been served, an Order To Appear should be issued together with a copy of the Resolution Statement for each party. Unless the parties submit the department approved form of Order To Appear at the RMC, however, the division should issue it's own Order To Appear in proper form for two reasons. First, for the RMC to be most effective, it is important that the parties be ordered to complete all pre-conference requirements. Secondly, it is more efficient and less time-consuming for division staff to enter the names of the parties, case number, and date of the hearing in the computer form Order to Appear and print 3 copies, than it is to handwrite the same information 3 times on the original and 2 copies.

4. Pre-Conference Requirements. A very important element of the RMC process is for the court to enforce Rule 76(A) that requires the parties to: 1) Meet and confer with the other party (unless an Order of Protection is in place) to discuss settlement in advance of the RMC, or alternatively, to appear at the courthouse one hour prior to the scheduled RMC to do so; 2) Complete a Resolution Statement in the court-approved form (**M.E. FC 691**) to submit to the court and exchange a copy with the opposing party prior to the RMC that simply

states the position of each party on each issue without supporting arguments or reasons in support of the position. By requiring the parties to take reasonable positions early in the case without inflammatory comments and argument, the issues are better framed for resolution, and the prospects for early settlement are improved. We also expect the parties and their attorneys to go as far as they can toward resolution themselves by meeting and conferring prior to court intervention. Requiring disclosure requirements to be completed prior the RMC also fosters settlements because both parties should have the information to enter into informed agreements, and the court can proceed at the RMC to facilitate settlements without the parties needing continuances to simply complete disclosure requirements.

5. Conducting a Resolution Management Conference.

a. Full Agreement. At the scheduled RMC, the positions of the parties are first determined, solutions explored, and binding Rule 69 agreements memorialized on the record to facilitate full and final resolution of all issues where possible. Where full agreement is reached, the court makes the necessary jurisdictional findings on the record pursuant to A.R.S. §§ 25-301, -312, -313, -317, -808 and/or -1031, and makes provisions for entry of a final Decree or Order. The court can, and in all cases involving self-represented litigants should, sign a minute entry *Decree of Dissolution of Marriage (M.E. FC710)* or Paternity Judgment (**M.E. FC1230**) to finalize the case. In more complex cases involving attorneys, the agreement is memorialized within the requirements of Rule 69, *Arizona Rules of Family Law Procedure* to make it binding, and an attorney is specifically designated to submit the Decree or Order approved by both parties and counsel by a date certain. (**M.E. FC606**).

b. Partial Agreement & Temporary Orders. In the event final agreement is reached at the RMC on some, but not all of the issues, the partial agreements are memorialized on the record pursuant to Rule 69 (**M.E. FC615**), and the focus of the RMC then shifts to pre-trial management and, if requested, the resolution of temporary orders. In many cases where the court has become familiar with the circumstances of the case through the resolution phase of the conference, appropriate agreements for temporary orders can be reached. If agreement on temporary orders cannot be reached, a brief hearing on temporary orders must be scheduled as soon as possible. **M.E. FC615** is the department approved trial setting form minute entry to reference agreements made on the record at the RMC, enter management orders, and schedule a trial date.

c. Trial Date Set. **A trial date should be scheduled in every case (with rare exceptions) at the RMC.** In the event legal impediments are known at the RMC that may prevent a trial from going forward (e.g. a bankruptcy stay), or the complexity or circumstances of the case are such that further management or hearings are required before trial can be scheduled, a subsequent continued RMC or conditional dismissal date should always be

ordered to prevent the case from languishing without clear direction (e.g. case will be dismissed on date certain unless bankruptcy stay is lifted, and motion to set filed). The court should also consider whether reasonable time limits should be imposed on the trial proceedings in accordance with Rule 77(C)(5), *Arizona Rules of Family Law Procedure*.

d. Pre-trial Management. The department-approved trial setting minute entry (**M.E. FC615**) provides a template of management activity that may be required at the RMC. With this minute entry the court should enter pre-trial management orders regarding discovery, disclosure, temporary orders, joint pre-trial statements, exhibits, and others as required. The court should also carefully evaluate and consider at the RMC the need to make referrals to available ancillary services, if appropriate.

6. Targeted Referrals. The parties may stipulate or request, or the court may need to independently consider a referral to an ancillary court service or private expert prior to trial. Such referrals can generate valuable evidence to assist the parties and the court in the case. Most of these referrals, however, also require significant periods of time to complete, and can unduly delay final resolution of the case if not used appropriately. Private referrals also generally involve substantial expense to the parties. Court services are generally provided at no cost, but are limited. Excess referrals to court services can cause delivery of these services to be unreasonably delayed to all users. For these reasons it is important to carefully evaluate the need for any referral, and weigh the potential benefit to the court and parties against the cost to the parties, the delay in resolution, and added burden to limited court resources.

Although the court, on occasion may have the need for a variety of targeted and specialized assessments or services, the most common pre-trial service referrals are for private custody evaluations, private mediations, conciliation services, settlement conferences, and drug testing.

a. Private Custody Evaluation/Preliminary Screening. A.R.S. §25-406(A), and Rule 95(A), *Arizona Rules of Family Law Procedure*, authorize the court in a contested custody proceeding to order an investigation and report concerning custodial arrangements for a minor child to be performed by a “private person”. This full custody evaluation is done by agreement of the parties and the cost divided between the parties in a reasonable proportion. The court maintains a current list of mental health providers that are available to provide private evaluations in various geographic areas in Maricopa County. The parties will generally agree to the appointment of a specific evaluator or stipulate that the court may select an appropriate evaluator from the list or a predetermined number of selections made by the parties from the list. The parties may submit a stipulated order of appointment to the court, or the court may initiate the appointment by minute entry order. (**M.E. FC635**). The Mental Health Provider list can be found on the court’s “S-Drive”, as well as at:

<http://www.superiorcourt.maricopa.gov/familycourt/misc/rosters.asp>

The court can alternatively order the private evaluator to perform an abbreviated evaluation called a Preliminary Screening at a reduced cost to the parties. **(M.E. FC636)**. A Preliminary Screening is intended to provide the court with useful information relevant to the best interests of a child in a timely and concise manner, but it does not normally address ultimate questions and make a recommendation as to custody.

b. Private Mediation. Rule 67(B), *Arizona Rules of Family Law Procedure*, allows the court on its own motion or on motion of either or both parties to refer any issue in dispute to mediation. Rule 67(B)(8) requires the parties to appear for mediation but participation is voluntary. The parties may agree to a private mediator or request the court “choose an independent mediator from a list of mediators supplied by them or from a roster of mediators maintained by the court.” Local Rule 6.10(c) provides that: “If independent mediation is not concluded by the time set for trial or hearing, the parties may be ordered to Conciliation Services for mediation or open negotiation.”

