



STATE OF FLORIDA
TWELFTH JUDICIAL CIRCUIT

P.O. BOX 48927
SARASOTA, FLORIDA 34230
(941) 951-5700
(941) 364-4367 FAX

CIRCUIT ADMINISTRATOR
WALT SMITH

FILED 097
SID J. WHITE
APR 30 1998
CLERK, SUPREME COURT
BY _____
Chief Deputy Clerk

SENIOR DEPUTY ADMINISTRATORS
FAY P. RICE
DAVID W. MILES

DEPUTY ADMINISTRATORS
ROBERT F. BENDUS
DONNA B. CONNORS

April 28, 1998

The Honorable Gerald C. Kogan
Chief Justice
Supreme Court of Florida
500 Duval Street, South
Tallahassee, Florida 32399-1925

Case #89,955
Amendments to the Florida
Family Law Rules

Dear Chief Justice Kogan:

I respectfully request that the Supreme Court consider the following comments regarding amendments to the Florida Family Law Rules.

1. One Family-One Judge. Apparently the steering committee made a recommendation that all court matters involving members of the same family being handled by the same judge is "unrealistic and unworkable," and recommended an integrated and coordinated approach that ensures that any judge handling any matter involving a member of a family would be well informed as to any other pending matters involving another member of that same family.

Perhaps the Chief Judge could issue an administrative order requiring that when a presiding judge becomes aware that parties in a case pending in his or her court have a prior case in another court or division, that the presiding judge automatically transfer or consolidate that case to the first judge hearing matters involving members of the same family, i.e. the lowest case number in that court or circuit. The only exception might be when a member of a family becomes involved in juvenile court in a dependency or termination of parental rights matter, then the presiding judge for all the cases might be the juvenile court judge until the juvenile cases are completed.

rights matter, then the presiding judge for all the cases might be the juvenile court judge until the juvenile cases are completed.

2. Services to Assist Self-Represented Litigants. I agree with the court's concerns that the court may have further complicated rather than simplified the family law process by creating Family Law Divisions, extensive family law rules and forms, particularly at a time when the number of pro se litigants is increasing dramatically.

For your information I have provided an attachment of my review of the effect of a lawyer's presence in mediation for cases referred to the court Family Mediation Program of the Twelfth Judicial Circuit in 1997.

When lawyers attend mediation, parties reach a full agreement 55% of the time. When two pro se litigants attend mediation, they reach a full agreement 20% of the time.

As a result, 45% of the cases with one or two lawyers need partial or complete resolution by the court whereas with two pro se litigants, 79% need partial or complete resolution by the court.

Referring pro se litigants to mediation without legal representation is not productive. We have square pegs trying to fit into round holes, and without a lawyer's presence to help shave off the rough edges, the square pegs will not fit into the round holes.

Perhaps the court would consider funding for circuits to hire lawyers to either advise or represent pro se litigants in mediation and/or at trial, if income qualified, as part of the array of services to assist self-represented litigants.

I realize that this is a rather controversial proposal, however, I also agree with the court's assessment that the manner in which family law cases are processed can have the greatest significance on individual litigants than any other area of law, particularly in matters regarding children.

I will appreciate your consideration of these comments regarding the amendments to the Florida Family Law Rules.

Sincerely,

A handwritten signature in black ink, appearing to read 'WT Bornhauser', with a long horizontal flourish extending to the right.

William T. Bornhauser, Director
Family Mediation Program

Enc.

c: Justice Ben F. Overton
Justice Leander J. Shaw, Jr.
Justice Stephen H. Grimes
Justice Major B. Harding
Justice Charles T. Wells
Justice Harry L. Anstead
Sharon Press, Director, Dispute Resolution Center
Walt F. Smith, Court Administrator, Twelfth Judicial Circuit



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FAMILY MEDIATION PROGRAM
WILLIAM T. BORNHAUSER, DIRECTOR
(941)951-5776

LAWYER INFLUENCE ON MEDIATION RESULTS
1997 CASES - CIRCUITWIDE

	<u>FULL M.A.</u>	<u>PARTIAL</u>	<u>TOTAL</u> <u>(FULL & PARTIAL)</u>	<u>NO A.</u>
Lawyer (attending 1 or 2)	55%	20%	75%	25%
Pro se	21%	34%	55%	45%

Lawyers attend 61% of all cases. (302) circuit wide

Lawyer Attendance by Courthouse

Sarasota	56%
Bradenton	70%
Venice	57%
DeSoto	30% (10 cases)

- 1) With lawyers (1 or 2) 55% fully settle - 45% need partial or complete resolution by the court.
- 2) With pro se, 21% fully settle - 79% need partial or complete resolution by the court.

LAWYER INFLUENCE ON MEDIATION RESULTS

Difference if 1 or 2 Lawyers Attend Mediation

1997

Cases Mediated	302	
2 Lawyers Present	124	41%
1 Lawyer Present	61	20%
Pro se (2)	117	39%

	<u>2 Lawyers</u>	<u>1 Lawyer</u>	<u>2 Pro se</u>
Full Agreement	55.6%	52.5%	20.5%
Partial Agreement	21.7%	18%	35%
Full & Partial	77.3%	70.5%	55.5%
No Agreement	22.6%	29.5%	44.5%

Trial Time

	<u>No Trial</u>	<u>Partial Trial</u>	<u>Complete Trial</u>
2 Lawyers	55.6%	21.7%	22.6%
1 Lawyer	52.5%	18%	29.5%
2 Pro se	20.5%	35%	44.5%



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Honorable Sid J. White
Clerk of the Supreme Court of Florida
Supreme Court Building
500 Duval Street, South
Tallahassee, Florida 32399-1925

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CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

Dear Sir:

Enclosed is comments on Case #89,955, Amendments to the Florida Family Law Rules.

Sincerely,

William T. Bornhauser, Director
Family Mediation Program
Twelfth Judicial Circuit

WTB/mhr

Enc.

c: Justice Ben F. Overton
Justice Leander J. Shaw, Jr.
Justice Stephen H. Grimes
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