

December 9, 2022

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, New Jersey 08625-0037

Dear Judge Grant:

We write to comment on the Report and Recommendations of the Judiciary Special Committee on the Non-Dissolution Docket. We apologize if these comments are late, but we only recently became aware of the report. We appreciate the challenging and tremendous work of the committee and support many of the recommendations, especially those concerning complex custody matters and revisions to the child support process. However, we have concerns with Recommendations #1 and #6 and request that revisions be considered in light of these issues.

As we think you are aware, we work with many immigrant children and families, particularly immigrant children and youth who have been designated by the federal government as “unaccompanied minors.” Many of these children are placed by the Office of Refugee Resettlement (ORR) with relatives throughout the State of New Jersey. The placement of these children by ORR does not afford these relative caregivers any legal authority to care for the children. Thus, many approach the Family Parts throughout the State with an FD application for custody of the child or children. Often accompanying these FD applications is a motion for the Family Part to make special findings so that the child or children can apply for a federal immigration remedy with the U.S. Citizenship and Immigration Services, known as Special Immigration Juvenile Status (or SIJS). *See H.S.P. v. J.K.*, 223 N.J. 196 (2015).

Our concerns with regard to Recommendations #1 and #6 are in the context of these cases. It does not seem as if migrant children and families were contemplated when enacting these specific recommendations.

Recommendation #1 calls for Court Rule 5:4-4 to be amended so that the Court will be required to serve all non-dissolution documents filed by the initiating

party on the non-filing party and to serve any responsive documents on the initiating party. In order to accomplish this new mandate, the Recommendation calls for the judiciary to work with the Division of Family Development (DFD) so that changes can be made to the NJKiDS system, which will then permit service to take place through this system. However, this system will only be effective if the parties reside in New Jersey (or possibly the United States). Our concern is that the NJKiDS system will not be serviceable for parties who reside abroad, which is the majority of defendants in cases involving immigrant children, especially unaccompanied minors who arrived in the United States without a parent or legal guardian.

Currently, it is left up to the filing party (i.e., the plaintiff) to effectuate service. Superior Court judges routinely ensure that service has been accomplished prior to proceeding with the FD matter. Typically, service in these matters is effectuated through international couriers, personal service by relatives or other persons in the home country, or other means, with the permission of the Court. Simply mailing overseas likely will not result in effective service. Thus, we would suggest that Recommendation #1 be amended to address what will occur when the non-filing party or parties is not in New Jersey and especially when they are not residing in the United States. Our specific suggestion would be to keep the existing system in place for this subset of matters.

Second, we have concerns with Recommendation #6 which calls for relevant court rules to be amended to require all non-dissolution litigants to participate in the Non-Dissolution Education Program and a subsequent consent conference prior to their first hearing before a judge. Our concern here is again in the context where non-filing parties reside overseas, some in very remote areas without internet and at times even electricity. It does not seem plausible to require these litigants to participate in the Educational Program and the consent conference.

Moreover, the Education Program and consent conference appear to be unnecessary when a litigant's custody or related petition is uncontested, as is nearly always the case with petitions to gain legal custody of children who have been designated as unaccompanied. Many unaccompanied migrant children make the harrowing journey to the United States in search of family members who will care for them because their parent or parents (if any) in their home country have failed to do so.

Our fear is that these requirements will cause significant delay because the parties will not be able to fulfill these requirements, or it will take a very long time to do so. Delay can cause serious problems for the children involved. FD applications concerning migrant youth are time-sensitive. Many caregivers may not have legal authority to make decisions on behalf of the child in their care (to take

the child to doctor appointments or enroll in school). In addition, the request for special findings so that the child can apply for SIJS must be entered as soon as possible, as some children may age out of the relief and also because the “wait times” with the federal government are exceedingly long. Thus, it is imperative to initiate the process as soon as possible. Again, it does not seem as if migrant children and families were contemplated in this Recommendation or Directive #2-20, which it references. We wonder if the Rules might waive participation in the Education Program and consent conference for FD litigants who reside overseas and/or in uncontested cases.

Thank you for considering our concerns and for the tremendous support you have always provided to children and families throughout New Jersey. We are available to discuss our concerns and suggestions if that would be helpful.

Respectfully submitted,

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