Rule 67(B)(2), *ARFLP*, provides that unless “the court orders or the parties agree otherwise, the cost of mediation shall be equally shared by the parties.” Maricopa County Local Rule 6.10(c) allows the parties to select by agreement an independent mediator outside the court at their own expense.

A “mediator may not conduct any other form of dispute resolution process in the same case, unless agreed to by the parties and approved by the court.” Rule 67(A), *Arizona Rules of Family Law Procedure*. Also MCLR 6.10(b)(1).

c. Conciliation Services. Conciliation Services provides a number of conflict resolution, evaluation and educational services to the parties. Rule 68(B), *Arizona Rules of Family Law Procedure*, provides that:

All family law cases that involve a controversy over child custody or parenting time shall be subject to mediation or other alternative dispute resolution or process provided for in local rules. Unless the parties agree to mediation by a private mediator, the court or conciliation services shall determine whether mediation or ADR services are appropriate in a particular case. The court or conciliation services may deem mediation inappropriate for reasons such as parental unfitness, substance abuse, mental incapacity, domestic violence, or other good cause.

Maricopa County Local Rule 6.10 directs that all cases “that involve a controversy over child custody or parenting time (also called visitation or parent-child access) shall be subject to mediation or open negotiation regarding those issues.”

Mediation must be held in private, and all communications, verbal or written, are confidential. Open negotiation is a process of non-confidential negotiations between the parties conducted by a neutral third party. “In the event the parties are unable to resolve some or all of the issues in the dispute, the negotiator reports the disputed issues to the court.” Rule 66(B)(5), *Arizona Rules of Family Law Procedure*.

The nature and type of referral conducted by Conciliation Services has evolved over time to meet the demands and circumstances generated by ever-increasing case filings. At the present time referrals to Conciliation Services consist primarily of either a referral for Mediation (**M.E. FC631**) or a referral for a Parenting Conference (**M.E. FC630**). A Parenting Conference essentially starts with an open negotiation, and progresses to interviews, observations and evaluation as appropriate if agreement is not reached. The Conciliation evaluator first attempts to negotiate settlement of the custody and parenting time issues. If full settlement is not reached, the evaluator prepares a written report to the court with recommendations for custody and parenting time. Many cases that do not involve fitness issues may not need any referral to Conciliation Services and can be either settled or tried on the facts.

Many referrals require 3 to 6 months to complete, and the detriment inherent in this delay should be carefully balanced against the benefits of whatever clearly defined goal the referral is targeted to reach. Conciliation Services has limited resources and indiscriminate referrals will only create further backlog and delay. Based upon referrals to Conciliation Services for the 1-year time period from July 1, 2004, through June 30, 2005, Conciliation Services conducted 1,434 Mediations and completed 1,947 Parenting Conferences during that time. With 26 family court divisions currently in the department, Conciliation Services has the capacity to handle approximately 4 to 6 referrals each month for each type of referral. Mediations are concluded in 3 to 5 hours, and Parenting Conferences involve significant additional time (approximately 20 hours) for observations, interviews, assessments, obtaining collateral information, staffing, and report writing.

When a referral to Conciliation Services is indicated, a referral for a Parenting Conference is generally preferred because it will generate either an agreement or a recommendation in most cases. Also if the case is resolved in the initial open negotiation phase, no additional time or effort is required to conduct the evaluation. Care should be taken not to send the same case for more than one type of referral.

Conciliation Services is required to conduct reconciliation counseling upon the filing of a petition in the Conciliation Court pursuant to A.R.S. §25-381.09. For 60 days after the filing of a petition for conciliation the parties are prohibited from commencing or continuing any action for annulment, dissolution or legal separation. Similarly, after the expiration of 60 days from service of a dissolution, legal separation or annulment petition, A.R.S. §25-381.18(C) precludes the parties from filing a conciliation petition “unless it appears to the court that the filing will not delay the orderly processes of the pending action.” The Conciliation Court notifies the parties of the stay upon filing of a Petition For Conciliation by the parties or upon referral from the assigned division (**Admin. Forms**). All existing orders in the case remain in effect unless modified or vacated by the Family Court Presiding Judge acting as the judge of the conciliation court. A.R.S. §§25-381.17, –381.18. The judicial officer assigned to the case should ensure that no action is taken in violation of the statutory stay during the 60-day period unless the stay is lifted prior to the end of the 60-day period. This is done by Conciliation Court issuing a Notice of Termination of Conciliation Counseling Proceedings. (**Admin. Form**).

A Parent Conflict Resolution (PCR) class is also conducted by Conciliation Services. Normally parents engaged in high conflict, including those with a history of re-litigation or parental alienation, may be referred to this 4-hour course by the assigned judicial officer.

d. ADR (Settlement Conferences). “Upon motion of any party, or upon the court’s own motion, the court may direct the parties to attend a settlement conference.” (**M.E. FC665**). Rule 67(D), *Arizona Rules of Family Law Procedure*; Maricopa County Local Rule 3.11(a). The need for a settlement conference should be determined at the RMC, and any appropriate referral made in the trial setting minute entry. (**M.E. FC615**).

e. Family Court Conference Center. The Family Court Conference Center (FCCC) was established to process post-decree modification and enforcement petitions, and it is therefore inappropriate to make a referral to the FCCC for temporary orders or other pre-decree modification or enforcement action. In addition, because most requests to modify child support will be initially directed to the Child Support Modification Court (discussed hereafter), there will no longer be any reason to refer any case to the FCCC for modification of child support.

f. Drug & Alcohol Testing. “Upon an allegation or showing that a party has abused drugs or alcohol, including prescription medication, the court may order substance abuse screening and random testing of the party.” Rule 95(B), *Arizona Rules of Family Law Procedure*. Normally substance abuse testing is ordered through the Treatment Assessment Screening Center, Inc. (TASC). TASC has testing facilities in Central Phoenix, Glendale, Mesa, Kingman, Cottonwood, Lake Havasu City, Prescott and Tucson. Substance

abuse testing is accomplished by entering the appropriate minute entry order for Father (**M.E. FC645**) or Mother (**M.E. FC646**) to undergo the appropriate testing, and delivering a referral form (**Admin. Form**) to the person to be tested that has been properly completed by staff. Be sure to designate the type of test required and the frequency of testing on the order and the referral form. The person being tested will need to take the form to TASC for testing and pay the required fee. The various testing fees are listed on the referral form.

g. Best Interests Attorney, Child's Attorney & Court-Appointed Advisor. Rule 10, *Arizona Rules of Family Law Procedure* allows the court to appoint a best interest attorney, a child's attorney, or a court-appointed advisor for the benefit of a child if: 1) there is an allegation of abuse or neglect of a child; 2) the parents are persistently in significant conflict with one another; 3) there is a history of substance abuse by either parent, or family violence; 4) there are serious concerns about the mental health or behavior of either parent; 5) the child is an infant or toddler; 6) the child has special needs; or 6) any other reason deemed appropriate by the court.

