

NOTICE TO THE BAR

FAMILY – REPORT AND RECOMMENDATIONS OF THE JUDICIARY **SPECIAL COMMITTEE ON THE NON-DISSOLUTION DOCKET –** **PUBLICATION FOR COMMENT**

The Supreme Court invites written comments on the attached Report and Recommendations of the Judiciary Special Committee on the Non-Dissolution Docket.

In its [2021 Action Plan for Ensuring Equal Justice](#), the Court committed to critically reexamine the Family Non-Dissolution docket. This docket type involves cases concerning family relationships and responsibilities where there is no divorce filed. Reliefs sought in this docket include custody, visitation, parenting time, support (including Separate Maintenance) and paternity determinations. To conduct that reexamination, the Judiciary established a Special Committee comprised of key stakeholders – including representatives of the Division of Family Development in the Department of Human Services, Hispanic Bar Association of New Jersey, New Jersey State Bar Association, Legal Services of New Jersey, Partners for Women and Justice, and Volunteer Lawyers for Justice, as well as private attorneys, community members, judges, and court staff. In furtherance of its charge, the Special Committee examined ways to enhance safeguards in Family Non-Dissolution (FD) matters in order to ensure equity and procedural fairness consistent with similarly situated cases in the Family Matrimonial (FM) docket.

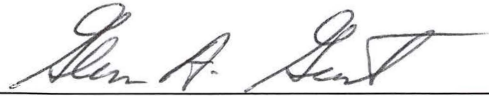
Starting from the premise that children, not their parents, are at the center of FD matters, the Special Committee strategized ways to address potential systemic disparities. As set out in the attached report, the Special Committee presents 13 recommendations to reform and improve the Non-Dissolution docket for the benefit of children and families. Those recommendations include proposed amendments to Court Rules, revised court forms, refined and improved processes, and new informational materials.

Please send any comments on the Report and Recommendations of the Judiciary Special Committee on the Non-Dissolution Docket in writing by **Friday, November 4, 2022** to:

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

Comments may also be submitted via email at the following address:
Comments.Mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address, and those submitting comments by email should include their name and email address. Comments are subject to disclosure upon receipt.



Glenn A. Grant
Administrative Directors of the Courts

Dated: September 30, 2022



New Jersey Courts

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SEPTEMBER 2022

SPECIAL COMMITTEE ON THE

NON-DISSOLUTION DOCKET

**Special Committee on the Non-Dissolution (FD) Docket
September 2022 Report**

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Special Committee on the Non-Dissolution (FD) Docket

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I. Overview

The Special Committee on the Non-Dissolution (FD) Docket (Committee) was formed to review FD practices and procedures to enhance the administration of justice, procedural fairness, and public confidence. Membership was comprised of judges, judiciary staff, members of the bar and community service providers. (See Appendix A – Committee Membership Roster.)

The Committee was specifically charged with reviewing operations, procedures, and protocols to enhance procedural fairness and eliminate the potential for systemic disparities in outcomes. It examined challenges experienced by court users and counsel to ensure equity for the children and families whose lives are affected by matters adjudicated in this docket.

II. Introduction

“[T]he welfare of children is paramount whether the parents are married, divorced or never-married.” J.G. v. J.H., 457 N.J. Super. 365, 368 (App. Div. 2019). While practically speaking the FD docket focuses on the named parties in matters, the fact is that children are at the center of FD actions. Similarly situated children, whether affected by the dissolution (FM) or FD docket, should receive the same quality of justice and equitable outcomes. Ensuring procedural fairness in the FD docket advances the welfare of children and eliminates procedural disparities that exist in contrast to the FM docket.

The recommendations presented in this report include systemic and operational enhancements. They seek to resolve inequities between similarly situated couples in the FD and FM dockets where the only material difference in most cases is the marital status of the parties. Considering the fundamentals of both procedural and substantive due process, the suggested rule amendments contained in this report support the expediency of summary proceedings while ensuring a more comprehensive approach for more complex questions presented to the court.

III. Recommendations

A. Recommendation One

Amend Rule 5:4-4, to require the court to: (a) serve all non-dissolution documents filed by the initiating party on the non-filing

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party, and (b) serve any responsive documents on the initiating party. In addition, provide an option for parties to use “Email Service” for the exchange of documentation beyond initial service.

Effectuating service is a central aspect of bringing a matter before the court. For the filer, it establishes the court's jurisdiction and the means to address the issues in dispute. For the non-filer, notice provides due process and the means for them to also raise issues, which in turn enables the court to address the parties dispute in the context of the family's dynamics.

Currently, the court sends a court-generated notice of the hearing date and time to the non-filing party. This places the non-filing party at a disadvantage at the onset because they do not receive a copy of the documents filed by the initiating party. Maintaining the status quo deprives the non-filing party of their constitutional right to due process. Moreover, this disadvantage negatively impacts the overall process and adds unnecessary time and process burdens on the court because the court first learns about the non-filer's response at the hearing date.

This recommendation remedies this procedural inequity with the express addition of a requirement that the court serve all documents upon the non-filing party. This creates a more equitable start to the matter as it allows the non-filing party and any interested parties to be prepared to address the filing party's claims early in the process. Better prepared litigants contribute to a more efficient process, which promotes more equitable outcomes.

While this recommendation advances due process, it also puts an immense burden on staff due to the current case processing limitations in the New Jersey Kids Deserve Support (NJKiDS) system. Therefore, this recommendation is presented with the understanding that the court will continue the current process and will take on the additional responsibility to include all documents filed by the initiating party and the respondent, once the Division of Family Development (DFD) makes the necessary system enhancements set forth in this

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recommendation. The enhancements will eliminate the current need for staff to copy documents, type the narrative and reliefs from the verified complaint into the system, and send all external documents through the mail. DFD commits to complete the enhancements by December 31, 2022. The enhancements will allow staff to upload documents to NJKiDS, store them in NJKiDS, and ultimately send them to be mailed through central print regardless of the manner of filing. (e.g., in person, by mail, through the Judiciary Electronic Document Submission (JEDS) system, and through the on-line Title IV-D Child Support Application) (See Appendix B – Non-Dissolution Filing Scenarios.)

