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JUSTICE

#004

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Via electronic delivery

Judge Glenn A. Grant, J.A.D.  
Acting Administrative Director of the Courts  
Richard J. Hughes Justice Complex  
25 Market Street  
Trenton, NJ 08625

Comments on the Report & Recommendations of the Judiciary  
Special Committee on the Non-Dissolution Docket

Dear Judge Grant:

On behalf of Partners, please accept these comments in support of the Report and Recommendations of the Judiciary Special Committee on the Non-Dissolution Docket (the “Committee”). Partners provides free legal services to low-income survivors of domestic and sexual violence in family court matters in New Jersey. Partners has experience on the Non-Dissolution (FD) docket through our Children of Domestic Violence Project<sup>1</sup> and through our representation of victims who choose to enter into civil restraints thereby dismissing their Temporary Restraining Order (TRO) and establishing a FD order. Based on our experience handling cases on this docket, Partners supports the Committee’s Report and Recommendations overall, and offer the following specific comments.

Partners commends the Court’s efforts to examine the FD docket and address the challenges experienced by litigants on that docket. By creating the Committee, the Court has demonstrated its ongoing commitment to improving systems and procedures for the benefit of litigants across the state. I am grateful for the opportunity to serve on the Committee and am proud of the Report and Recommendations that resulted from our work. The Recommendations, if implemented, will yield increased fairness and equity by improving due process, access to the courts and legal information, and efficiency.

**Recommendation 1 – Service of filed documents**

The Committee’s Recommendation that the Court serve litigants with all filed documents is crucial to advancing due process. This Recommendation would remedy a significant problem with access to information. When a litigant files a complaint or modification on the FD docket, the court sends a hearing notice to the other party without including a copy of the filed documents. Without this information, a self-represented litigant must participate in a summary

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<sup>1</sup> Through this project, supervised pro bono attorneys provide representation to survivors on both the FV and FD dockets with disputes regarding child custody, visitation, and support.

hearing unprepared and uninformed of the basis of the adversary's claims. Basic due process requires that the parties be provided with the actual documents filed.

In addition, Partners also recommends that the judiciary provide a copy of any filing made in-person at the courts to the filing litigant as well. When a litigant completes the FD forms and files them at the courthouse, the copy given to the judiciary staff is often the only copy of the document that the litigant has. Without a copy being provided by the Court to the filer, such litigants would leave the courthouse without a written record of what was filed that can be consulted later to prepare for the hearing. This additional requirement would go a long way to allowing full access to documents without a significant additional burden.

When litigants are provided a copy of all the papers filed in a case, they can be better prepared to litigate effectively the very important issues impacting child welfare.

### **Recommendation 3 – Educational materials for litigants**

When litigants understand the court's expectations, both the litigants and the courts are benefited. Clear, simple educational materials on common substantive legal concepts and procedures will streamline cases and lead to better and more efficient resolutions. The topics identified by the Committee provide a sound basis of knowledge that each litigant should have before entering a courtroom (either virtual or in person):

- 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.

Further, Partners believes that access to these materials should be provided to litigants along with the court-issued hearing notice. Delivery of this information well in advance of the hearing allows litigants to prepare their argument and gather relevant evidence so they can present a better and more complete case to the court.

In addition to being served with the papers filed, a well prepared litigant needs an understanding of the basic legal concepts at issue. Most litigants on the FD docket are self-represented and many have never come in contact with the legal system before. These litigants are left wondering how to present their cases effectively and often do not know what the applicable legal standards are or what facts the court would consider relevant. Effective educational materials, available in various media and formats (including written, video presentations, public webinars, judiciary website, etc.) and in multiple languages, will positively impact the management of a very busy docket and lead to better case outcomes.

### **Recommendations 11 & 12 – Revise the summary Financial Statement and require prompt exchange of the completed forms**

Partners supports the Committee’s proposed change to Rule 5:5-3 that would require completion and submission of the financial statement to occur “on the filing of the initial pleading.” Combining this requirement with the creation of a better, more complete form will serve to remediate some of the inequities and disparate treatment that negatively impacts the children of unmarried parents.

When parents are alienated from each other, the first opportunity to learn of the other parent’s assertion about their income is often at the hearing when support is set, sometimes on the basis of only oral testimony. This rule change would address the problem of unequal access to information. This Recommendation will facilitate the equal sharing of relevant financial information, by requiring both parties to complete the new forms that would require all of the information that the court needs to accurately calculate child support.

We know that children benefit from realistic and enforceable child support orders. The proposed revised form would call for the information needed to complete each line item in the Child Support Guidelines so that the child support awards are fair to everyone involved.

### **Recommendation 13 – Addition of Domestic Violence Questions to Complaint**

By adding a question about prior history of domestic violence, this Recommendation will aid the Court in both its decision-making and in its obligation to ensure the safety of litigants.

Many survivors of intimate partner violence appear on the FD docket, and having that information provided to court at the outset of the case will enable the court to better handle such matters. A history of domestic violence changes the tenor of a custody matter, regardless of whether it is heard on the FV (domestic violence) docket or the FD docket. The danger to the abused parent, the power disparity, and the propensity for intimidation, all will apply with equal force on the FD docket.

When the court is fully aware of the relevant history, remedies can be crafted to increase safety for children and the abused parent. For example, visitation risk assessments and safe drop off and pick up arrangements should be configured to minimize the risk to the abused parent’s safety. When the court is aware of this history, the court can take precautions and make better decisions that prioritize safety.

## **Conclusion**

We commend the Committee's Report and Recommendations and support their adoption by the Supreme Court. Thank you for Your Honor's consideration of Partners' comments and for selecting Partners to serve on the Committee to contribute to this important work. Partners is grateful for the judiciary's deep commitment to increasing due process and eliminating inequities.

Respectfully Submitted,

/s/

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Director of Legal Programs