The court may appoint a best interests attorney through the Office of Court Appointed Counsel (OCAC) (**Admin. Form**), but **only if the court believes that a dependency action may be appropriate**. A form minute entries for *Appointment of Best Interests Attorney For Child(ren)* is included as **M.E. FC637**. Alternatively, the court may appoint a court-appointed advisor through the Volunteer Lawyer's Program by completing the VLP Form (**Admin. Form**). The form minute entry for *Appointment of Court-Appointed Advisor* is **M.E. FC638**.

D. Failures To Appear.

Not infrequently parties will fail to appear at a scheduled conference or trial. In addition a significant number of family court cases and issues are resolved by settlement prior to a conference or trial. In both cases the scheduled conference or trial will be abbreviated, but it is extremely important to enter appropriate orders that will terminate the case in a timely fashion. Virtually all dismissals in Family Court are done without prejudice to the party re-filing the case, although dismissal of the case will terminate any temporary orders and may have other consequences to the parties.

When both parties fail to appear without justification, the court will need to determine whether it is appropriate to dismiss the case without further notice or to schedule the case for dismissal on a date certain pursuant to Rules 71(A), *Arizona Rules of Family Law Procedure*, or Maricopa County Local Rules 6.2(e) or 6.9(k). If the case is to be dismissed without further notice, a signed minute entry (**M.E. FC600**) should be used to formally dismiss the case and allow for any appeal. If the case is to be scheduled for dismissal, a date certain for dismissal should be provided in the minute entry (**M.E. FC600**) so everyone will be clear

what the date is and what must be done to reactivate the case prior to that date. It is also important to tickle the case to the dismissal date and enter a formal signed Order of Dismissal (**M.E. FC608**) to remove the case from the system if no action is taken.

If only one party fails to appear, the court will need to determine whether it is appropriate to proceed by default, to set a default hearing to allow the absent party a final opportunity to appear, or to impose other sanctions. A sample minute entry contains some possible options is included as **M.E. FC601**.

E. Settlements.

Settlements in Family Court usually are brought to the attention of the court in one of three ways: 1) The parties notify the court prior to a scheduled conference or trial, typically by phone, that settlement is reached; 2) The parties are in court proceeding and reach agreement on one or more issues, often with the assistance of the court; and 3) The parties submit a written Stipulation and Order or Consent Decree that resolves the case. The emotional nature of family court proceedings causes many settlements to disintegrate, and care must be taken to avoid setting multiple trials or conference dates because the settlement was not approved.

1. Settlements Prior To Scheduled Trial or Conference. In the event the court is notified of settlement of all issues in writing or by phone prior to a conference or trial without the court receiving the final written Consent Decree or Judgment, it is extremely important to ensure that the final documents are in fact timely submitted to terminate the case. Because of the unstable nature of family court settlements, and because the ultimate penalty of dismissal must be without prejudice, many promised settlements never materialize. When this happens a great deal of judicial time is wasted in rescheduling trials and managing the case. For these reasons, it is the best practice to require that the parties provide the final written settlement documents to the court prior to the trial, or at least appear at the time of trial and place the settlement on the record. If the court is notified of settlement prior to a Resolution Management Conference, and is persuaded that this shorter conference should be continued to allow the parties to submit the final Decree, the court should follow Rule 70(B), *Arizona Rules of Family Law Procedure* and Maricopa County Local Rule 3.6(c) by scheduling the case for dismissal after 45 days on a date certain to allow the documents to be presented. (**M.E. FC605**). The court should then tickle the case to the dismissal date to enter a formal Order of Dismissal as required. (**M.E. FC608**).

2. Settlements At Court. If settlement is reached while the parties are at the court for any reason, it is important to swear the parties in and recite, or have the parties or their attorneys recite, the terms of their agreement on the record. The court should then make the necessary statutory findings (A.R.S.

§25-312, -313, -317) on the record approving the agreement, and set a date certain for a designated attorney to submit to the court the formal Decree approved by all parties and their attorneys. (**M.E. FC606**). If both parties are self-represented, it is unlikely that a proper Decree will ever be presented, and the court should simply structure the minute entry containing the parties' agreements as a formal Decree to be signed and entered. A sample form of Decree of Dissolution is provided as **M.E. FC710**, and a sample Paternity Judgment is included as **M.E. FC1230**.

3. Written Settlements. Obviously, if settlement is reached through the submission of a formal written Consent Decree or Judgment resolving all issues prior to the trial or conference, the Decree or Judgment can be entered and the trial or conference vacated. Any deficiencies in the paperwork can be addressed at the scheduled court date in an abbreviated fashion.

F. Motions & Stipulations.

Because of the preponderance of self-represented litigants, the Family Court routinely receives a significant volume of motions and stipulations that are not in full compliance with statutory and/or procedural requirements. Of course, a determination must be made on every motion or stipulation submitted. When motions or stipulations are granted, the parties generally submit an order for signature that can be signed or modified and signed. Reasons to reject or deny a motion or stipulation are unique to the facts and circumstances of each case, but a sampling of possible reasons to reject or deny a motion are included in **M.E. FC500**. Possible reasons to reject or deny a stipulation are included in **M.E. FC501** and **M.E. FC502**.

While it is, of course, possible for any type of motion filed in a civil case to be filed in a family law case, there are a limited number of motions that are routinely filed in family law cases that can significantly impact the timely management of the case. Department policies have been developed for: 1) Recusals, Notices & Motions For Change of Judge; 2) Motions or Stipulations to Continue Trial; 3) Motions To Extend Time For Service; 4) Motions To Extend Dismissal Date; 5) Motions to Set; and 6) Bankruptcy Filings.