At present, NJKiDS does not have the functionality for staff to enter the names of the attorneys of record that represent interested parties. The system currently notices only attorneys who represent plaintiffs and defendants. The Division of Family Development and the Judiciary will work toward remedying this deficiency in the first quarter of 2023.

To further ensure the effective exchange of documents between the parties, the court should offer an option for the parties to use “Email Service” for the exchange of documentation beyond initial service. Given the confidential nature of many Family Part matters and related documents, a disclaimer notice such as the following would be advisable.

Pursuant to the New Jersey Rules of Court, many matters heard in the Family Division are confidential and require the filing of documents that contain confidential information. By agreeing to the exchange of case-related information by way of “Email Service,” you must agree to keep all emails, including all attachments, confidential. Only the parties named in the matter shall have access to these emails. Therefore, if you share your email account with another person or allow others to access and read your email, “Email Service” is not an appropriate option for you.

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The timely implementation of these NJKiDS enhancements and the development of an “Email Service” option will improve court processes and ensure efficient and effective service of process on all parties involved in non-dissolution matters.

B. Recommendation Two

Non-dissolution materials and forms should be available in all high demand languages the Judiciary currently provides as well as Hindi.

The Judiciary’s Language Access Plan, Standard 4.2., requires that “[t]he Judiciary shall translate critical and commonly used statewide court forms, brochures, and other documents into Spanish and other high demand languages as necessary, to ensure equal access to the courts.” Pursuant to Standard 4.2.1, matters on the non-dissolution docket are to be given priority because they involve “...application for child support or other financial support, or relief from potential domestic violence; ... a high-volume of self-represented litigants; ...[and] materials [that] include critical information about court procedures, programs, or services.” Currently, the courts provide many documents such as brochures and instructions for self-represented litigants with limited English proficiency in the following languages: Spanish, Haitian Creole, Korean, Portuguese, and Polish. The addition of Hindi, a high demand language, would expand access to the courts.

C. Recommendation Three

Provide educational materials for non-dissolution litigants that inform them of court processes and expectations (i.e., burden of proof regarding best interest factors, change of circumstances, complex track, legal custody vs. physical custody, intra-state and removal considerations, and sample parenting time/culturally inclusive holiday schedules). This information should be available to the public in all available formats including educational seminars in the Offices of the Ombudsman and on the Judiciary website.

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The FD docket has a high number of self-represented litigants. The Judiciary provides numerous resources that assist litigants in navigating the court system. However, upon close examination of the procedural aspects of the docket and the need to ensure both procedural and substantive due process, the Committee proposes additional legal information and procedural supports to equip self-represented litigants to file, prepare, and present their matters before the court. The Committee recommends that educational materials, in a variety of media and formats and in multiple languages, be developed and made available by the Judiciary, including:

- Best Interest Factors (including the requisite burden of proof),
- Change of Circumstances Information,
- Complex Track Factors,
- Terminology (e.g., legal custody vs. physical custody),
- Intra-state Relocation and Removal Considerations, and
- Culturally Inclusive Templates for Parenting Time and Holiday Schedules.

These topics can also be presented in public webinars and related legal information programs. Informed and prepared litigants are a benefit to the court and the system because it leads to better outcomes for the parties and their children.

D. Recommendation Four

Develop non-dissolution educational materials for judges such as a bench card with factors to be considered when determining whether a case is complex. The information on bench cards should be the same as the information offered to litigants.

The Judiciary has a robust judicial education program and provides training in a variety of contexts for judges assigned to the FD docket. Cognizant of the breadth of matters that fall within the purview of the FD docket, the Committee recognizes that additional educational resources for judges serve to improve the FD experience. Bench cards

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on several aspects of the FD docket, (e.g., factors for determining whether a case should be placed on the complex track) would be valuable resources. The development of these resources could parallel the development of litigant resources to the degree it is beneficial, so the same information is available to judges and litigants. This recommendation also stands to enhance the FD process and ensure judges, regardless of the extent of their experience in the FD docket, are aware of key procedural considerations and court processes.

E. Recommendation Five

Develop sample custody and parenting time/visitation interrogatories that would be available (not mandatory) to the public and modifiable for individual use.

Pursuant to Rule 5:5-7(c), if the court deems a non-dissolution case to be appropriate for the complex track, a case management order fixing a schedule for discovery, among other reliefs, shall be entered. Interrogatories are a principal discovery tool used in custody and parenting time litigation. Therefore, sample interrogatories, modifiable for individual circumstances, should be created and made available for self-represented litigants. (See Appendix C – Sample Custody and Parenting Time/Visitation Interrogatories.)

F. Recommendation Six

Amend Rule 5:8 to require non-dissolution litigants to participate in the Non-Dissolution Education Program and a subsequent consent conference prior to their first hearing before a judge as set forth in Directive #2-20, Family – Non-Dissolution (FD) Education Program (EP), January 3, 2020.

This recommendation proposes to codify in the court rules the requirement that FD litigants participate in the Non-Dissolution Education Program (FDEP) and a subsequent consent conference to assist the parties to reach an agreement, prior to their first hearing before a judge. Directive #2-20, promulgated January 3, 2020, requires

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vicinages to implement the FDEP and makes it mandatory for parents and/or caregivers of a child seeking custody and/or parenting time to attend.

Codifying in the court rules that the parties are required to participate in the FDEP, and a subsequent consent conference, enables the parties to engage in the resolution of matters more meaningfully, early in the process, and in the most congenial way possible.

G. Recommendation Seven

Amend Rule 5:4-3(b) to allow the non-filing party to file a responsive pleading. Create a timeframe to file a responsive pleading and a timeframe to reply to the responsive pleading. Develop sample forms.

This recommendation, coupled with Recommendation One, advances FD procedural due process. At present, the non-filing party does not have the opportunity to file a responsive pleading to the moving party's application. Therefore, the court has no basis prior to the initial court event to evaluate the issues at hand and pre-identify what aspects of the matter might be resolved in a summary fashion and which more complicated disputes might benefit from being placed on the complex track. Allowing parties to file a responsive pleading will make the initial hearing fair for both parties and will provide judges more information in advance of the hearing.

By developing simple sample forms, the Judiciary can ensure the pleading process remains streamlined and will not unnecessarily complicate matters. In addition, by setting a reasonable timeframe for responsive pleadings, the Judiciary can maintain the efficiency of FD matters.

H. Recommendation Eight

Revise the Non-Dissolution Complex Case Management Order form to reflect that:

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- 1. the FD Case Management Order (“FD CMO”) was entered at the initial hearing,**
- 2. the reason(s) the court has deemed the case complex,**
- 3. the appointment of a Guardian ad litem for the child(ren), if necessary, and**
- 4. the appointment of counsel for the child(ren), if necessary.**

- 1. To reflect that the FD Case Management Order (“FD CMO”) was entered at the initial hearing.**

Currently, the FD CMO form only indicates whether the matter was opened at a case management conference or by the consent of the parties’ attorneys. Under Rule 5:5-7, the court must determine whether the case should be placed on the complex track at the first, or initial, hearing upon oral application by a party or in its own discretion. Adding “at the initial hearing” to the form is a needed change to remain consistent with the Rule and non-dissolution practice.

- 2. To reflect the reason(s) the court has deemed the case complex.**

FD actions should not be automatically treated as a summary action requiring expedited resolution. A Family Part judge has the authority to order, and parties have a right to request, that a matter be placed on the complex track. Typically, the need for additional information gathering prior to a hearing is the basis for designating a case complex. Regardless of whether an action is designated complex, a thorough plenary hearing is necessary when the parties make materially conflicting representations of fact.

Pursuant to Rule 5:5-7, if the court deems a non-dissolution case to be appropriate for the complex track at the initial hearing, the FD CMO must detail the reasons for the complex designation. Adding the following options to the FD CMO will assist in clearly articulating the reasons and satisfy the requirements under the court rule.

☐ Expert evaluation(s) needed:

☐ Social evaluation(s) needed:

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- ☐ Discovery from the parties needed:
 - ☐ Child Custody and Parenting Time/Visitation Interrogatories
 - ☐ Family Case Information Statements
 - ☐ Business records:
- ☐ _____
Other forms of discovery:
- ☐ _____
Other material complexity:
- ☐ _____

Following such a designation, the appropriate forms of discovery (i.e., Interrogatories, Requests for Admissions and/or Depositions) may then be determined accordingly and a discovery timeline set.

3. To reflect the appointment of a Guardian ad litem for the child(ren), if necessary.

Currently, the FD CMO form does not indicate whether the court has determined the need for appointment of a Guardian ad litem for the child(ren). Such appointments are largely governed by Rule 5:8B and adding this option to the FD CMO will make it consistent with non-dissolution practice.

4. To reflect the appointment of counsel for the child(ren), if necessary.

Currently, the FD CMO form does not indicate whether the court has determined the need for the appointment of an attorney on behalf of the child(ren). Such appointments are largely governed by Rule 5:8A and adding this option to the FD CMO will make it consistent with non-dissolution practice.

I. Recommendation Nine

Cases designated as complex should be relieved of the 90-day resolution expectation.

Ninety days is insufficient to effectively resolve and dispose of complex cases for the following reasons.

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1. The procedures for filing, managing, and conducting complex FD matters are like those in the FM docket. Further, parties who file an FD Verified Complaint/Counterclaim may seek nearly all the same reliefs allowable in an FM matter such as alimony/spousal support; division of property and/or debts; custody and parenting time; child support; and name change.

Despite this, the disposition standards are woefully disproportionate. New FM filings must be disposed in twelve months, and reopened cases in six months. By contrast, new FD complex filings must be disposed in three months. With nearly identical issues to those presented in FM matters, the disparity in resolution time has proved unworkable in FD complex cases. The attached Case Comparison Flow Charts for FD Summary, FD Complex and FM Standard Proceedings depict timelines of a typical case in three hypothetical scenarios. (See Appendix D.) The example used to illustrate an FD complex case is relatively basic in nature (e.g., appointment of guardian ad litem or attorney for the child are not addressed) and yet the example clearly supports the need to expand complex case disposition standards.

2. Outside circumstances make ninety days unrealistic and sometimes, punitive. Unexpected occurrences that have nothing to do with the diligence of the parties, the attorneys, or the court include the following examples:
 - a. One or more of the parties becomes unavailable due to admission to a psychiatric hospital or a drug/alcohol rehabilitation facility where the stay is a minimum of thirty to forty-five days.
 - b. The court is waiting for the Division of Child Protection and Permanency (DCP&P) to issue a report which cannot be prepared until their full investigation is completed.
3. The assignment of a case to the complex track, by definition, supports the need for more time. Specifically, pursuant to Rule 5:5-7(c), “the court may assign the case to the complex track based only

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on a specific finding that discovery, expert evaluations, extended trial time or another material complexity requires such an assignment.” The necessity to exchange discovery and hire experts causes wide-ranging delays, including time needed:

- a. to prepare, serve, and answer subpoenas (e.g., obtaining, paying for, and/or printing a significant number of materials),
- b. to prepare, serve, and answer interrogatories,
- c. for attorneys to review the financials, hire appropriate experts, and receive reports (e.g., forensic accountant, joint accountant),
- d. for custody and parenting time evaluations which require numerous, scheduled meetings with the parties and the child, and therefore cannot be conducted thoroughly within the existing proscribed timeframe.
- e. to schedule around parent and children’s issues that require immediate attention outside the litigation schedule (e.g., medical, educational, behavioral, psychological), and
- f. for a guardian ad litem or attorney for the child to meet with the child(ren) as often as necessary to prepare for court.

The allowable time for the completion of discovery in a complex FD matter should not be less than what is permissible for FM matters assigned to the complex track. Pursuant to Rule 5:5-1(e), pertaining to civil family actions, the parties have a minimum of 120 days for FM cases assigned to the standard track and the court has discretion to set the discovery end date by case management order.