1. Recusals, Notices & Motions For Change of Judge.

Effective August 10, 2004, an accelerated method to reassign cases arising out of the filing of a timely *Notice of Change of Judge* or a recusal by the assigned judge has been implemented. As always when a Notice of change as a matter of right pursuant to Rule 6, *Arizona Rules of Family Law Procedure* (incorporating Rule 42(f), *Arizona Rules of Civil Procedure*) is received, the assigned judge decides whether the Notice is timely filed or has been waived. *Taliaferro v. Taliaferro*, 186 Ariz. 221, 223, 921 P12d 21, 23 (1996).

If the assigned judge grants a *Notice of Change of Judge* or recuses from the case, the division's judicial assistant or bailiff simply provides the division number, the case number, the parties' names, any attorneys names, and lists any pending matters on an interactive, electronic memo. **(Admin. Form)**. The memo is then e-mailed to the Family Court Presiding Judge's judicial assistant. Because the memo is interactive the presiding JA, when approved by the Presiding Judge, inserts the division number of the new judge to be assigned based on a "lose one, get one" formula, and then electronically forwards the revised memo **(Admin. Form)** reassigning the case both to the noticed division and the newly assigned division. The noticed division then forwards all pending pleadings and documents directly to the newly assigned division. An important change is that all pending conference, hearings, and trial dates are affirmed with the newly assigned division having responsibility to reset or obtain coverage of the dates if they conflict with other matters. Currently, a minute entry is still used to memorialize the change **(M.E. FC122)**, but this electronic process avoids delay and allows the case to be reassigned the same day (usually within an hour). A pending software enhancement to the iCIS system may will allow this entire process to be completely automated in the future.

Motions to change a judge based on cause are forwarded to the Family Court Presiding Judge for ruling as required by Rule 6, *Arizona Rules of Family Law Procedure*, Rule 42(f)(2), *Arizona Rules of Civil Procedure*, and A.R.S. §12-409.

2. Motions/Stipulations To Continue.

The Family Court Department has adopted a firm trial continuance policy. The court should closely follow the standards set by Rule 77(C), *Arizona Rules of Family Law Procedure*, and Maricopa County Local Rule 3.4. Rule 77(C)(1) directs that stipulations for continuances "shall be regarded as joint motions to continue" and must meet the same requirements of good cause. Undue continuances of trial dates not only cause the parties to experience unnecessary delay, increased expense and frustration, but also create calendar congestion for the court by multiplying the trial time dedicated to each case, and allowing more intervening process to be generated to temporarily stabilize issues during the delay. Any motion to continue should be in writing and carefully scrutinized.

3. Motions To Extend Time For Service.

Court administration is charged with issuing a *Notice of Failure To Serve and Intent To Dismiss Your Court Case* **(Admin. Form)**, when an affidavit of service has not been filed with the court within 120 days after the case was filed. This time period coincides with the 120-day time period allowed before the case is dismissed for lack of prosecution. If a *Motion To Extend Time For Service* is granted, sufficient time should be allowed to permit service and to file a *Motion to*

Set or request a Resolution Management Conference with the court. The order should schedule the case for dismissal on a date certain if an affidavit of service and a request for further action have not been filed. **(M.E. FC517)**.

4. Motions To Extend Dismissal Date.

Court administration is also issues a *Notice of Intent to Dismiss (Admin. Form)* any case that has not been prosecuted within 120 days of filing in accordance with Rule 46(B), *Arizona Rules of Family Law Procedure*. When a litigant files a *Motion To Extend Dismissal Date* the policy of the Family Court Department is to either deny the motion if an extension is not warranted or, if granted, to schedule a Resolution Management Conference (RMC) and extend the dismissal date only until the day of the scheduled conference. **(M.E. FC514)**. This will facilitate dismissal of the case on that date of the RMC if the parties fail to appear. **(M.E. FC516)**. Once the assigned judge has ruled on this motion, court administration defers to the judge who must track the case to ensure the case is managed or dismissed appropriately.

5. Motions To Set.

Although the formal process to schedule a trial with a *Motion to Set* outlined by Rule 77(A), *Arizona Rules of Family Law Procedure* applies to family court cases, the vast majority of trials in family court are scheduled directly at the Resolution Management Conference without the filing of a formal *Motion to Set*. Even when a formal *Motion to Set* is filed, the department policy is to routinely schedule a Resolution Management Conference to resolve issues, manage the case, and set an appropriate trial with knowledge of the issues to be tried in accordance with Rule 76, *Arizona Rules of Family Law Procedure*. The culture and practice in family court is to schedule trials as soon as possible, after considering the time needed for the parties to complete disclosure and discovery requirements and prepare for trial. Upon receipt of a *Motion to Set* or any other request for judicial action, it is generally appropriate to schedule a Resolution Management Conference. **(M.E. FC580)**.

6. Bankruptcy Filings.

The filing of a bankruptcy petition establishes an “automatic stay” against enforcement of various obligations. The stay halts the commencement or continuation of judicial actions or proceedings against the debtor. Federal law provides a few exceptions to the automatic stay, but detailed reasons supported by law for not doing so, the case should ordinarily be scheduled for dismissal on a date certain unless specified action is taken to lift or terminate the stay as outlined in the department’s form minute entry. **(M.E. FC150)**.

7. Always Schedule Specific Terminating Event.

The court should not issue a ruling without also scheduling a follow-up or terminating event. If time is allowed for the parties to accomplish a certain task, a new court date or dismissal date should always be scheduled. Even when the court may be prohibited from proceeding due to circumstances or legal requirements, a date certain should be established for a subsequent hearing or deadline requiring the parties to take the indicated action or risk the case being dismissed.

G. Trials.

Trials are normally scheduled to resolve **all** issues in a case. It is almost never appropriate to refer a case to Conciliation Services or any other administrative agency at the conclusion of a trial to assist with or make further recommendations for a determination of any issue in a case. Such referrals would essentially bifurcate the trial and make subsequent proceedings necessary, delay entry of a Decree or Judgment, and encourage additional requests and motions for resolution or enforcement of issues where no final orders have been entered.

The Family Court Department has approved a trial setting minute entry for use in scheduling a trial and setting forth all pre-trial requirements. **(M.E. FC615)**. Orders that have no application to a particular case should, of course, be deleted, and additional matters may need to be included or modified as required.

1. Time Limits. After discussion with the parties, the court should consider imposing reasonable time limits on the trial proceedings as authorized by Rule 77(C)(5), *Arizona Rules of Family Law Procedure*, and Rule 611, *Arizona Rules of Evidence*. The department's trial setting minute entry contains appropriate language to notify the parties the time that they will be charged. **(M.E. FC615)**.

2. Settlements. Care must be taken to ensure that no more than one trial date is utilized when a trial is vacated due to a settlement being announced. See Section VI(C)(2), *Settlements*, above.

3. Decrees & Judgments. A family court case is not final and properly terminated until all pled issues (custody, parenting time, child support, spousal maintenance, property division and debt division) have been adjudicated, and a proper Decree or Judgment has been **entered** (filed) with the Clerk. A.R.S. §25-312 generally requires that all the statutory findings and orders be included in a formal Decree of Dissolution of Marriage before it is entered. See, e.g., *Brighton v. Superior Court*, 22 Ariz. App. 291, 526 P.2d 1089 (App. 1974); *Porter v. Estate*

of *Pigg*, 175 Ariz. 194, 854 P.2d 1180 (App. 1993). An exception to this rule occurs when the court lacks personal jurisdiction over one of the parties. In these circumstances, the court can exercise its limited jurisdiction to enter a decree dissolving the marriage. *Taylor v. Jarrett*, 191 Ariz. 550, 959 P.2d 807 (App. 1998).

If both parties are self-represented, the court should normally include the necessary findings and orders in its minute entry ruling and sign it as a formal decree. Included are a sample form Decree of Dissolution of Marriage (**M.E. FC710**), and a sample form Paternity Judgment (**M.E. FC1230**). Self-represented parties generally do not have the knowledge or ability to prepare a proper Decree, and the court and parties will be frustrated waiting for the case to be finalized. If attorneys are to prepare the decree, the attorney responsible to do so and a date certain for the decree to be received should be clearly specified. (**M.E. FC606**).

4. Objections To Decrees. When Objections to a lodged decree or judgment are received the court should rule promptly on the objections and enter a decree or judgment. Various option for ruling on objections are set forth in **M.E. FC724**.

VIII. Post-Decree Cases.

A substantial portion of each division's caseload is comprised of post-decree and post-judgment petitions to modify or enforce previous orders. Effective July 25, 2005, the Family Court Department is operating a new petition-tracking software system in iCIS. This system is designed to identify all petitions filed and designate issues within each petition that must be resolved before the petition is properly terminated. If utilized properly this software should be of significant benefit to each division to assure that each post-decree and post-judgment petition assigned to the division is properly and timely resolved.

Currently, post-decree and post-judgment petitions continue to be assigned to the division that was last assigned the case. While this results in substantial parity among divisions, a more precise procedure would be to first assign post-decree and post-judgment petitions to the family court judge that previously conducted any prior proceedings in the case, and thereafter randomly assign petitions to each family court division on an equal basis, making adjustment for petitions assigned because of prior proceedings conducted by that judge. Computer resources are not currently available to make this change, but the Family Court Department monitors these petitions for imbalances and will continue to explore the more precise allocation system when computer services are available.

It is important to ensure that the parties have filed a proper post-decree or post-judgment petition in all cases, and not indiscriminately set hearings or make referrals for services based only on an oral or informal request that results in no one really understanding the scope and nature of the proceeding being conducted.

As a general proposition all post-decree and post-judgment petitions filed with the divisions, with the notable exception of post-decree petitions to modify child custody pursuant to Rule 91(D), *Arizona Rules of Family Law Procedure*, are filed with an Order To Appear for the court to schedule a post-decree or post-judgment management conference generally referred to as a return hearing. This conference serves the same purposes as the Resolution Management Conference with the pre-decree petition. The return hearing should be used to explore final settlement of the issues, manage the case, make targeted referrals to ancillary services, if necessary, and schedule an appropriate evidentiary hearing to conclude the matter. As with pre-decree petitions, the court should conduct all activity that is necessary at one return hearing to prevent the cost and frustration to the parties inherent in conducting unnecessary additional hearings. The general procedure for most post-decree and post-judgment petitions filed with the divisions is set forth in Rule 91, *Arizona Rules of Family Law Procedure*.

A rule often overlooked in post-decree petitions is Rule 43(C)(2), *Arizona Rules of Family Law Procedure* that generally requires all post-decree and post-

judgment petitions filed more than 30 days after the entry of a Decree or Judgment be personally served (not mailed) upon the other party. Following this rule will ensure that all parties have proper notice, prevent injustices arising from orders entered without the adverse party being present, and conserve valuable court time when hearings and orders must be revisited when the lack-of-notice issue is subsequently raised.

Settlements in post-decree or post-judgment proceedings should be monitored in similar manner to pre-decree and pre-judgment matters to ensure all issues are resolved and appropriate final orders entered. Form minute entries to ensure entry of post-decree and post-judgment orders are included as **M.E. FC 610, M.E. FC611, and M.E. FC612 and M.E. FC613.**

A. Post-Decree Specialty Courts.

For several years the Family Court has conducted a centralized non-compliance court for one judge to monitor enforcement of support orders for chronic non-payment. Following the successful piloting of a “Child Support Modification and Establishment Court” during the summer of 2005, the Court also established a Child Support Modification and Establishment Court at all regional court centers on or before November 1, 2005 (Downtown—September 1, 2005; Northeast—October 1, 2005; Southeast and Northwest—November 1, 2005). On October 16, 2006, the Specialty Court program was expanded to include a Support Enforcement Court, a Parenting Time Enforcement Court, and an Order of Assignment Court at all regional centers. The Family Court currently operates the following Specialty Courts at all regional centers (with the exception of the Support Non-compliance Court that operates only Downtown and at the Northwest Regional Center):

- **Child Support Modification Court**
- **Child Support Establishment Court**
- **Support Enforcement Court**
- **Support Non-compliance Court**
- **Parenting Time Enforcement Court**
- **Order of Assignment Court**

All petitions that meet eligibility requirements are filed and processed directly by the appropriate Post-Decree Specialty Court without referral by the assigned division. As a **very** general proposition the Specialty Courts adjudicate only specified single issue petitions indicated by the title of the particular Specialty Court if they can be heard within the time constraints of a 45-minute evidentiary hearing, and if no other petitions or issues are pending with the assigned division. The precise eligibility requirements and detailed procedures for all Post-Decree Specialty Courts are set forth in detail in the Plan for Expedited Process attached to **Administrative Order No. 2007-022.**

One judicial officer should adjudicate all pending post-decree or post-judgment issues fairly and efficiently in one proceeding. This concept ensures consistency of decisions by one judicial officer, and eliminates complexity, confusion and expense inherent in conducting multiple conferences and hearings on inter-related issues. For this reason post-decree matters that are complex or involve multiple issues remain with the assigned division and are not referred to the Specialty Courts. At the option of the judge, the assigned division may elect to hear a post-decree petition even if it is eligible to be resolved by a Specialty Court.