4. Recent Appellate Division decisions will likely give rise to more cases being designated complex, and the increase in plenary hearings will require more bench time. Rule 5:5-7(c) indicates that “the complex track shall be reserved for only exceptional cases that cannot be heard in a summary manner.” The court in J.G. held, “[a] thorough plenary hearing is necessary in contested custody matters where the parents make materially conflicting representations of fact.” 457 N.J. Super. 372 (citing K.A.F. v. D.L.M., 437 N.J. Super. 123, 137-38 (App. Div. 2014)) where the court said:

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“A court, when presented with conflicting factual averments material to the issues before it, ordinarily may not resolve those issues without a plenary hearing. While we respect the family court’s special expertise, a court may not make credibility determinations or resolve genuine factual issues based on conflicting affidavits.... Moreover, a plenary hearing is particularly important when the submissions show there is a genuine and substantial factual dispute regarding the welfare of children.”

Given the standards established by the Appellate Division in J.G. and K.A.F., and the most recent case of W.M. v. D.G., 467 N.J. Super. 216 (App. Div. 2021), cases with material issues of facts in dispute require the exchange of discovery, at a minimum, and dispositive motions if warranted by the evidence and ultimately a plenary hearing. See R.K. v. D.L., 434 N.J. Super. 113 (App. Div. 2014).

5. The word “complex” infers that the matter will be multifaceted and therefore will take longer to handle. Due to the nature of the complex track, anything less than 180 days is insupportable.

J. Recommendation Ten

Amend Rule 5:6A and Appendix IX-A, paragraph 28, to require that the child support guidelines worksheet be included/distributed with all child support orders/Uniform Summary Support Orders (USSO).

Requiring distribution of the Child Support Guidelines Worksheet in addition to the USSO, enables the parties to fully understand the dollar amounts used to calculate support and the effect of parenting time on the support order. Distribution likewise enables a judge reviewing future modification applications to see the basis on which the existing child support was calculated. In this way, the judge can more readily

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determine whether there are notable changes in circumstances warranting modification.

K. Recommendation Eleven

Revise the Financial Statement for Summary Support Actions to require the information on each line item of the Child Support Guidelines Worksheets.

Pursuant to Rule 5:5-3, each party is required to “serve upon the other party and furnish the court with” a financial statement. Revising the Financial Statement for Summary Support Actions form will ensure the exchange of accurate, updated financial information for the calculation of child support. Specifically, the form should be revised to ensure the disclosure of assets, liabilities, childcare costs, health care expenses, and require that supplemental information to support these expenses and other income information be attached. (e.g., three most recent pay stubs, tax return, W-2s, 1099s and K-1 statements)

L. Recommendation Twelve

Amend Rule 5:5-3 to create a process comparable to the dissolution process outlined in Rule 5:5-4(a)(4), where a party seeking a modification of support must file a current Family Part Case Information Statement along with the prior Family Part Case Information Statement to enable the judge to determine whether there is a substantial change in circumstances warranting a modification of support.

Rule 5:5-3 currently requires parties in an FD action to complete and serve a financial statement when support is being sought. For actions involving requests for spousal or partner support, a Family Part Case Information Statement must be filed pursuant to Rule 5:5-2(a). The financial statement is intended to streamline the information provided to support the efficiency of the summary process in contrast to the Family Part Case Information Statement, which includes extensive details including non-economic factors.

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The court utilizes the information presented first to determine if there is a *prima facie* showing of a change in circumstances and, if so, to determine the appropriate level of support based on the totality of the circumstances. To ensure due process and procedural fairness in FD modification of support actions, the FD process should be analogous to the FM process. Accordingly, it is recommended that the following procedural aspects be memorialized in Rule 5:5-3:

1. In summary actions for support, the moving party shall file with the initial pleading a current financial statement and the same shall be served upon the non-moving party.
 - When the application is for modification of child support, applicants shall append a current financial statement and any prior financial statement filed.
 - When the application is for modification of support of a spouse, civil union partner or domestic partner, or college or post-secondary school contribution, or in matters designated for the complex track, applicants shall append a current Family Part Case Information Statement pursuant to Rule 5:5-2(a) and any prior financial statement filed.
2. If the court concludes that the party seeking relief demonstrated a *prima facie* showing of a substantial change in circumstances or that other good cause is shown, the court shall order the non-filing party to file a current financial statement or Family Part Case Information Statement.

The following amendments to Rule 5:5-3 are recommended:

5:5-3. Financial Statement in Summary Support Actions

In any summary action in which support of a child is in issue, each party shall, on the filing of the initial pleading, ~~prior to the commencement of any hearing~~, serve upon the other party and furnish the court with a financial statement ~~an affidavit or certification~~ in a form prescribed by the Administrative Director of the Courts. The court shall use the information provided ~~on the affidavit or certification~~ and any other

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relevant facts to set an adequate level of child support in accordance with R. 5:6A. Except for applications for temporary and final domestic violence restraining orders, in summary actions involving the support of a spouse, civil union partner or domestic partner, or requests for college or post-secondary school contribution, or in matters designated for the complex track, a Family Part Case Information Statement must be filed pursuant to R. 5:5-2(a). In applications involving college or postsecondary school contribution, applicants must produce all relevant information including but not limited to documentation of all costs for which contribution is sought, including but not limited to, tuition, board, and books; proof of enrollment; and proof of all financial aid, scholarships, grants, and student loans obtained. When an application is filed for modification of child support, applicants shall append a current financial statement and any prior financial statement filed. When an application is filed for modification of support of a spouse, civil union partner or domestic partner, or college or post-secondary school contribution, or in matters designated for the complex track, applicants shall append a current Family Part Case Information Statement pursuant to R. 5:5-2(a) and any prior financial statement filed. If the court concludes that the party seeking relief has demonstrated a *prima facie* showing of a substantial change in circumstances or that other good cause is shown, the court shall order the non-filing party to file a current financial statement or Family Part Case Information Statement. Pursuant to R. 5:4-2(g), all pleadings filed in the Family Part must include a completed Confidential Litigant Information Sheet in a form prescribed by the Administrative Director of the Courts.

The proposed rule amendments promote procedural fairness by eliminating inequalities that exist between the FD and FM dockets.