All petitions eligible to be heard by the Specialty Courts generally follow the same two-step process. Unless a specific statute provides otherwise, the Specialty Courts issue an Order to Appear (**Admin. Form**) upon proof of filing of a Post-Decree Petition requiring the parties to appear for a one-hour settlement conference and a 45-minute evidentiary hearing. The conference is conducted by a conference officer in accordance with the provisions of Rule 73, *Arizona Rules of Family Law Procedure*. If the conference is unsuccessful in resolving all issues the parties proceed immediately to an evidentiary hearing conducted by a Court Commissioner. Petitions seeking 1) to modify child support pursuant to the "Simplified Procedure" of the Arizona Child Support Guidelines; 2) to establish support pursuant to A.R.S. §25-502(J); 3) to establish a support judgment supported by affidavit pursuant to A.R.S. §25-503(L); or 4) to adjust or terminate an order of assignment pursuant to A.R.S. §25-504, proceed by default if no *Request for Hearing* is filed in accordance with the applicable statutory requirements. If a *Request for Hearing* is filed in these cases, the petition follows the same conference-evidentiary hearing process.

B. Family Court Conference Center.

The Family Court Conference Center (FCCC) was established on October 16, 2006 to support the Post-Decree Specialty Courts in the expedited resolution of various post-decree and post-judgment petitions. The FCCC entirely replaced the Expedited Services agency that had operated from early 1988 under management of the Clerk of the Court to administer the post-decree and post-judgment processes outlined in Maricopa County Local Rules 6.9(c) and 6.14. These rules were experimental and the Supreme Court allowed both rules to expire on January 31, 2006. On July 1, 2004 oversight of Expedited Services was transferred to the court by cooperative agreement of the Clerk and the Court. The Court then commenced a reengineering process that resulted in the creation of the Post-Decree Specialty Courts and the FCCC. The FCCC no longer prepares detailed *Reports, Recommendations and Orders* following conferences, and all objections to such *RR&Os*, objection periods and objection hearings are now eliminated.

C. Modifications of Child Support or Spousal Maintenance.

Pursuant to A.R.S. §25-503 and 25-327, either parent or the state (in a title IV-D case) may ask the court to modify a child support order upon a showing of **a substantial and continuing change of circumstances**. *Petitions to Modify Child Support*, including medical insurance coverage, medical or dental cost reimbursement, and allocations of tax deductions for minor children are generally filed with the court in one of two ways. The bulk of petitions to modify child support are filed under what are known as the “Simplified” modification procedures outlined in Guideline 22 of the Arizona Child Support Guidelines. A second method of hearing petitions to modify child support requires the requesting party to file a *Petition to Modify Child Support* pursuant to the procedures outlined in Rule 91, *Arizona Rules of Family Law Procedure*. Child support modification petitions filed under either procedure that meet the eligibility requirements outlined in the Plan for Expedited Process set forth in **Administrative Order No. 2007-022** are all processed by the FCCC and heard in accordance with Paragraph H of the Plan by the Support Modification Court.

Under the new procedure all parties are ordered to appear at the Child Support Modification Court at a date and time certain and bring the necessary documents to calculate child support. **(Admin. Form)**. Initially, the parties meet with a court conference officer trained in child support calculation. If the parties are in full agreement, a written stipulation and order is prepared by the conference officer reflecting the agreement and forwarded immediately to the assigned court commissioner for signature. If full agreement is not reached, a child support worksheet containing any numbers that are not in dispute will be electronically forwarded to the commissioner and an immediate hearing conducted. The new process requires only one trip to the courthouse for the parties, and a new child support order is entered the same day.

Modification petitions that are complex or otherwise ineligible to be heard by the Child Support Modification Court will be returned or referred to the assigned division by the FCCC for resolution. The parties also have the option of filing a motion with the assigned division to request the division hear the matter in a more traditional manner. All contested child support issues arising out of pre-decree petitions are heard and decided by the assigned judge at the time of trial. Calculations of child support arising out of post-decree petitions to modify custody or parenting time are also heard and decided by the assigned judge in conjunction with resolution of the custody and/or parenting time issues.

Petitions to Modify Child Support under Rule 91, *Arizona Rules of Family Law Procedure* that are not eligible (as described above) for the Child Support Modification Court and all *Petitions to Modify Spousal Maintenance* must be submitted to the assigned division. The assigned division presumptively issues an Order To Appear for a 45-minute evidentiary hearing or a 15-minute Post-

Decree Management Conference depending on the complexity of the requested modification. A form *Order To Appear for Petitions To Modify Child Support* is included as **M.E. FC620**. A form minute entry with various options to schedule an Evidentiary Hearing on modification petitions is included as **M.E. FC623**. When the division grants a child support modification request, a formal *Child Support Order* must be entered. A summary *Child Support Order* without any detailed findings is included with the department's Excel child support calculator. A form suitable to make more detailed findings and orders after an evidentiary hearing is included as **M.E. FC1030**. The division should also have the division Clerk prepare an appropriate *Order of Assignment*. If the modification request is denied, some sample minute entry language is included in **M.E. FC1035**.

D. Enforcement of Child Support or Spousal Maintenance.

Post-decree and post-judgment petitions seeking only to enforce orders for spousal maintenance or child support (including unreimbursed medical, dental, and vision expenses and medical insurance premiums) that meet the eligibility requirements outlined in the Plan for Expedited Process attached to **Administrative Order No. 2007-022** are all processed by the FCCC and heard in accordance with Paragraph J of the Plan by the Support Enforcement Court. The FCCC obtains the payments history and records on these petitions from the Department of Child Support Enforcement (DCSE) Clearinghouse that is responsible for processing all child support payments in Arizona, makes a detailed calculation of any arrearages of principal and interest, and conducts a 1-hour settlement conference with the parties followed immediately by a 45-minute evidentiary hearing with a court commissioner if contested issues remain.

The Family Court Department also maintains a Support Non-compliance Court under the direction of two family court judges (one downtown and one at the Northwest Regional Center) and supported by the FCCC. Cases are screened and referred to this Specialty Court administratively based on the eligibility requirements set forth in Paragraphs J & K of the Plan for Expedited Process attached to **Administrative Order No. 2007-022**. Generally, the Support Non-compliance Court monitors and hears petitions to enforce support that have been previously heard and/or reviewed in the Support Enforcement Court, that are subject to long-term monitoring by the FCCC because of repeated violations of support orders or the accumulation of large support arrearage amount, or that are deemed appropriate by the Judge of the Non-compliance Court or the Family Court Presiding Judge.

All enforcement petitions that are not eligible to be heard by either the Support Enforcement Court or the Support Non-compliance Court (generally because other issues are plead or additional time will be required to fully hear the petition) are filed and heard by the assigned division. All petitions for contempt or enforcement of support must satisfy the requirements of Rule 91(C), *Arizona*

Rules of Family Law Procedure. The assigned division issues an appropriate Order To Appear for either an evidentiary hearing or a 15-minute Post-Decree Management Conference depending on the complexity of the issues, and determines the issues. A form Order To Appear for Petitions To Enforce Child Support is located at **M.E. FC620**, and a form minute entry with various options to schedule an Evidentiary Hearing for enforcement petitions is included at **M.E. FC626**. After hearing, various contempt and enforcement options are set forth in **M.E. FC1115**.

Rule 91(C), *Arizona Rules of Family Law Procedure*, requires the parties to submit a current summary calculation of support arrearage and/or a detailed summary of unpaid medical, dental or vision costs claimed with their enforcement petition. After reviewing these documents and if the information provided by the eCalc program from DCSE is insufficient it may be appropriate to request the FCCC to provide an arrearage calculation prior to the evidentiary hearing. **M.E. FC655**.

E. Modifications of Custody or Parenting Time.

The assigned division hears all post-decree and post-judgment *Petitions to Modify Child Custody and/or Parenting Time*. Most of these petitions also seek a change in child support based upon the change in custody or parenting time, and the assigned division also resolves the child support issue at the time of the evidentiary hearing on these petitions.

Petitions to Modify Child Custody filed pursuant to Rule 91(D), *Arizona Rules of Family Law Procedure*, are filed with a *Notice of Filing Petition for Modification of Child Custody* and served upon the adverse party prior to being presented to the court. No sooner than 25 days after service, the parties then are required to submit a *Request for Order Granting or Denying Custody Hearing* to the assigned division for ruling. The court conducts an *in camera* review of the petition and any response to determine if adequate cause is presented pursuant to A.R.S. §25-411 to schedule an evidentiary hearing. If no adequate cause is presented the petition is dismissed. If adequate cause is presented a post-decree management conference is scheduled to narrow the issues and manage the dispute. (**M.E. FC623**)

Generally, a *Petition to Modify Child Custody* also requests additional relief in the nature of modifying or enforcing parenting time or child support. If such “hybrid” petitions are submitted, it is important for the court and the parties to schedule all issues for hearing at the same time. Accordingly, the department policy is to schedule all issues that survive the A.R.S. §25-411 determination of adequate cause for hearing at the time that such determination is made. If the post-decree petition is filed and submitted prematurely to the assigned division (prior to service and filing of a *Request for Order Granting or Denying Custody*

Hearing), an *Order to Follow Rule 91(D) Requirements (Custody Modification)* (**M.E. FC622**) can be issued that will track and schedule all issues together.

Upon a determination of adequate cause, a minute entry is issued (**M.E. FC623**) to schedule a 15-minute management conference designed to determine the parties' positions, evaluate the proper jurisdiction to hear the issues, facilitate settlement of the issues, conduct necessary management of the case, and schedule an appropriate evidentiary hearing on the issues. In this respect the return hearing serves essentially the same purpose as the pre-decree Resolution Management Conference. A form minute entry with various options to schedule an Evidentiary Hearing on modification petitions following a post-decree management conference is included as **M.E. FC625**.

F. Enforcement of Custody or Parenting Time.

Post-decree and post-judgment petitions seeking only to enforce parenting time that meet the eligibility requirements outlined in the Plan for Expedited Process attached to **Administrative Order No. 2007-022** are all processed by the FCCC and heard in accordance with Paragraph L of the Plan by the Parenting Time Enforcement Court. The FCCC conducts a 1-hour settlement conference with the parties followed immediately by a 45-minute evidentiary hearing with a court commissioner if contested issues remain.

All enforcement petitions that are not eligible to be heard by the Parenting Time Enforcement Court are filed and heard by the assigned division. All petitions for contempt or enforcement of parenting time must satisfy the requirements of Rule 91(G), *Arizona Rules of Family Law Procedure*. Counter-petitions to modify custody or parenting time are not an uncommon response to enforcement petitions. Unless the court determines that the issues can best be heard in a brief evidentiary hearing, an Order To Appear is normally issued for a 15-minute Post-Decree Management Conference designed to determine the parties' positions, facilitate settlement of the issues, conduct necessary management of the case, and schedule an appropriate evidentiary hearing on the issues. A form Order To Appear for Petitions To Enforce Custody and/or Parenting Time is included as **M.E. FC620**. In this respect the return hearing serves essentially the same purpose as the pre-decree Resolution Management Conference. A form minute entry with various options to schedule an Evidentiary Hearing on enforcement petitions following a return hearing is included as **M.E. FC626**.

On occasion a party will file a *Petition For Warrant For Immediate Production* requesting an order for immediate turn over of custody of a minor child in accordance with A.R.S. §§25-1058 & -1061. If the petition is granted the court may need to issue a *Warrant For Immediate Production* included as **Order FC901**.

G. Orders of Assignment

All stipulations and petitions seeking only to modify or stop an *Order of Assignment* that meet the eligibility requirements outlined in the Plan for Expedited Process attached to **Administrative Order No. 2007-022** are all processed by the FCCC and heard in accordance with Paragraph M of the Plan by the Order of Assignment Court. The FCCC conducts a 1-hour settlement conference with the parties followed immediately by a 45-minute evidentiary hearing with a court commissioner if contested issues remain. The assigned division will normally only resolve these petitions when they are filed concurrently with or in response to other post-decree petitions that raise additional issues that must be resolved before the request to stop or modify the *Order of Assignment* can be determined.