M. Recommendation Thirteen

Add the following three questions to the Non-Dissolution Verified Complaint form.

- 1. Is there a history of domestic violence between you and the other party named in this complaint?**

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- 2. Have you ever filed for a temporary restraining order and/or filed a domestic violence criminal complaint against the other person named in this complaint?**
- 3. Do you have an existing/active temporary or final restraining order against the other person named in this complaint?**

Including these questions on the Non-Dissolution Verified Complaint form will make the court aware of a history of domestic violence or that a temporary restraining order has never been filed. Currently, when a new non-dissolution case is filed, Family Division staff review the case management system for an active domestic violence temporary or final restraining order filed pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-28. This recommendation will also help the court identify those cases with a history of domestic violence that occurred in a jurisdiction other than New Jersey. If there is such a history, the case should not be scheduled for mediation.

IV. Conclusion

The Special Committee on the Non-Dissolution Docket is grateful for the opportunity to make recommendations it believes will improve and enhance non-dissolution practices. For change to occur, ongoing training for judges and staff must be provided. Further, the Committee suggests that the Supreme Court Family Practice Committee be tasked to review the effectiveness of approved recommendations to ensure continuing improvement in the service of the litigants and children in the FD docket. Finally, the Committee wishes to emphasize its support for existing FD practices that provide opportunities for the parties to resolve their disputes before protracted litigation becomes necessary, including the Non-Dissolution Education Program, subsequent consent conferences, and mediation sessions (for cases with no history of domestic violence). The Committee hopes the recommendations in this report will supplement these practices and the good work done by judges, judiciary staff, and all stakeholders to assure fairness and positive outcomes in the FD docket.

V. Appendices

Appendix A
Special Committee on the Non-Dissolution Docket
Membership Roster

Special Committee on the Non-Dissolution (FD) Docket Membership Roster

Honorable Bonnie J. Mizdol, A.J.S.C., Chair
Honorable Hany A. Mawla, J.A.D., Vice-Chair

Larry Ashbridge, Chief
Jodi Argentino, Esq.
Kareen Bar-Akiva, Div. of Family Development
Hon. Supti M. Bhattacharya, J.S.C.
Nalo S. Brown, Family Division Mgr.
Lisa R. Burke, DI&CE Program Coordinator
Adriana M. Calderon, Trial Ct. Admin
Hon. Lisa F. Chrystal, P.J.F.P.
Hon. James M. DeMarzo, P.J.F.P.
Joanne M. Dietrich, Esq., Asst. Dir.
Jeffrey M. Fiorello, Esq.
Tasha Hogan, Div. of Family Development

Hon. Harold U. Johnson, Jr., P.J.F.J.
Jessica Kitson, Esq.
Michele Lefkowitz, Esq.
Nancy L. Manuele, Esq., Chief
Mary McManus-Smith, Esq.
Hon. Richard J. Nocella, P.J.F.P.
Joy Shea, Asst. Family Division Mgr.
Jasen Sood, D.O.
Reverend Frances Snelling Teabout
Hon. Radames Velazquez, Jr., P.J.F.P.
Albertina Webb, Esq.

Committee Staff

Krista Carbone, Family Practice Division
Ellen Reaves, Family Practice Division

Appendix B

Non-Dissolution Filing Scenarios

Non-Dissolution Filing Scenarios

Action Requested	Required Forms	Additional Forms/ Documents	Filing Options
Applicant and/or Respondent files and/or responds to filing for establishment of paternity, child support, and medical. No case exists between the parties.	IV-D Application Verified Complaint and/or Counterclaim – CN 11492 Confidential Litigant Information Sheet (CLIS) – CN 10486 Certification in Support of Establishing Paternity – CN 11176 Summary Form for Financial Information – CN 11223 Family Case Information Statement (if complex) – CN 10482 Atty Supplement to Complaint/Modification (if complex) – CN 11917 Certification of Non-Military Service – CN 11191	Paystubs, Tax Returns, additional financial documents, Certificate of Parentage (COP), Birth Certificate, Family Additional Information Form – CN 11532	Electronically through JEDS, electronically through the child support website (NJKiDS), in-person, or mailing it in (post office)
Applicant and/or Respondent files and/or responds to filing to have child support modified due to change in circumstance. Parties have an existing case.	Application for Modification of Court Order or Cross Application – CN 11487 Confidential Litigant Information Sheet (CLIS) – CN 10486 Summary Form for Financial Information – CN 11223 Family Case Information Statement (if complex) – CN 11917 Atty Supplement to Complaint/Modification (if complex) – CN 11917 Certification of Non-Military Service – CN 11191	Paystubs, Tax Returns, add financial docs, Proof of disability, Request for Cont. of Support document, Family Add Info Form – CN 11532	Electronically through JEDS, in-person, or mailing it in (post office)
Applicant and/or Respondent files and/or responds to establish custody/visitation. No case exists between the parties.	Verified Complaint and/or Counterclaim – CN 11492 Confidential Litigant Information Sheet (CLIS) – CN 10486 Atty Supplement to Complaint/Modification (if complex) – CN 11917 Certification of Non-Military Service – CN 11191	Diligent Search Packet – CN 11490, Family Additional Information Form – CN 11532	Electronically through JEDS, in-person, or mailing it in (post-office)
Applicant and/or Respondent files and/or responds to a request to have a custody/visitation agreement modified. Parties have existing case.	Application for Modification of Court Order or Cross Application – CN 11487 Confidential Litigant Information Sheet (CLIS) – CN 10486 Certification of Non-Military Service – CN 11191	Family Additional Information Form, CN 11532	Electronically through JEDS, in-person, or mailing it in (post-office)