H. Parenting Coordinators (fka Family Court Advisors).

In some difficult post-decree cases it may be appropriate to appoint a Parenting Coordinator (*formerly known as a Family Court Advisor* prior to the adoption of the new *Arizona Rules of Family Law Procedure*) to assist with implementation of court orders, make limited decisions as specified by the court, and make recommendations to the court to implement, clarify, modify or enforce custody or parenting time orders. Rule 71, *Arizona Rules of Family Law Procedure* authorizes such appointments in cases where: “1) the parents are persistently in conflict with one another; 2) there is a history of substance abuse by either parent or family violence; 3) there are serious concerns about the mental health or behavior of either parent; 4) a child has special needs; or 5) it would otherwise be in the children’s best interest to do so.” The Parenting Coordinator cannot legally be appointed with authority to make any decisions that change legal custody or substantially change physical custody. A Parenting Coordinator can be a licensed attorney, a board certified psychiatrist, a licensed psychologist, or a certified social worker, counselor, marriage and family therapist, substance abuse counselor, or other qualified Arizona licensed or certified professional.

Qualified persons who have agreed to serve as a Parenting Coordinator are listed in the Mental Health Provider list that can be found on the court’s “S-Drive”, or at:

<http://www.superiorcourt.maricopa.gov/familycourt/misc/rosters.asp>

The department approved minute entry order to appoint a Parenting Coordinator is included as **M.E. FC740**. To ensure the recommendations of the Parenting Coordinator are properly entered as interim orders and that the parties are notified of the order, the court should enter an Interim Order approving the

recommendations (**M.E. FC741**), or take other appropriate action to deny or set hearing on the recommendations (**M.E. FC742**) in accordance with Rule 74, *Arizona Rules of Family Law Procedure*.

I. Family Drug Court.

It may be appropriate to refer parties with substance abuse issues to the Family Drug Court for additional monitoring and management. The Family Drug Court uses a reward and punishment system to encourage abstinence from drugs and sober interaction with children. When a referral is made to Family Drug Court, the sending court should be careful to confer appropriate authority to the Drug Court judge to enter appropriate enforcement orders. A form of order for referral is included as **M.E. FC648**.

J. Other Post-Decree Petitions.

Because A.R.S. §25-327 directs that “provisions as to property disposition may not be revoked or modified”, most Post-Decree and Post-Judgment Petitions seek modification or enforcement of custody, child support or spousal maintenance orders as outlined above. On occasion, however, Post-Decree or Post-Judgment Petitions are filed that ask for other relief. Such Petitions must satisfy the requirements of Rule 91(H), *Arizona Rules of Family Law Procedure*. Probably the most common Petitions in this category seek enforcement of orders dividing community property or allocating payment of community debt. Subsequent actions are also not uncommon to resolve disputes that have arisen in division of a pension or profit sharing plan. When potential disputes may occur in these areas, it is generally prudent to include in the final Decree, Judgment or Order an order to the effect that:

“IT IS ORDERED reserving jurisdiction to resolve any disputes that may arise in the future with respect to the entry of this order.”

Or in the case of an order dividing a pension or profit sharing plan:

“IT IS ORDERED reserving jurisdiction to enter an appropriate Qualified Domestic Relations Order (QDRO), or to resolve any disputes that may arise in the future with respect to the entry of this order.”

In other cases involving the ordered sale of real estate, it may be necessary to appoint a Real Estate Commissioner to oversee and enforce the actual sale of the property in accordance with the court order. This is particularly true when one or both parties are blocking or hindering the sale of the property. In such cases, the department approved minute entry order to appoint a Real Estate Commissioner is included as **M.E. FC750**.

IX. Paternity Cases.

Pursuant to A.R.S. §25-807(C), “on its own motion, or on motion of any party” the Family Court may be required to order DNA, blood or genetic testing to determine a disputed paternity issue. **Administrative Order No. 99-023**, directs that a standard order be issued upon the filing of a Response denying paternity when there is no presumptive father. A minute entry order requiring the parties and child to submit to paternity testing is included as **M.E. FC1200**.

A sample for Paternity Judgment is also included as **M.E. FC1230**.

X. Title IV-D Cases.

A significant number of family court cases are filed under Title IV-D of the Social Security Act, 42 U.S.C. §651 et. seq. (“IV-D cases”). These cases are filed by The State of Arizona, *ex rel.*, Department of Economic Security, as the authorized IV-D agency in Arizona, and the State’s interest is represented by the Arizona Attorney General’s Office, Child Support Enforcement Section. IV-D cases principally arise out of petitions to establish paternity, and to establish, enforce or modify child support. A few petitions may also seek to enforce spousal support. The State is not authorized and does not participate in custody or parenting time disputes. The bulk of these cases are heard and resolved by the “IV-D Commissioners”.

In simplest terms, IV-D cases involve two general categories of cases: 1) Non-cash assistance cases; and 2) Cash assistance cases. In non-cash assistance cases, the IV-D participant will directly receive the benefit of child support orders. In cash assistance cases where IV-D recipients have received TANF assistance, the recipient’s right to receive child support payments is assigned to the State to the extent of the assistance. It is because of this interest that the State has a right to be heard, not only in cases filed by the State as IV-D cases, but in other family court cases with child support issues that involve a party who has received cash assistance.

The IV-D process is currently under review but currently the assigned judge is responsible to manage and hear cases filed by the parties in which the State may have an interest. Generally this requires notifying the State of any trial or hearing dates in those cases where the State has entered an appearance indicating their interest, or in those cases where the IV-D case filed by the State is consolidated with another family court case filed by the parties.

XI. Integrated Family Court Cases.

Maricopa County Superior Court initiated an Integrated Family Court (“IFC”) pilot project on March 19, 2001. This project was modified and expanded over the next several years. After extensive evaluation by an independent consulting firm and the participating court departments, the court’s Integrated Family Court Management Plan was restructured effective July 1, 2005 by **Administrative Order No. 2005-104.**

Essentially, the current IFC plan involves only juvenile dependency cases filed concurrently with a family court or probate case involving custody or guardianship issues of a minor child. In such cases the juvenile court will assume jurisdiction of the custody issue, enter necessary custody orders during the dependency proceeding, and upon termination of the dependency proceeding, enter a final comprehensive custody order that satisfies the requirements of A.R.S. §25-401 to –415 that will survive the dismissal of the juvenile dependency case.

The juvenile court custody order will be filed in any existing family court case that involves the same parties, or if none exists, the Clerk will file the order in a newly created family court case number. This preserves the confidential nature of the juvenile proceeding and allows the custody determination to be preserved in the public family court file.