Non-Dissolution Filing Scenarios

Action Requested	Required Forms	Additional Forms/Documents	Filing Options
Applicant and/or Respondent is filing and/or responding to an emergent request for support and/or custody. No case exists between the parties.	IV-D Application Verified Complaint and/or Counterclaim – CN 11492 Emergent Hearing (Order to Show Cause) – CN 12547 Confidential Litigant Information Sheet (CLIS) – CN 10486 Certification in Support of Establishing Paternity – CN 11176 Summary Form for Financial Information – CN 11223 Family Case Information Statement (if complex) – CN 11917 Certification of Non-Military Service – CN 11191	Family Additional Information Form – CN 11532	Electronically through JEDS or in-person
Applicant and/or Respondent is filing and/or responding to an emergent application to change custody and support. Parties have existing case.	Application for Modification of Court Order or Cross Application – CN 11487 Emergent Hearing (Order to Show Cause) – CN 12547 Confidential Litigant Information Sheet (CLIS) – CN 10486 Certification in Support of Establishing Paternity – CN 11176 Summary Form for Financial Information – CN 11223 Family Case Information Statement (if complex) – CN 11917 Certification of Non-Military Service – CN 11191	Family Additional Information Form – CN 11532	Electronically through JEDS or in-person
Applicant and/or Respondent is filing and/or responding to an emergent request to establish custody/visitation only. No case exists between the parties.	Verified Complaint and/or Counterclaim – CN 11492 Emergent Hearing (Order to Show Cause) – CN 12547 Confidential Litigant Information Sheet (CLIS) – CN 10486 Certification of Non-Military Service – CN 11191	Family Additional Information Form – CN 11532	Electronically through JEDS or in-person
Applicant and/or Respondent is filing and/or responding to an emergent request to change custody/visitation only. Parties have existing case.	Application for Modification of Court Order or Cross Application – CN 11487 Emergent Hearing (Order to Show Cause) – CN 12547 Confidential Litigant Information Sheet (CLIS) – CN 10486 Certification of Non-Military Service – CN 11191	Family Additional Information Form – CN 11532	Electronically through JEDS or in-person

Non-Dissolution Filing Scenarios

System enhancements to process the documents indicated below will be completed once the Judiciary updates the internal forms listed below.			
Action Requested	Required Forms	Additional Forms/Documents	Filing Options
Applicant and/or Respondent files and/or responds to a filing to register an out of state custody/parenting time order. No case exists between the parties.	Verified Complaint and/or Counterclaim – CN 11492 Out-of-State Custody/Visitation/Parenting Time Order (Filing for Entry on Registry Only) – CN 11062 Notice of Registration of Out of State Custody Order – CN 11067 Certification of Out of State Custody/Visitation/Parenting Time Order (For Filing When Requesting Enforcement) – CN 11064 Documentation of Steps Taken to Verify Out of State Order – CN 11065	Family Additional Information Form – CN 11532, Out of State Custody/Visitation Order	Electronically through JEDS or in-person mailing it in (post office)
Applicant and/or Respondent files and/or responds to a filing to register an out of state custody/parenting time order. No case exists between the parties.	Order to Show Cause to Enforce Out of State Custody/Visitation/Parenting Time Order – CN 11063 Notice of Registration of Out of State Custody Order – CN 11067 Certification of Out of State Custody/Visitation/Parenting Time Order (For Filing When Requesting Enforcement) – CN 11064 Documentation of Steps Taken to Verify Out of State Order – CN 11065	Family Additional Information Form – CN 11532, Out of State Custody/Visitation Order	Electronically through JEDS or in-person mailing it in (post office)

Appendix C

Sample Custody and Parenting Time/Visitation Interrogatories

Sample Custody and Parenting Time/Visitation Interrogatories

Instructions

Interrogatories are questions that parties in a court case can send to each other before trial to get specific answers related to their case. The responding party must answer the questions and must certify under oath that the answers they give are true.

The Interrogatories are divided into sections. For example, “Witnesses, Experts and Evidence.” Some interrogatories in this packet may not apply to your case so this form was designed for you to select the questions you want the other party to answer. To do this, put an “X” in the box next to the questions you want answered. All questions indicated with an “X” must be answered by the other party. If you want the other party to answer all the questions in a particular section, put an “X” in the box next to the named section.

When answering these interrogatories, you must provide all information in your possession, available to you, or under your control, including anything in the possession of your attorneys, investigators, employees, representatives, or any other person acting on your behalf, and not just information you have based on your personal knowledge. If you provide information that you do not know based on your personal knowledge, you must indicate the sources of the information.

If you cannot answer any of the interrogatories in full, after doing everything possible to get the information, you should explain why you are not able to answer them and include any information or knowledge you or anyone else has about the unanswered portions.

Whenever there is a request for a copy of a document, you must provide a true and complete copy of the document.

If there is not enough space for an answer to any interrogatory, you should provide the answer on a separate piece of paper and attach it to this form.

These interrogatories are considered continuing. That means, if new information becomes available that affects your initial answers to these questions, the new information must be provided to the other party.

Definitions

The following definitions apply to these interrogatories:

- A. Whenever the term "acting on your behalf" is used, it includes your representatives, attorneys, insurance carriers, and investigators, whether they have been hired by you, your insurance carrier, your attorneys, or their representatives, or a court of law.
- B. The term "person" means and includes natural persons, corporations, partnerships, associates, and any other kinds of business or legal entities.
- C. The term "document" means and includes the original and any copy of any kind of written, typewritten, printed or graphic material, including papers, agreements, contracts, notes, memoranda, correspondence, tape recordings, video tapes, or films, letters, text messages, statements, books, photographs, screen shots, reports, studies, minutes, records, checks, files, contracts, accounting books, plans, computer or other data processing printouts, files or programs, transcriptions, recordings, and records of which you have any knowledge or information, whether or not they are in your possession or control. Further, it includes all originals, file copies, other copies, and drafts, whether used or not. To the extent that a document exists on a USB (zip) flash drive, an exact replica of the drive must be provided.
- D. "You" and "your" refers to the person answering these interrogatories, and all agents and other people acting on behalf of the person answering these interrogatories including the other parent.
- E. "Oral communication" means any words heard by another person, in person, by telephone or otherwise.
- F. "Identify" or "state" means to provide your full name, address, telephone number, present or last known place of work and the address and telephone number. The words "identify" or "state" when used to describe a document

means to explain the type of document, its location and to provide a copy of it. For example, letter, memorandum, chart, tape recording, film, videotape, text message, screen shot, computer program or printout. If any document exists but is no longer in your possession, describe its current location. "Identify" or "state" when used to describe information, means to provide full and complete information or facts, and to "identify" all other people who have knowledge or access to the information or facts.

G. The word “child” refers to any one or more children between you and the other party.

Interrogatories

[] Witnesses, Experts, and Evidence

1. [] State the name and addresses of all persons known to you to possess knowledge or any relevant facts relating to this case that will testify at the time of a hearing or trial and provide a written statement of their proposed testimony, including all physicians, psychiatrists or similar professionals who have any relevant knowledge of the facts regarding your custody issues.
2. [] State:
 - (a) the name and address of each person you intend to call as an expert at trial and provide their written report(s) including drafts.
 - (b) the field of expertise for each person named in 2(a).
 - (c) the full and detailed qualifications, training, professional and practical experience, education, and academic degrees of each person named in 2(a).
 - (d) the dates and/or years of each item in 2(c) as well as the name and address of each institution attended; and the places where experience or training was received.
 - (e) the names of professional organizations or societies including dates of membership for each person named in 2(a).
 - (f) the title of all publications, articles or books authored by each expert including date, name and address of publisher and publication.
3. [] State whether any pictures, screen shots, videos, or sound recordings were taken or made by you or by someone else of any scene, object, incident, conversation, or matter connected with this case.
 - (a) If so, describe what exists, when it was taken, who took it, and who has it in their possession.
 - (b) Include a copy of each picture, screen shot, video, or sound recording with this document.

[] Criminal History

4. [] Have you ever been arrested? If so, for what?
5. [] Were criminal proceedings ever initiated against you by any person including by the other parent? If so, state, when and provide the name and address of the person who filed charges against you; the reasons for the charges;

the name and address of the court where the matter was heard; when the matter was heard; and the outcome.

6. ☐ Have you ever been charged with driving a motor vehicle either, under the influence of alcohol, under the influence of drugs, or driving while impaired? If so, state, when and where you were charged; the name and address of the court where the matter was heard; when it was heard; and the outcome.

☐ Drug and/or Alcohol Use

7. ☐ (a) Do you use drugs and/or alcohol, or have you used drugs and/or alcohol in the past ten (10) years? If so, state what drug(s) and alcohol, and the amount and extent of use.
- (b) Have you ever been treated for drug and/or alcohol abuse? If so, what medications or treatment, if any, were prescribed for you?
- (c) Has there been a history or incidents of mental or emotional sickness or substance abuse or alcoholism, for you and/or anyone in your family? If so, provide the name of the person/people, your relationship to them, the nature and extent of the history or incident(s).

☐ Psychological/Psychiatric History

8. ☐ Has there been any incident of suicide or attempted suicide for you or anyone in your family? If so, state, when, by whom, and describe the incident.
9. ☐ Have you been examined or treated by a psychiatrist or psychologist? If so, provide:
- (a) the name and address of the person who examined and/or treated you.
- (b) the professional capacity of the person who examined and/or treated you.
- (c) the date of each examination and/or treatment, the reason for each examination and/or treatment and if a report was made state: when it was made and include it with this document.
10. ☐ Was a diagnosis ever made of your mental or emotional condition?
- (a) If so, what was the diagnosis and provide the name and address of the person/people who gave you the diagnosis?
- (b) Have you been admitted and/or confined to a mental institution or facility?
- (c) If so, what is the name and address of each such institution; when were you admitted and/or confined; why were you admitted and/or confined; how long

were you admitted and/or confined; and who had you admitted and/or confined?

[] Custody and Parenting Time/Visitation Information

- 11.[] Do you intend to reside permanently in the State of New Jersey? If not, why not? Do you have any plans to move from the State of New Jersey? If so, state those plans in detail; describe what you have done to carry out the plans and the parenting time schedule you propose for the other parent.
- 12.[] Do you feel that the welfare of your child would be enhanced if they are in your custody? If so, explain why and give specific reasons. Can you describe any difficulties your child would have if you were given custody? If so, what are they?
- 13.[] If the other parent were given custody of your child, do you think it would be detrimental to their health, welfare and general well-being? If so, explain why and give specific reasons.
- 14.[] If the other parent were given custody of your child, would there be any benefits to your children? If so, what are they?
- 15.[] Are you aware of any defect or deficit in the other parent's character and personality? If so, what is it?
- 16.[] If you believe you are more fit to be the custodial parent, identify in detail why you think this. Include specific reasons why you believe you should be the custodian and the other parent should not.
- 17.[] If you are opposed to joint legal custody, list all of the reasons why you are opposed.
- 18.[] Set forth your plan for visitation and residential arrangements for your child.
- 19.[] Have you ever made insulting or offensive comments to your child about the other parent? If so, please provide answers to the following:
 - (a) when, where, and who was present;
 - (b) what did you say and what was the reason for your statement(s); and
 - (c) was the statement true when you said it?

20. [] Set forth in detail the reasons custody should not be awarded to the other parent.

21. [] Set forth in detail the reasons custody should be awarded to you.

[] Medical History

22. [] Describe in detail any handicaps, disabilities, or chronic illness you or the other parent suffer. If you/they receive treatment for these, describe the treatment.

[] Family Violence

23. [] Has your child ever been exposed to or witnessed any upsetting or disquieting incident between you and the other parent? If so, as to each incident, describe the incident including when and where; what effect, if any, did it have on your child and whether you discussed the incident with the child.

24. [] Have you ever struck or attempted to strike the other parent?
(a) If so, was the child or anyone else present? Provide the name and address of any other person that was present.
(b) If so, state when it happened and describe the incidents(s).
(c) If so, was the other parent injured? If so, describe the injuries. Did the other parent receive medical treatment?

25. [] Did you ever physically cause any harm to the other parent, either by pushing, shoving, tripping, spitting on or in any other related ways?
(a) If so, was the child or anyone else present? Provide the name and address of any other person that was present.
(b) If so, state when it happened and describe the incidents(s).
(c) If so, was the other parent injured? If so, describe the injuries. Did the other parent receive medical treatment?

26. [] Have you ever struck or attempted to strike your child?
(a) If so, was anyone else present? Provide the name and address of any other person that was present.
(b) If so, state, when it happened and describe the incident(s).

(c) If so, was your child injured? If so, describe the injuries. Did your child receive medical treatment?

[] Child's History

27.[] Has your child now (or in the past) displayed any unusual habits or abnormal behavior? If so, provide a description of the behavior, the dates of the behavior, and the name and address of any doctors treating the child, if any.

28. Has your child had disciplinary problems at any school?

(a) If so, state when, and describe the problem(s).

(b) If so, was the problem corrected? If so, how was it corrected?

29.[] Describe all behavioral and/or emotional and/or psychological problems which you observed in your child. If any, what did you observe, when, and what did you do about it?

30.[] Provide the names and addresses of all the child's treating professionals, including but not limited to doctors, social workers, and counselors.

31.[] If you have discussed the custody issue with your child, describe in detail the conversation you had. If your child expressed a preference regarding custody and/or parenting time describe in detail and include the reasons the child gave you.

Certification

I hereby certify that all of the answers to the written interrogatories are true. If I should discover at any time that my answers are inaccurate or have changed, I will modify and amend my answers immediately in accordance with the Rules of Court. I am aware that if any of the statements made by me are willfully false, I am subject to punishment.

I hereby certify that the copies of the written reports or summaries of any oral reports by treating physicians or expert witnesses, are exact copies of the entire written report or summary; that the existence of other reports of treating physicians or expert witnesses, either written or oral, are unknown to me; and that if such reports become known or available, I shall deliver them promptly to the other party.

Signature

Dated:

Appendix D

Case Comparison Flow Charts for FD Summary, FD Complex and
FM Standard Proceedings

FD Summary

Verified Complaint for Custody, Parenting Time
& Child Support is Filed

Mandatory FD
Education Program
28 Days from Filing

Mandatory Consent Conference
38 Days from Filing

No Agreement

First Court Hearing
68 Days from Filing

Judge enters order for custody and parenting time.
Parties do not produce sufficient evidence for judge to establish child support.
Parties ordered to appear for another hearing & produce income information.

Second Court Hearing
86 Days from Filing

Judge enters order for child support.

Case Disposed in 86 Days

FD Complex

Verified Complaint & Counterclaim for Custody,
Child Support, Spousal Support & Distribution of
Property & Debt are Filed

Mandatory FD Education Program
28 Days from Filing

Mandatory Consent Conference
38 Days from Filing

No Agreement

First Court Hearing/Case Management Conference (CMC)
68 Days from Filing

Pursuant to R. 5:5-7(c), judge assigns case to complex track based on findings that discovery & expert evaluations are needed & the possibility of extended trial time.

Judge enters case management order (CMO) fixing discovery schedule, deadline for parties to secure financial experts, & schedules 2nd CMC to set a trial date.

Judge also enters interim custody & parenting time order & orders parties to attend mediation.

Parties do not produce sufficient evidence for judge to establish child support or other pendente lite relief. Parties ordered to appear for another hearing & produce income information.

FD Complex,
continued

Second Court Hearing
86 Days from Filing

Judge enters order for child support and pendent lite spousal support.

Custody & Parenting Time Mediation
91 Days from Filing

No agreement. Parties agree to attend 2nd session.

Second Custody & Parenting Time Mediation Session
111 Days from Filing

No agreement.

Second CMC
118 Days from Filing

Parties ordered to produce custody and parenting time plans pursuant to R. 5:8-5 within 14 days.

Parties ordered to undergo child custody and parenting time evaluations (home, social and mental health) within 20 days.

Trial date scheduled.

First Trial Date
138 Days from Filing

Five days before trial, defendant enters inpatient drug rehabilitation program. Trial is postponed 35 days.

Second Trial Date
173 Days from Filing
Testimony is completed and judge renders decision in 10 days.

Case Disposed in 183 Days

FM Standard

Complaint & Counterclaim for Divorce, Custody, Child Support, Spousal Support & Equitable Distribution & Motion & Cross Motion for Pendente Lite Relief are Filed

Mandatory FM Parent's Education Program
28 Days from Date of Service

Mandatory Custody & Parenting Time Mediation
38 Days from Filing
No Agreement. Parties agree to attend 2nd session.

**First Court Hearing/Motions for
Pendente Lite Relief/CMC**
68 Days from Filing

Parties cannot agree on interim custody and parenting time. Judge fixes temporary schedule & orders parties to continue in mediation.
Judge enters order for pendente lite support & child support.
Judge enters CMO, assigns case to standard track, & fixes discovery schedule & deadline for parties to secure financial experts.
Judge sets firm trial date.

Plaintiff Files OTSC based on Defendant's Failure to Pay Mortgage & Refusal to Cooperate with Plaintiff's Forensic Accountant.

FM Standard,
continued

Return OTSC/Second Court Hearing/CMC
86 Days from Date of Service

Judge enforces prior order and issues CMO with new trial date.

Second Custody & Parenting Time
Mediation Session
91 Days from Date of Service

No agreement. Parties agree to attend 3rd session.

Third Custody & Parenting Time Mediation
Session
111 Days from Service

No agreement.

Third CMC
118 Days from Service

Parties ordered to produce custody and parenting time plans pursuant to R.
5:8-5 within 14 days.

Parties ordered to undergo child custody and parenting time evaluations
(home, social and mental health) within 20 days.

Trial date confirmed.

MESP
138 Days from Service

No settlement.
Economic Mediation scheduled in 20 days.

FM Standard,
continued



Economic Mediation
158 Days from Service

Five days before economic mediation, defendant enters inpatient drug rehabilitation program. Economic mediation is postponed 35 days.



Trial Date
193 Days from Service

Testimony is completed and judge renders decision in 10 days.

Case Disposed in 203 Days



STUART RABNER

CHIEF JUSTICE

GLENN A. GRANT

ADMINISTRATIVE DIRECTOR OF THE COURTS

JENNIFER M. PEREZ

DIRECTOR, TRIAL COURT SERVICES

JOANNE M. DIETRICH

ASSISTANT DIRECTOR, FAMILY PRACTICE DIVISION

SEPTEMBER 2022